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A Duty to Adopt? On the Ethics and Politics of Adoption

Veromi Arsiradam, *The University of Western Ontario*

Supervisor: McLeod, Carolyn, *The University of Western Ontario*

A thesis submitted in partial fulfillment of the requirements for the Doctor of Philosophy degree in Philosophy

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Abstract

Around the world, millions of children are in need of parental care. In response to this global crisis, some philosophers defend a moral duty for prospective parents to adopt children rather than procreate. Challenges to the duty focus almost exclusively on parents' desires to have biological children. However, reasons deriving primarily from one's membership in a social group that favour procreation over adoption or oppose transracial adoptions are largely overlooked. In this dissertation, I examine whether group-based reasons could justifiably override a duty to adopt for prospective parents who are members of racially oppressed groups. I ultimately argue that group-based interests cannot outweigh the needs of existing children for parental care, and thus provide further support for the duty to adopt.

My thesis is divided into four chapters. In Chapter 1, I introduce a duty to adopt and argue that it is resilient against a series of proposed defeating conditions and foundational challenges. In Chapter 2, I develop three group-based reasons in favour of procreation that challenge the duty: reparative justice, racial solidarity, and cultural preservation. In Chapter 3, I argue that these reasons do not definitively support procreation over adoption and, instead, seem to favour adopting children either within or outside one's racial group. I then identify remaining challenges to the duty that take issue with transracial adoptions and place a high value on children's belonging in same-race families or in their communities of origin. In Chapter 4, I argue that the needs of individual children to receive timely parental care should not be compromised by groups' interests and that children's relationships with their communities of origin can be maintained in transracial or extra-communal adoptive placements.

Keywords

Duty to Adopt, Adoption, Procreation, Ethics of Adoption, Politics of Adoption, Children's Belonging, Family Ethics, Applied Ethics, Philosophy

Dedication

For Sephe

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Western University is situated on unceded and unsurrendered traditional territories of the Anishinaabeg, Haudenosaunee, Lunaapeewak and Attawandaron peoples. The local First Nation communities of this area include Chippewas of the Thames First Nation, Oneida Nation of the Thames, and Munsee Delaware Nation. In this region of Turtle Island, there are eleven First Nation communities and a growing Indigenous urban population.

I honour the animals, land, and waters; and the ancestors who walked before us.

We are all treaty people.

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Introduction

Background

Around the world, millions of children are in need of parental care. In Canada, about 78,000 children are in child welfare systems, 30,000 of whom are eligible for adoption. Each year, 2,000 children are adopted either domestically or internationally by families based in Canada. Globally, intercountry adoptions account for approximately 45,000 adoptions annually, though that number has been declining in recent years due to stricter international adoption policies and the closing of international adoption programs. On a global scale, the numbers of willing adoptive families as compared to adoptable children are remarkably discrepant, leaving room for much improvement in our current systems to ensure that children receive the care they need and deserve.

With an explicit focus on the needs of existing children, some philosophers defend a duty to adopt children instead of procreating, contextualizing their arguments as a response to what has been called a ‘global orphan crisis’. On this view – prominently defended by philosophers Tina Rulli¹ and Daniel Friedrich² – prospective parents have a strong pro tanto duty to adopt children instead of procreating, as long as adoption would not pose sufficiently burdensome costs that would be avoided through procreation. Those who desire parenthood would pursue adoption and form families with children in need of parents.

In this dissertation, I will defend a duty to adopt from a set of objections that is overlooked in existing philosophical literature. Specifically, I will respond

¹ Tina Rulli, “Preferring a Genetically-Related Child,” *Journal of Moral Philosophy* 13, no. 6 (2014a): 669-698; Tina Rulli, “The Duty to Adopt” (PhD diss., Yale University, 2011), 1-210.

² Daniel Friedrich, “A Duty to Adopt?” *Journal of Applied Philosophy* 30, no. 1 (2013): 25-39.

to three challenges to a duty to adopt – in the form of arguments grounded in reparative justice, racial solidarity, and cultural preservation – that seek to justify procreation for members of racially oppressed groups. Ultimately, I will argue that group-based interests cannot override the needs of individual children for parental care.

Outline of Chapters

In Chapter 1, I argue that a duty to adopt is very compelling. I introduce the duty, as it is presented by Tina Rulli and Daniel Friedrich, as a way of framing the discussions in the rest of the dissertation. I begin by describing the moral framework of obligatory rescue that they rely on to articulate the specific duty to adopt. Then, I review and engage with a series of proposed defeating conditions that would, if successful, justifiably override one's duty to adopt. I offer my evaluations of several proposed defeating conditions that they consider, and I also respond to several objections that they do not. After dealing with this set of challenges, I evaluate a set of objections that challenge the foundations of a duty to adopt. Ultimately, I conclude that a duty to adopt withstands many strong criticisms.

In Chapter 2, I develop three group-based reasons in favour of procreation that challenge a duty to adopt. By constructing a taxonomy of different kinds of reasons in favour of procreation and identifying group-based reasons as a distinct category, I show how proponents of a duty to adopt overlook the entire category of group-based reasons (i.e., reasons deriving primarily from one's membership in a social group) that challenge a duty to adopt. These reasons respectively appeal to efforts at achieving reparative justice, racial solidarity, and cultural preservation. These reasons rely on one of two metaphysical theories of race: a political theory or a cultural theory. After briefly explicating each of these two theories of race, I develop the three group-based reasons and identify their objections to a duty to adopt. In this chapter, I offer the strongest arguments in support of members of racially oppressed groups having biological children, and I reserve criticism for the following two chapters. Importantly, in this chapter I

show that group-based reasons in favour of procreation present a unique set of challenges for a duty to adopt, as compared to self-regarding reasons that tend to be the focus of engagement in existing philosophical literature.

In Chapter 3, I argue that the goals of reparative justice, racial solidarity, and cultural preservation do not definitively support procreation over adoption but, rather, provide compelling reasons for members of these groups to adopt children either within or outside one's racial group. Thus, I push back against the arguments in Chapter 2 that seek to provide moral justification for members of oppressed racial groups to procreate instead of upholding a duty to adopt. I begin the chapter by contextualizing the state of child welfare systems, with specific reference to racialized children. I contend that this demographic information provides a nuanced picture of global and localized child welfare, which will help us to engage in a productive philosophical examination of a moral duty to adopt. Next, I draw upon this information to develop three arguments in favour of members of racially oppressed groups to adopt children rather than procreate. I end the chapter by identifying remaining group-based challenges to a duty to adopt.

In Chapter 4, I argue that the needs of individual children to receive timely parental care should not be compromised by groups' interests and that children's relationships with their communities of origin can be maintained in transracial or extra-communal adoptive placements. I critique two prominent views concerning children's belonging, both of which are supported in adoption legislation. On one view, children are viewed as being interdependently bound to their birth communities and, on another view, children are viewed as independent and as having no birth-inherited rights to their communities and cultures of origin. I argue that we should think of adoptions as existing within larger networks of relationships, in which birth and adoptive communities collaborate to provide the adopted child with meaningful opportunities for connection to their birth communities. Such collaborations would facilitate children's access to cultural and community connections so that they can develop healthy identities, and it

would also mean giving them a say in maintaining or resisting connections as they grow.

Crucially, the implication for a duty to adopt is that the interests of social groups cannot override the needs of individual children for parental care. This means that children within racially oppressed groups who need parental care should not be denied timely placement, even if that means being placed outside of their birth communities or in the care of parents who do not share their race. It also means that prospective parents who are members of racially oppressed groups have a moral obligation to provide parental care for children outside their racial group. This chapter concludes my final defence of a duty to adopt.

Social Pressures to Procreate

In most societies, having children is an anticipated milestone in one's life. However, not all means of having children are equally supported, respected, or valued. Both pronatalist and bionormative ideals create barriers for us to understand adoption as a viable and valuable means of having children, perhaps even a preferable means, in light of a global orphan crisis. Responding to this crisis, I contend, requires challenging pronatalist and bionormative conceptions of families that make it such that adoptions are oftentimes pursued as a last resort means of having children.³

Pronatalism, broadly defined, is a pervasive social ideology that places a high value on bearing children.⁴ Pronatalism can be grounded in various philosophical commitments. A utilitarian, for example, could plausibly argue that one should produce many children as a means of promoting as much good in the world as possible, so long as the offspring increase the net well-being in the

³ Nicholas Park and Patricia Wonch Hill, "Is Adoption an Option? the Role of Importance of Motherhood and Fertility Help-Seeking in Considering Adoption," *Journal of Family Issues* 35, no. 5 (2014): 601-626.

⁴ Angel Petropoulos, "Pronatalism, Geneticism, and ART," *IJFAB: International Journal of Feminist Approaches to Bioethics* 10, no. 1 (2017): 17.

world.⁵ Deontologists might endorse pronatalism for reasons having to do with religious obligations or civic duties to one's state.⁶ In general, in most societies, having children is considered a good thing, cause for praise and congratulations.⁷ People engage in celebratory rituals for expectant parents (e.g., pregnancy announcements, baby showers) and for welcoming newborns into the world (e.g., naming ceremonies, gender reveals). Moreover, positive attitudes about procreation tend to run counter to the experiences of adoptive families, who are often met with skepticism or criticism from family members, friends, and strangers about their decision to adopt.⁸

Furthermore, those who choose not to or cannot bear children carry a burden of justification to defend themselves.⁹ Women who experience infertility often blame themselves and are blamed by others for failing to conform to their social roles – as constructed in a pronatalist society – even though infertility is generally a result of luck and beyond their control.¹⁰ Women who prefer not to have children – whether due to internalized oppression (i.e., adaptive preferences) resulting from experiences of infertility – often face stigmas, disapproval from family and friends, and social exclusion.¹¹ On the flip-side, the

⁵ Christine Overall, *Why Have Children? The Ethical Debate*. (Cambridge: MIT Press, 2012), 71.

⁶ Overall, *Why Have Children?* 66.

⁷ Travis Rieder, "Procreation, Adoption and the Contours of Obligation," *Journal of Applied Philosophy* 32, no. 3 (2015): 293.

⁸ Overall, *Why Have Children?* 2.

⁹ Overall, *Why Have Children?* 3.

¹⁰ Carolyn McLeod and Julie Ponesse, "Infertility and Moral Luck: The Politics of Women Blaming Themselves for Infertility," *IJFAB: International Journal of Feminist Approaches to Bioethics* 1, no. 1 (2008): 126-144.

¹¹ See Beth Turnbull, Melissa L. Graham, and Ann R. Taket, "Pronatalism and Social Exclusion in Australian Society: Experiences of Women in their Reproductive Years with no Children," *Gender Issues* 34, no. 4 (2017): 333-354.

expectation for procreators to justify their decisions about having children is entirely absent.¹²

Pronatalist ideologies that permeate most societies are rooted in conservative thinking, especially as it concerns gender norms and expectations. Christine Overall discusses how pronatalism constructs and polices people's social identities along gendered lines:

Pronatalist pressures are still ubiquitous, and the resulting tendency to define womanliness in terms of procreation and manliness in terms of begetting has not disappeared. ... Having children thereby becomes a means to conformity, a way of giving the community the gendered behaviour it expects.¹³

Thus, social expectations for women and men to procreate are deeply entrenched in a pervasive social system: gender. But the effects of pronatalism extend further than requiring that individuals conform to binary gendered roles, in that it also places undue burdens on women in culturally or religiously oppressive societies, encouraging procreation for patriarchal state-based interests, including labour and intelligence for military, industrial, or economic purposes.¹⁴

Angel Petropanagos highlights the male-dominating aspects of pronatalism and its emphasis on genetic reproduction, defining her feminist conception of patriarchal pronatalism as “a coercive social bias, which grounds women's identities on their reproductive roles and mandates that women bear men's genetic children.”¹⁵ Some state-based methods of encouraging or

¹² Christine Overall, “What is the Value of Procreation?” in *Family-Making: Contemporary Ethical Challenges*, eds. Francoise Baylis and Carolyn McLeod (Oxford: Oxford University Press, 2014), 98.

¹³ Overall, *Why Have Children?* 64.

¹⁴ Overall, *Why Have Children?* 70.

¹⁵ Angel Petropanagos, “Fertility Preservation Technologies for Women: A Feminist Ethical Analysis” (PhD diss., Western University, 2013), 39.

promoting procreation include offering child subsidies, grants to cover birth expenses, child tax exemptions; attempting to support families through free or subsidized childcare; and limiting access to contraceptive and abortion services. Yet states can also harness and fuel sinister motivations in favour of pronatalism as a way to promote the growth and expansion of select populations, through eugenics regimes or nation-building projects.¹⁶

Pronatalism can also be rooted in cultural traditions. Kwame Akonor, for example, provides an illustration of how pronatalist attitudes shape social order and people's worth within a culture, citing "a general abhorrence of barrenness and sterility in African societies. Barrenness carries a heavy social stigma because it constitutes an incomprehensible upsetting of the social and religious order".¹⁷ As he explains, this is because procreation, "the ability to reproduce and have children, is a central feature of the African value system."¹⁸ The continuation of family lines is highly valued and so a "person who bears no children, and therefore has no descendants, in effect terminates social reproduction and extinguishes the family line."¹⁹ Infertility, in some societies, has served or still does serve as legitimate grounds for divorce and, in extreme cases, death. In some African societies, Akonor notes, regardless of a person's contributions to their society, he or she "lose[s] a place among honored ancestors if he or she dies childless."²⁰ These are some of the ways in which pronatalist attitudes not only shape the way people interact and deliberate about family-making, but also structure the social order and determine the value of women and men based on their desires or abilities to procreate.

¹⁶ See Erika Dyck, *Facing Eugenics: Reproduction, Sterilization, and the Politics of Choice* (Toronto: University of Toronto Press, 2014).

¹⁷ Kwame Akonor, "Procreation," in *Encyclopedia of African Religion*, eds. Molefi Kete Asante and Ama Mazama. 2009.

Akonor, 2009, n.p.

¹⁸ Akonor, "Procreation".

¹⁹ Akonor, "Procreation".

²⁰ Akonor, "Procreation".

Pronatalism is also problematic in privileging certain kinds of families over others, namely, families who create new children who share genetic or biological ties, over families formed through adoption. This is because the ideals of pronatalism are intricately bound up with ideals of bionormativism. Central to the ideal of bionormativism (or ‘bionormativity’) in families is that those families formed through biological reproduction, in which parents and children share genetic ties, are superior to families formed through adoption.²¹ Some philosophers argue that it is essential for one’s sense of self to have knowledge of resemblances between oneself and one’s biological relatives,²² or that membership in a biological kinship family plays a vital role in how we understand our social world and people in it.²³ Other philosophers have offered critiques of bionormativity and, in general, have rejected the idea that biological- or genetic-relatedness is essential for familial relationships and one’s sense of self.²⁴

A second and related bionormative idea is that families that are formed through adoption are not real families. Assumptions that family members should resemble one another present challenges for adoptive families in which parents and children do not share the same race, notably in transracial adoptions in which the parents are non-white and children are white. The assumption that

²¹ Charlotte Witt, “A Critique of the Bionormative Concept of the Family,” in *Family-Making: Contemporary Ethical Challenges*, eds. Francoise Baylis and Carolyn McLeod (Oxford: Oxford University Press, 2014), 50. This could apply, more generally, to families in which parents and children lack a biological or genetic connection. For example, procreation involving two parents with genetic and biological links to their children would, on a bionormative view of families, be superior to procreation in which only one parent shares genetic material with the child and the other parent does not, as would be the case for some same-sex couples (see Julie Crawford, “On Non-Biological Maternity, or ‘My Daughter is Going to be a Father!’” in *Family-Making: Contemporary Ethical Challenges*, eds. Francoise Baylis and Carolyn McLeod (Oxford: Oxford University Press, 2014), 168-184.

²² David Velleman, “Family History,” *Philosophical Papers* 34: 357-378.

²³ Robert Wilson (2008); cited in Witt, “A Critique of the Bionormative Concept of the Family”, 59.

²⁴ Witt, “A Critique of the Bionormative Concept of the Family,” 49-63.

bionormative families are superior to non-kinship adoptive families also reveals itself in the morally questionable asymmetrical treatment of adoptive and biological families – for instance, in an absence of parental licensing for biological parents,²⁵ and through the scrutiny of adoptive parents’ motivations to adopt.²⁶ Additionally, adoptive families may encounter social stigmas.²⁷ Sources of stigma for parents may include shame surrounding infertility and not being able share bloodlines with one’s child. For children, stigmas may include assumptions about them being unwanted, or emotionally and psychologically unstable. These unequal standards for treating biological and adoptive families emphasize the idea that creating a new biological child is preferable to adoption.

Interestingly, as Rulli notes, pronatalist and bionormative ideologies are so persistent that they even operate implicitly in some arguments in favour of adoption. For example, when adoption is advocated as a means of having children, it is often aimed at convincing people who cannot procreate easily that adoption is valuable, despite their difficulty procreating. In this way, the value of adoption is not presented as being universal to all prospective parents, just those who cannot procreate. Thus, yet again, adoption is tacitly regarded as having a second-best status.²⁸

On a political level, pronatalist and bionormative ideologies are supported by government funding for research and development of assisted reproductive technologies (ART) and, in some jurisdictions, subsidized medical treatments for

²⁵ McLeod, Carolyn and Andrew Botterell, “Parental Licensing and Discrimination,” in *The Routledge Handbook on the Philosophy of Childhood and Children*, eds. Anca Gheaus, Gideon Calder, and Jurgen De Wispelaere (Abingdon: Routledge, forthcoming). See also Peg Tittle, ed., *Should Parents Be Licensed? Debating the Issues* (Amherst: Prometheus Books, 2004).

²⁶ Tina Rulli, “The Unique Value of Adoption,” in *Family-Making: Contemporary Ethical Challenges*, eds. Francoise Baylis and Carolyn McLeod (Oxford: Oxford University Press, 2014), 121.

²⁷ Park and Wonch Hill, “Is Adoption an Option?” 607.

²⁸ Rulli, “The Unique Value of Adoption,” 121.

those who experience infertility or difficulty procreating.²⁹ While government support for ART can be limited, it still often overshadows support for adoption and adoptive families. Many adoption agencies around the world tend to be bureaucratically chaotic, understaffed and underfunded, and lacking in infrastructure and governmental oversight. Furthermore, as indicated above, prospective adoptive parents are subject to personal investigations and moral scrutiny in the process of becoming licensed to adopt. Parental licensing, which screens adoptive but not biological parents, can be a drawn-out, rigorous and invasive process, given the personal nature of screening and evaluations that are needed to approve a family for adoption.³⁰ Thus, even between different methods of having children that are regulated by the state, families who pursue procreation enjoy advantages associated with families who share biological or genetic connections.

In summary, pronatalism and bionormativism are pervasive ideologies that present as implicit and explicit, attitudinal and structural constraints on people's views about the positive value of creating children through procreation. Pronatalism, the idea that procreation is praiseworthy and ought to be encouraged, is closely connected to ideals of bionormativism,³¹ the idea that family members fundamentally do and should have genetic or biological

²⁹ "Raising Expectations: Recommendations of the Expert Panel on Infertility and Adoption," 2009.

<http://www.children.gov.on.ca/htdocs/english/documents/infertility/raisingexpectationsenglish.pdf>; Monique Scotti, "Paying to Treat Infertility: Coverage Varies Widely Across Canada," *Global News*, November 15, 2016, <https://globalnews.ca/news/3059988/paying-to-treat-infertility-coverage-varies-widely-across-canada/>.

³⁰ See Andrew Botterell and Carolyn McLeod, "Can a Right to Reproduce Justify the Status Quo on Parental Licensing?" in *Permissible Progeny*, eds. Richard Vernon, Samantha Brennan, and Sarah Hannan (New York: Oxford University Press, 2015), 184-207; and McLeod and Botterell, "Parental Licensing and Discrimination," *forthcoming*.

³¹ For a more detailed discussion and critique of bionormativism, see Witt, "A Critique of the Bionormative Concept of the Family," 49-63. For a feminist critique of geneticism, see Petropanagos, "Pronatalism, Geneticism, and ART," 119-147.

connections. These ideologies are so pervasive, tacitly accepted, and socially enforced, that they create ideological barriers that negatively affect people's perceptions and preferences in favour of adoption. When thinking about family-making, most people do not consider adopting a child and, more often than not, people who pursue adoption do so only after trying to procreate. Studies have found that, when women experience infertility, adoption is not considered a viable option until other options for procreating – including medical treatments for fertility – are exhausted.³² Pronatalism and bionormativism are barriers to adoption that impact people's choices about whether to have children and how to do so. Unfortunately, these social ideologies negatively impact people's decisions to adopt children, even in light of a global orphan crisis.

Forms of Adoption

Adoption, broadly construed, is the conferring of permanent parental responsibilities in caring for another person. Adoptions can take many forms, and so it is worth identifying the forms I discuss in this dissertation. One can characterize adoptions according to the following divisions: domestic and international; public and private; child and adult; formal and informal; and kinship and non-kinship. Because some these categories or concepts may vary from one country to another, I will explain each of them within a Canadian framework.

Adoptions involving adoptive parents and children within the same country (i.e., Canada) are domestic adoptions, while those in which the parents adopt a child from a different country are international adoptions. International adoption policies (e.g., The Hague Convention on Intercountry Adoption) refer to the parents' country as the 'receiving' country and the child's as the 'sending' country. Domestic adoptions can be pursued through either private or public avenues, whereas international adoptions are always private. Public adoptions are processed through government agencies, with legal fees and associated costs

³² Park and Wonch Hill, "Is Adoption an Option?" 601-627.

(e.g., for an adoption licensee, for mandatory parental training classes, etc.) covered by the government. Private adoptions are not funded by the government, and the process of adopting a child this way involves finding and paying for private adoption practitioners. In the case of international adoptions, which are private, prospective parents work closely with a private agency that is licensed to process adoptions involving the sending countries. Both the sending and receiving countries in international adoptions must abide by The Hague Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption (hereby referred to as ‘The Convention’), if they are signatories to The Convention. This is an intergovernmental policy that regulates the transferring of children across national borders, in an effort to prevent, for example, child trafficking or baby-selling.

Thus far, I have characterized formal adoptions, those that involve legal recognition of adoptive parents’ rights and responsibilities for their child. Before distinguishing formal from informal adoptions, it is important to note that both children and adults may be adopted through formal domestic adoption systems. We tend to think of adoptions as involving young children or minor-aged youths (i.e., under 18), but adoptions can also involve major-aged youths (i.e., legal adults) or older adults. In some jurisdictions, legislation currently permits adoptions of former youths in care by those who have cared for them prior to them having reached adulthood. Proposed legislation may allow for adult adoptions in families who make a connection after the prospective adoptee becomes a legal adult.³³

Adoptions can also be informal, as in the case of moral and customary adoptions. Moral adoptions involve a commitment to provide familial care to someone who is not eligible to be legally adopted or who does not meet the requirements for adult adoption. This type of adoption would be applicable in the following two scenarios. First, a child may not be eligible for adoption due to

³³ “Adult Adoption,” Adoptive Families Association of BC, accessed June 1, 2018, <https://www.bcadoption.com/adult-adoption>.

continuing parental ties, but they may form a close bond with someone who commits to providing them with parental care. This familial bond would not be recognized in law but constitutes an adoption nonetheless: a moral adoption. Second, a youth who has ‘aged out’ of foster care may form a bond with a family who has not cared for them during their minor-age years. In places where legislation does not permit adoptions of former youth in care by individuals who have not provided care to them in their past (prior to reaching adulthood), these individuals would have the option of gaining a forever home through moral adoption. Again, while the parent-child relationship would not be recognized in law, it constitutes a moral adoption.

Custom adoptions (also referred to as ‘customary care’ arrangements) are another main type of informal adoptions in Canada, as defined by “cultural practices of Aboriginal peoples to raise a child, by a person who is not the child’s parent, according to the custom of the First Nation and/or the Aboriginal community of the child.”³⁴ A distinguishing feature of custom adoptions is that they do not necessarily involve the removal of children from their families and permanent placement with an adoptive family; rather, custom adoptions tend to involve extensions of familial ties, and placements may be temporary or permanent.³⁵ These adoptions typically involve openness with birth families and sharing of childcare between families, in-keeping with fluid kinship ties within indigenous communities.³⁶ Customary adoptions of children occur for a wide range of reasons, including for the benefit of older adoptive parents whose adult biological children have left home; for the prestige that accompanies parents or

³⁴ Marilyn Poitras and Norman Zlotkin, prepared for Saskatchewan First Nations Family and Community Institute Inc., “An Overview of the Recognition of Customary Adoption in Canada,” 6. (February 15, 2013). [http://www.sfnfci.ca/ckfinder/userfiles/files/Custom%20Adoption%20Final%20Report%202013\(2\).pdf](http://www.sfnfci.ca/ckfinder/userfiles/files/Custom%20Adoption%20Final%20Report%202013(2).pdf).

³⁵ Poitras and Zlotkin, “Customary Adoption in Canada,” 11.

³⁶ Cindy Baldassi, “The Legal Status of Aboriginal Customary Adoption Across Canada: Comparisons, Contrasts, and Convergences,” *University of British Columbia Law Review* 39, no. 1 (2006): 71.

communities who welcome young children to raise; as a means of family formation for those who cannot conceive biological children; to correct gender imbalances within families; for building alliances between families; and, of course, to care for children in need of parental care.³⁷ Both children and adults may be adopted within indigenous communities, to fulfill any kinship role.³⁸ Not all custom adoptions are recognized in current Canadian law and so for those that are not, these familial arrangements are informal. Rather, the state requires that families go through the full statutory procedure for adopting children for these familial arrangements to be legally recognized.³⁹ I will revisit the relevance and significance of custom adoptions in Chapter 4.

One may wonder where community networks of care fit into this picture. In some places, children are ‘raised by a village’, so to speak, as members of a community share responsibilities for childcare and provide goods of parenting to all children, as needed. I want to separate these forms of childcare from adoption, even moral or custom adoptions, because adoptions signify intentional commitments to provide permanent care and support to individuals, which encompasses all aspects of their lives throughout their lives. The bonds of adoptive families, I maintain, are intentional and lifelong in a way that other forms of childcare are not. In fact, what makes community networks of care distinct from adoptions is that community-based care arrangements are embedded in social norms about child-rearing practices and our responsibilities toward children. They lack the intentional element of fully and unconditionally

³⁷ Cindy Baldassi, “Aboriginal Customary Adoption Across Canada,” 70-74.

³⁸ For example, see Kisa Macdonald, “Customary Adoption in British Columbia: Recognizing the Fundamental Differences,” *Appeal, Review of Current Law and Law Reform* 14, (2009): 20, on custom adoptions of elders.

³⁹ Cindy Blackstock, “First Nations Child and Family Caring Society of Canada: Supporting First Nations Adoption,” Submission to the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities. 2010: 1-7. <https://fncaringsociety.com/sites/default/files/13.FNCFCS-Supporting-First-Nations-Adoption-Dec2010.pdf>; and Baldassi, “Aboriginal Customary Adoption Across Canada,” 70-74.

committing oneself as a caregiver to another individual. Thus, while I am aware that there are a multitude of kinds of caring relationships between children and adults, I consider some of these relationships to be part of a wider set of caring practices that do not constitute adoption.

In my dissertation, I focus mainly (though not exclusively) on formal international and domestic adoptions of children because these are paradigmatic cases of adoption. To the extent that I am motivating a duty to adopt, there are two problems with focusing exclusively on formal adoptions. First, not all countries have formal adoption systems or a “cultural environment in which adoptions are seen as an option,” leaving children in need of adoption without a chance of formal adoption placement.⁴⁰ Assuming a child is genuinely in need of parental care, providing parental care in an informal (i.e., not recognized by law) capacity would, I grant, fulfill one’s duty to adopt. Importantly, children who need care and who live in countries without formal adoption systems should not be overlooked. Second, some adoptions are not recognized by the state but perhaps ought to be. Take, for example, custom adoptions in indigenous communities. Many argue – and I agree – that the state ought to support custom adoption laws in ways that meaningfully support indigenous children and communities.⁴¹ All in all, we must find ways of accommodating children’s situations and allow prospective parents to fulfill a duty to adopt in ways that are possible and appropriate within their particular social contexts. These are topics I raise in Chapter 4.

Ethics and Politics

In this dissertation, I discuss the ethics and politics of adoption. These two aspects of my philosophical inquiry are distinct and, at the same time, inextricably connected, in that each informs the other. In general, questions

⁴⁰ Friedrich, “A Duty to Adopt?” 34.

⁴¹ Cindy Blackstock, “Supporting First Nations Adoption”
<https://fncaingsociety.com/sites/default/files/13.FNCFCS-Supporting-First-Nations-Adoption-Dec2010.pdf>.

about ethics (from the Greek *ethos*, meaning ‘custom’ or ‘habit’) or morality (from the Latin *mōrālis*, having to do with ‘mores’ or ‘customs’) pertain to the permissibility of particular acts. In my dissertation, I ask questions such as, Is adoption permissible or impermissible? If it is permissible, is it obligatory or an act of supererogation? Is there a moral duty to adopt? Would a desire to procreate be strong enough to justifiably override one’s duty? Are adoptions undesirable in certain cases? How ought individuals to engage in family-making?

While existing literature on a duty to adopt tends to treat a duty to adopt as a universal prescription of morality and abstracts away from political systems of child welfare and adoption, politics are central to my project as it pertains to both issues of justice and social relations of power. I ask: What are the socio-political features of adoption systems? Does a duty to adopt apply equally to individuals who are members of historically privileged and oppressed groups? In the second sense, I ask: Do goals of racial justice and equality favour some forms of family-making over others (e.g., procreating vs. adopting)? Are certain individuals better suited to care for certain children (e.g., same-race vs. transracial adoptions)? Who gets to decide what is in children’s best interests?

Although ethical and political questions about adoption are distinct, their answers mutually inform one another. For instance, whether the state ought to support families who want to adopt children depends on whether adoptions are permissible and desirable in the first place. In turn, whether there is a universal moral duty to adopt depends on whether this obligation applies fairly to all prospective parents, regardless of social identity and particular circumstances. Moreover, whether adoption systems are just depends, at least in part, on how the state treats and regulates children and families. Each of these layers – ethics and politics (and within the latter, political state rule and political justice) – are critical to answer my central question about whether prospective parents have a duty to adopt children instead of procreating.

Chapter 1: The Nature of a Duty to Adopt

1. Introduction: Rethinking the Morality of Procreation

Questions about the ethics of having children have given rise to sustained philosophical debates, especially over the past few decades. Philosophers have offered many insights about the morality of procreation, endorsing positions that range from anti-natalism,⁴² restricted procreation,⁴³ and qualified pronatalism.⁴⁴ Respective motivations for these views stem from concerns about the anticipated well-being of future children, scarce environmental resources and overpopulation, and human extinction or depopulation. Apart from these reasons, a few philosophers center the morality of procreation around the context of a global crisis, positioning their arguments in response to a serious problem: that millions of children around the world are in need of parental care. Most notably, Tina Rulli (2011, 2016) and Daniel Friedrich (2013) independently argue that prospective parents have a strong *pro tanto* duty to adopt children instead of bringing new children into the world through procreation. They locate the moral wrong of procreating in the act of doing so *rather than* adopting a child, absent ‘special burden’ for prospective adoptive parents.

⁴² David Benatar defends philanthropic and misanthropic arguments against procreation. See David Benatar and David Wasserman, *Debating Procreation: Is it Wrong to Reproduce?* (New York, NY: Oxford University Press, 2015); and David Benatar, *Better Never to have been: The Harm of Coming into Existence*. (Oxford: Clarendon, 2006).

⁴³ Corey MacIver motivates the need to limit procreation for environmental reason. See Corey MacIver, “Procreation or Appropriation?” in *Permissible Progeny*, eds. Richard Vernon, Samantha Brennan, and Sarah Hannan (New York: Oxford University Press, 2015), 107-128.

⁴⁴ Anca Gheaus supports a collective duty to create enough children to ensure that future generations will not suffer harms resulting from depopulation. See Anca Gheaus, “Could There Ever Be a Duty to Have Children?” in *Permissible Progeny*, eds. Richard Vernon, Samantha Brennan, and Sarah Hannan (New York: Oxford University Press, 2015), 87-106.

An immediate and common challenge raised against duty to adopt arguments is their infringement upon a supposed right to procreate.⁴⁵ Some claim that people have a natural right to bear children, rooted in an evolutionary biological drive to propagate one's species. Others simply find it unequivocal that one could permissibly procreate, given how widespread the practice is. Variations of these beliefs are both implicitly and explicitly supported in societies that implicitly or explicitly embrace pronatalism, a pervasive social ideology that places a high value on bearing children.⁴⁶ In most societies, procreation is considered laudable, worthy of celebration, and perhaps outside the realm of moral evaluation,⁴⁷ and a tacit burden of justification falls upon those who do not procreate, contra societal expectations.⁴⁸ However, given certain facts about the global orphan crisis, it is worth rethinking the morality of procreation and considering proposals about a duty to adopt.

In this chapter I have two aims. The first is to present an overview of literature on the duty to adopt, focusing on two prominent accounts developed by Tina Rulli and Daniel Friedrich, which will serve as the basis of my subsequent chapters. My second aim is to evaluate two sets of objections to the duty: one that relies on appeals to defeating conditions; and the other that targets the foundations of the duty itself.

⁴⁵ For philosophical debates about a right to procreate, see Andrew Botterell and Carolyn McLeod, "Can a Right to Reproduce Justify the Status Quo on Parental Licensing?" 184-207; Muireann Quigley, "A Right to Reproduce?" *Bioethics* 24, no. 8 (2010): 403-411; Yvette Pearson, "Storks, Cabbage Patches, and the Right to Procreate," *Journal of Bioethical Inquiry* 4, no. 2 (2007): 105-115; Laura Shanner, "The Right to Procreate: When Rights Claims have Gone Wrong." *McGill Law Journal. Revue De Droit De McGill* 40, no. 4 (1995): 823-874; and John Robertson, *Children of Choice: Freedom and the New Reproductive Technologies* (Princeton: Princeton University Press, 1994).

⁴⁶ Petropanagos, "Pronatalism, Geneticism, and ART," 120.

⁴⁷ Heleana Theixos and Sabrina. B. Jamil, "The Bad Habit of Bearing Children," *IJFAB: International Journal of Feminist Approaches to Bioethics* 7, no. 1 (2014): 35. Travis Rieder, "Procreation, Adoption and the Contours of Obligation." *Journal of Applied Philosophy* 32, no. 3 (2015): 294.

⁴⁸ Overall, *Why Have Children?* 2.

The idea that prospective parents have a *pro tanto* duty to adopt children instead of bringing new children into the world by procreating, I will argue, is very compelling. To demonstrate this, I will first detail Rulli's and Friedrich's framework in favour of a duty to adopt. Then, I will review and bolster their responses to several proposed defeating conditions that challenge the strength of the duty. Finally, I will evaluate a set of objections that challenge the foundations of a duty to adopt, some of which Rulli and Friedrich consider, and some of which I introduce. Ultimately, I will conclude that a duty to adopt can endure many strong criticisms.

2. Global Orphan Crisis

Rulli's and Friedrich's version of a duty to adopt is distinct from other types of anti-natal pro-adoption arguments in that it is situated in direct relation to a global orphan crisis.⁴⁹ Their arguments are premised on two main points.

First, we face a large-scale problem. Around the world, millions of children (i.e., people under the age of 18) are in need of parental care, including those in the following groups: an estimated 100 million children who are 'on the streets' or undocumented;⁵⁰ 16 million who have lost both parents (termed 'double' orphans by UNICEF); 132 million who have lost one parent (termed 'single' orphans by UNICEF);⁵¹ and some number who are neither single or double orphans, nor on the streets or undocumented, but have either been relinquished

⁴⁹ In his "Procreation, Adoption and the Contours of Obligation," Travis Rieder distinguishes their 'rescue-based' type of argument from those that appeal to "[p]opulation and environmental concerns" (p. 295).

⁵⁰ Rulli, "Preferring," 672.

⁵¹ These numbers only represent sub-Saharan Africa, Asia, Latin America, and the Caribbean, as of 2005: "Orphans," UNICEF, http://www.unicef.org/media/media_45279.html.

by or apprehended from their birth families.⁵² While precise numbers are difficult to track, the fact is that there are millions of children in need of parental care.

Second, the problem is marked by the fact that children in need of adoption “lack the parental care essential for health development and well-being.”⁵³ Based on strong empirical evidence, permanent, stable parental care is superior to other forms of childcare, including institutionalized care (e.g., orphanages) and foster care. Children who lack parental care (and thus are in need of adoption) fare worse on measures of well-being and optimal development, making adoption a non-substitutable form of care.⁵⁴ As Rulli nicely sums it up, the global orphan crisis is one of “great magnitude – there are millions upon millions of children in need of parents – and severity – they lack the parental care essential for healthy development and well-being.”⁵⁵

Terminologically, it is important to be clear about the groups to which we are referring. ‘Orphans’ refers to the group of children who have lost one or both parents, though not all orphaned children are in need of adoption. This is because some orphans receive adequate parental care from a surviving birth parent; some receive parental care through informal or formal kinship adoptions (i.e., they are placed in the permanent care of aunts, uncles, grandparents, or other family members, or a community). And on the flip-side, not all children in need of parental care are orphans. Some children in need of parental care do have at least

⁵² Controversy surrounds the reported statistics of children in need of adoption. Some argue that reported estimates are low or conservative, representing only a partial extent of the global orphan crisis because they fail to capture the fact that many children’s births are undocumented; that some children are missing or victims of trafficking; and that some children have not been identified as living with inadequate parental care – for example, due to abuse, neglect, etc. On the other hand, some argue that statistics about adoptable children are inflated so as to create an economic demand and global market for adoption practices. See Michele Goodwin (ed.), *Baby Markets: Money and the New Politics of Creating Families* (New York: Cambridge University Press, 2010).

⁵³ Rulli, “Preferring,” 704.

⁵⁴ For more on children’s needs for parental care, refer to §3.2.

⁵⁵ Rulli, “Preferring,” 704, emphasizes original.

one surviving birth parent, but one or both parents are unable to provide parental care (due to, e.g., poverty, sickness, etc.). In some cases, children may live with their birth parents (or other parental guardians) but may still be in need of parental care because they experience abuse or neglect in their current living situation. That is, even though, descriptively, these children have parents, they are normatively lacking parents (i.e., they are normatively parentless) in the sense that they lack adequate parental care. I will use the phrases ‘parentless children’ and ‘children in need of adoption’ to pick out the group of children about whom the global orphan crisis is concerned: those who need parental care.

Although the phrase ‘global orphan crisis’ picks out the total number of children who are in need of parental care, a moral duty to adopt applies to the extent that there are adoptable children (i.e., children who are legally eligible to be adopted). The number of adoptable children is smaller than the number of children in need of adoption, simply because not all children in need of adoption are adoptable. For instance, usually one of the requirements for a child to be eligible for adoption is that parental ties to their birth parents are legally severed. For various reasons, however, parental ties are maintained in some cases, and children become wards of the state through foster care systems. Some children in need of parental care are not eligible for adoption because they are either unidentified, undocumented, or have not been registered with an adoption agency (e.g., due to limited institutional infrastructure). Some children who do become eligible for adoption are adopted through formal or informal, kinship or customary adoptions,⁵⁶ while others ‘age out’⁵⁷ of foster care. Global statistics

⁵⁶ Customary adoptions are “cultural practices of Aboriginal peoples to raise a child, by a person who is not the child’s parent, according to the First Nation and/or the Aboriginal community of the child” (Poitras and Zlotkin, “Customary Adoption in Canada,” 6). Adoptions based on customs (i.e., indigenous traditions or law) tend to value the preservation of parental ties while at the same time providing adequate care for a child (or adult) by a community. For more on customary (or ‘custom’) adoptions, see Jean Carriere (ed.), *Aski Awasis: Children of the Earth: First Peoples Speaking on Adoption*. (Black Point, N.S: Fernwood Pub, 2010); Kisa Macdonald, “Customary Adoption in British Columbia,” 17-23.

about the number of adoptable children are vague, in large part because there is no reliable integrated global system for tracking children and their status in families. However, despite the lack of precision in global estimates, one thing is clear: there are far more adoptable children, and yet even more children in need of adoption, than there are willing adoptive families.⁵⁸

Rulli focuses exclusively on formal adoptions between non-relatives, while Friedrich takes adoption to include formal and informal, international and intra-national (i.e., domestic) adoptions, involving non-relatives or kin.⁵⁹ I consider that kinship, customary, and informal adoptions could fulfill one's duty to adopt and will address this more carefully in subsequent chapters. The problem with leaving out informal (or 'non-formal') adoptions is that some countries lack the "cultural environment in which adoptions are seen as an option," leaving children in need of adoption without a chance of formal adoption placement.⁶⁰ Parentless children who live in countries without formal adoption procedures should not be overlooked; rather, we must be able to accommodate children's different situations and leave room for a variety of ways for a duty to adopt to be fulfilled.

⁵⁷ 'Ageing out of care' refers to the phenomenon of a child welfare system severing "its formal role as 'parent' [of a crown ward] as soon as a young person reaches the age of majority." Rather than this period in a one's life being a smooth transition, studies report that "entry into adulthood is more akin to an 'expulsion' than a transition" (Deborah Rutman, Carol Hubberstey, and April Febuniw, "When Youth Age Out of Care-Where to from There? Final Report: Based on a Three Year Longitudinal Study," (2007): 3).

⁵⁸ Richard Carlson, "Seeking the Better Interests of Children with a New International Law of Adoption." *New York Law School Law Review* 55, no. 3 (2011): 770.

In Canada, there are about 30,000 children who are eligible for adoption. The Adoption Council of Canada reported in 2010 that only about 2,000 children are adopted through the public adoption system per year; a further 500-600 children per year are adopted privately within Canada; and about 2,100 children per year are adopted internationally: <http://www.adoption.ca/family-bonds>.

⁵⁹ Friedrich, "A Duty to Adopt?" note 2.

⁶⁰ Friedrich, "A Duty to Adopt?" 34.

3. A Duty to Adopt

Two notable accounts of a duty to adopt have been developed independently by philosophers Tina Rulli and Daniel Friedrich. In this section, I detail their arguments.

3.1. Moral Foundations

The moral foundations of a duty to adopt, on Rulli's and Friedrich's accounts, rest on a general utilitarian duty to rescue, according to which we ought to assist those who risk incurring serious harms, if the cost to us is minimal or relatively small.⁶¹ Rulli asks us to consider a thought experiment involving a standard rescue case to illuminate our intuitions behind this principle:

Railroad: Your drive to work takes you across the railroad tracks. Today, as you approach the tracks, you notice that a small child has gotten her foot caught in them. A train will be coming by any moment now. If the child is left on the tracks, at the least, her leg will be severed by the oncoming train. She needs the assistance of a stronger adult to pull her leg free.⁶²

In *Railroad*, most of us would agree that, given the critical harm that would befall the unsaved child, and the small cost the driver would incur by helping the small child (assuming this is true), the driver morally ought to release the child's leg from the railway tracks.

Applied to the global orphan crisis, Rulli provides us with this concise formulation of a duty to adopt: "given that there is an orphan crisis, prospective parents have a moral duty to adopt rather than create children, absent special

⁶¹ This principle is derived by Peter Singer, "Famine, Affluence, and Morality," *Philosophy & Public Affairs* 1, no. 3 (1972): 229-243.

⁶² Tina Rulli. "The Duty to Adopt" (PhD diss., Yale University, 2011), p. 64.

burden.”⁶³ The “absent special burden” clause pertains to the costs associated with adopting a child as compared to procreating. In some cases, the costs associated with adopting a child will be sufficient to override one’s duty to adopt or exempt one from a duty to adopt. Thus, the duty to adopt applies *pro tanto*, meaning that it is defeasible under circumstances that impose special burdens or sufficient costs upon prospective parents that they would not have if they were to procreate.⁶⁴

The basic structure of the argument in favour of a duty to adopt proposed by Rulli and Friedrich is as follows:

P1: We have a moral duty to assist those in need, if the risk of harm to them is critical and the cost to us is small.

P2: Parentless children are exposed to critical risk of harms that would be alleviated through adoption.⁶⁵

⁶³ Rulli, “The Duty to Adopt,” 1. Friedrich explains the principle and its specific application in this way: “If we can protect others from serious harm at little cost to ourselves we morally ought to do it. Moreover, we can protect parentless children from serious harm at little cost to ourselves by adopting them” (“A Duty to Adopt?” 25).

Travis Rieder rejects a duty to adopt, claiming that relations of radical intimacy cannot be subject to moral obligation. For more on Rieder’s objection and my response, see §5.2.

⁶⁴ Although the duty to adopt is commonly conceived as an instance of a more general utilitarian duty to rescue, it may alternatively be grounded in a Kantian framework. Here, the idea would be that we have a duty of beneficence toward others, which arguably involves assisting those in dire need. See Onora O’Neill, “Kantian Approaches to Some Famine Problems,” in *Matters of Life and Death*, T. Regan (ed.), (McGraw-Hill Companies, 1980), 546-551. Of course, such a framework for a duty to adopt would have to account for how the imperfect duty of beneficence to others can *obligate* one to adopt instead of procreate. For a solution involving the requirement not to be indifferent to the needs of others, see Karen Stohr, “Kantian Beneficence and the Problem of Obligatory Aid,” *Journal of Moral Philosophy* 8, no. 1 (2011): 45-67.

⁶⁵ Rulli notes that the situation of parentless children is particularly compelling for a duty to adopt because children are “uniquely vulnerable in their inability to advocate for themselves and in their dependence upon others to improve their life prospects” (“Preferring,” 704).

P3: Many prospective parents could adopt children at little cost to themselves (i.e., absent ‘special burden’), instead of procreating.

C: Therefore, many prospective parents morally ought to adopt existing children in need of parental care, instead of bringing new children into the world through procreation.

Let us review the argumentative support for P2 and P3 in the rest of this section.

3.2. Children’s Needs for Parental Care

A core premise (P2) of Rulli’s and Friedrich’s duty to adopt arguments is that children who lack parental care face serious risk of harms, and that adoption would alleviate these risks of harms.⁶⁶ They substantiate these points by drawing on empirical research. This aspect of their argument has to do with the needs of existing children.

First, many parentless children lack certain basic goods for survival, including food, water, medical care, shelter, warmth, and loving care from a caregiver; in some cases, babies and young children experience abuse or neglect and, in extreme cases, die from poor living conditions.⁶⁷ ‘Street children’ face risks of “maltreatment, disease, exploitation for sex, labour and child soldiering, and trafficking for these purposes,”⁶⁸ and investigations into orphanages around the world reveal shocking realities.⁶⁹ Many institutions are overcrowded with

⁶⁶ In this section, I focus on Rulli’s and Friedrich’s defense of the claim that children need parental care, *simpliciter*. Neither engages with the idea that children need to be cared for by certain people, in particular (e.g., those who share the child’s race). However, views about children’s right to a certain identity have been a long-standing subject of controversial debates in the context of adoption. For my input on this debate, see Chapter 4.

⁶⁷ Elizabeth Bartholet, “International Adoption: The Child’s Story,” *Georgia State University Law Review* 24, no 2 (2007): 333-379.

⁶⁸ Wardle (2005), pp. 325-331, cited in Bartholet, “International Adoption,” 96.

⁶⁹ For data on various countries, refer to the 2017 report “Protecting Children Against Torture in Detention: Global Solutions for a Global Problem”, esp. Eric

children and drastically understaffed.⁷⁰ In some cases, children lack stimulation in their confined environments and share momentary physical contact with orphanage workers. Self-harming behaviours and aggression are treated with psychiatric drugs or physical bondage.⁷¹ In some cases, children are left to starve with no one to feed them.⁷² Lack of government oversight leaves room for many orphanages to be run as profitable businesses, with foreign donations serving as ‘revenue.’ Babies and children can face risks of being subject to “sexual abuse, organ harvesting, and illegal adoptions,” and children with disabilities or other medical needs are often left unattended. Food shortages and neglect leave children malnourished, sometimes on the brink of death.⁷³ For these reasons, orphanages that are “globally depriving in terms of health, stimulation, and social and emotional relationships”⁷⁴ are unsafe places for children.

Second, parental care cannot be substituted for institutional forms of care (e.g., orphanages) or even foster care.⁷⁵ Even in well-equipped, regulated, well-run orphanages, sustained engagement with a caregiver, permanency in a family,

Rosenthal, “A Mandate to End Placement of Children in Institutions and Orphanages,” *Georgetown Law Human Rights Institute* 1, no. 3 (2017).

⁷⁰ Elizabeth Bartholet, “International Adoption: The Human Rights Position,” *Global Policy* 1, no. 1 (2010): 91.

⁷¹ Georgette Mulheir, “Deinstitutionalization: a human rights priority for children with disabilities,” *Equal Rights Review* 9, no. 120 (2012).

⁷² Laurie Ahern, “Orphanages are No Place for Children,” *Washington Post*, August 9, 2013. https://www.washingtonpost.com/opinions/orphanages-are-no-place-for-children/2013/08/09/6d502fbo-fadd-11e2-a369-d1954abcb7e3_story.html?noredirect=on&utm_term=.244d39f05587.

⁷³ Marina Vorobei, “Children Discovered on Brink of Starvation,” *The Guardian*, April 20, 2018. <https://www.theguardian.com/world/2017/apr/20/children-discovered-on-brink-of-starvation-in-belarusian-orphanages>.

⁷⁴ Jesús Palacios and David Brodzinsky, “Review: Adoption Research: Trends, Topics, Outcomes.” Vol. 34. London, England: SAGE Publications, 2010: 274.

⁷⁵ Rulli, “Preferring,” 705-706.

and stable, loving parental care are absent.⁷⁶ And even though foster care is better for children's development than institutional care,⁷⁷ research suggests that children still fare better in adoptive care, as compared to long-term foster care.⁷⁸ Crucially, children who grow up without stable, loving parental care are a high

⁷⁶ As Laurie Ahern (2013) puts it, "Even in clean, well-managed, 'good' orphanages, children can never get the direct care that a parent, family, or caring guardian can provide". Friedrich makes this point, too, arguing that institutional care facilities and foster care are "structurally ill-equipped to effectively protect and satisfy all of a child's basic needs," citing a "lack of stability" of caregivers over time ("A Duty to Adopt?" 28).

⁷⁷ For research comparing foster care to institutionalization with respect to children's development, see Charles Zeanah et al., "Designing Research to Study the Effects of Institutionalization on Brain and Behavioral Development: The Bucharest Early Intervention Project," *Development and Psychopathology* 15, no. 4 (2003): 885-907; Diane Chugani et al., "Local Brain Functional Activity Following Early Deprivation: A Study of Postinstitutionalized Romanian Orphans," *Neuroimage* 14, no. 6 (2001): 1290-1301; Katie Lockwood, Susan Friedman, and Cindy W. Christian, "Permanency and the Foster Care System," *Current Problems in Pediatric and Adolescent Health Care* 45, no. 10 (2015): 310; Laurie Miller et al., "Health of Children Adopted from Guatemala: Comparison of Orphanage and Foster Care," *Pediatrics* 115, no. 6 (2005): e710-e717; Kim Maclean, "The Impact of Institutionalization on Child Development," *Development and Psychopathology* 15, no. 4 (2003): 853-884; Marinus H. van IJzendoorn, et al., "IQ of Children Growing Up in Children's Homes: A Meta-Analysis on IQ Delays in Orphanages," *Merrill-Palmer Quarterly* 54, no. 3 (2008): 341-366; and Sandra Knuiman, et al., "Children without Parental Care in Poland: Foster Care, Institutionalization and Adoption." *International Social Work* 58, no. 1 (2015): 142-152.

⁷⁸ For research comparing adoption to foster care and institutionalized care, see Linda van den Dries, Femmie Juffer, Marinus H. van IJzendoorn, and Marian J. Bakermans-Kranenburg. "Fostering Security? A Meta-Analysis of Attachment in Adopted Children." *Children and Youth Services Review* 31, no. 3 (2009): 410-421; Bo Vinnerljung, Anders Hjern, Centrum för forskning om ojämlikhet i hälsa (CHESS), Stockholms universitet, Samhällsvetenskapliga fakulteten, and Institutionen för socialt arbete - Socialhögskolan. "Cognitive, Educational and Self-Support Outcomes of Long-Term Foster Care Versus Adoption. A Swedish National Cohort Study." *Children and Youth Services Review* 33, no. 10 (2011): 1902-1910. Youth who age out of the foster care system face a high risk of becoming homeless and have "higher rates of incarceration, unintended pregnancy, food, housing, and income insecurity, unemployment, educational deficits, receipt of public assistance, and mental health problems" (Human Rights Watch, *My So-Called Emancipation: From Foster-Care to Homelessness for California Youth*, 2010: 1. <http://www.hrw.org/reports/2010/05/12/my-so-called-emancipation>; Lockwood et al., "Permanency and the Foster Care System," Table 3, 309.

risk of experiencing emotional and psychological harm.⁷⁹ For example, healthy attachments between a child and parent facilitate “physical, social, language, cognitive and psychomotor development.”⁸⁰ Studies show that children living in institutions or with histories of institutionalization have compromised attachment behaviour.⁸¹ While foster care can improve the quality of attachment among young children who have been institutionalized,⁸² the permanency of adoptive care is preferable to the impermanency in foster care placements. Adoption provides children with “psychological stability and a sense of belonging” that they would not have in modes of temporary care.⁸³ For these reasons, adoption often provides the best form of familial support for parentless children, who would otherwise be exposed to risks of critical harms.

⁷⁹ See Françoise S. Maheu, Mary Dozier, Amanda E. Guyer, Darcy Mandell, Elizabeth Peloso, Kaitlin Poeth, Jessica Jenness, et al., “A Preliminary Study of Medial Temporal Lobe Function in Youths with a History of Caregiver Deprivation and Emotional Neglect,” *Cognitive, Affective, & Behavioral Neuroscience* 10, no. 1 (2010): 34-49; Johanna Bick and Charles A. Nelson, “Early Experience and Brain Development,” *Wiley Interdisciplinary Reviews: Cognitive Science* 8, no. 1-2 (2017): e1387. Bick and Nelson (2017) find that severe neglect in children’s early years compromises their emotional, behavioural and cognitive functioning but that early interventions can reverse the effects of neglect and, in very early adoptions, can support maximal recovery (1).

⁸⁰ Georgette Mulheir, “Deinstitutionalization: a human rights priority for children with disabilities,” *Equal Rights Review* 9, no. 120 (2012).

⁸¹ Francesca Lionetti, Massimiliano Pastore, and Lavinia Barone, “Attachment in Institutionalized Children: A Review and Meta-Analysis,” *Child Abuse & Neglect* 42, (2015): 135-145; Linda van den Dries, Linda, Femmie Juffer, Marinus H. van IJzendoorn, and Marian J. Bakermans-Kranenburg, “Fostering Security? A Meta-Analysis of Attachment in Adopted Children,” *Children and Youth Services Review* 31, no. 3 (2009): 410-421.

⁸² Anna T. et al., “Placement in Foster Care Enhances Quality of Attachment among Young Institutionalized Children,” *Child Development* 81, no. 1 (2010): 212-223.

⁸³ Vivek Sankaran, “Perpetuating the Impermanence of Foster Children: A Critical Analysis of Efforts to Reform the Interstate Compact on the Placement of Children,” *Family Law Quarterly* 40, no. 3 (2006): 435.

Pace and Zavattini (2011) report “significant enhancement of the late-adopted children’s attachment security” within one year of adoptive placement (p. 82). C. S. Pace, and G. C. Zavattini, “Adoption and Attachment Theory’ the Attachment Models of Adoptive Mothers and the Revision of Attachment Patterns of their Late-Adopted Children,” *Child: Care, Health and Development* 37, no. 1 (2011): 82.

3.3. Preference for Biological Children

Another core premise (P3) of Rulli's and Friedrich's duty to adopt arguments is that many prospective parents could adopt children instead of procreating, at little cost to themselves. This requires a defence of the idea that adopting a child would come at a minimal or small cost to many prospective parents, as compared to having a child through procreation.

A prominent set of claims about special burdens are presented in the form of preferences that people have for biological or genetically-related children. For a variety of reasons, many people think they would prefer having biological children as opposed to adopting children, and they might argue that adopting a child would pose significant costs to them. However, both Rulli and Friedrich argue that there are very few reasons one could offer in favour of having a biological child that would defeat the duty.⁸⁴ They argue that most reasons one could offer in favour of preferring biological children are not sufficient to constitute a "special burden" to prospective adoptive parents.

One of the most difficult challenges facing proponents of a duty to adopt is of determining what constitutes a "special burden" or 'sufficient costs' for prospective adoptive parents that would justifiably defeat the duty and thus morally permit procreation instead of adoption.⁸⁵ In defending their arguments that there are very few good reasons to prefer a biological child, Rulli and Friedrich attempt to address this challenge by applying two standards.

The first standard they set is that morality must allow agents some leeway to pursue their interests.⁸⁶ To mitigate the demandingness of morality, some

⁸⁴ Rulli, "The Duty to Adopt"; Friedrich, "A Duty to Adopt?"

⁸⁵ This threshold problem of determining what constitutes a 'sufficient cost' for prospective parents is faced by accounts about duties to rescue, more generally (Tina Rulli and Joseph Millum, "Rescuing the Duty to Rescue," *Journal of Medical Ethics* 42, no. 4 (2016b): 263).

⁸⁶ See Bernard Williams (1981), *Moral Luck* on his defense of 'ground projects,' which provide agents with a "motive force" and "gives [them] a reason for living" (13).

philosophers grant that people have moral options that can justify their non-fulfillment of a moral requirement, so long as the option is tied to “important life projects, plans, and pursuits.”⁸⁷ More specifically, for “high-stakes” duties to assist, Rulli stipulates, moral options must be limited to those interests that rise to the level of “projects”. An interest rises to the level of a project if it meets the following conditions:

- i) its value is of “central significance” in one’s life;⁸⁸
- ii) it has “non-trivial” value;
- iii) it has “non-negative” value; and
- iv) its value is “independent of an agent’s subjective valuation.”⁸⁹

A project-level interest that both Rulli and Friedrich accept is the desire to live a child-free life. For some people, the experience of parenting is undesirable, and the interest in being child-free is of central significance because it shapes one’s life goals and has “lasting experiential impact ... that colors [the agent’s] perspective or alters the quality or character of her future experiences.”⁹⁰ Perhaps other interests (e.g., working, traveling, having leisure time, caring for non-human animals) are far more important than having children. Children are a lot of work, requiring attention, sacrifices in time, self-development, substantial financial and emotional investment, and not all people have an interest in or a

Bernard Williams, *Moral Luck: Philosophical Papers, 1973-1980*. New York: Cambridge University Press, 1981. These projects are commitments that give one’s life unique character, as perceived by the individual, are “closely related to [one’s] existence and which to a significant degree give a meaning to [one’s] life” (12). For a critique and rejection of moral options, see Shelly Kagan, “Précis of “the Limits of Morality,”” *Philosophy and Phenomenological Research* 51, no. 4 (1991): 897; Shelly Kagan, *The Limits of Morality*, New York: Clarendon Press, 1989.

⁸⁷ Rulli, “Preferring,” 678.

⁸⁸ Rulli, “Preferring,” 678, emphasis original.

⁸⁹ Rulli, “Preferring,” 678.

⁹⁰ Rulli, “Preferring,” 678.

willingness to parent. An interest in being child-free is non-trivial because it reflects a profound desire that influences one's life goals, and these goals are not outweighed by the costs to the person in need of rescue. To illustrate this point, consider that if someone were subject to a moral demand of adopting children but was unwilling to be a parent, then they would be responsible for caring for children they would rather not have, an outcome undesirable for both parent and child. The interest in being child-free, in this way, is clearly non-trivial, for it directly impacts the central projects of one's life and thus can "compete with the good of rescue."⁹¹ Moreover, one's interest in being child-free has non-negative value, for it does not involve an imposition of harm. Contrast this with an interest in, for instance, torturing people, or playing video games instead of calling 911 upon witnessing a horrible car accident, both actions of which clearly result in bad consequences.⁹² Finally, an interest in remaining child-free has value independent of the agent's subjective valuation. Many of us could understand (even if we ultimately do not agree with) an agent's interest in pursuing desired ends apart from, and to the exclusion of, parenting children. Recognizing that some people have project-level interests in being child-free, both Rulli and Friedrich place upfront limits on the scope of a duty to adopt, shielding unwilling parents from the duty.

In sum, projects reflect an agent's "most central concerns"⁹³ and shield the agent by way of normative protection from overly high demands of morality. In doing so, agents are thus justified in pursuing their desired ends (i.e., interests), so far as these interests meet the above conditions. Call this limit on moral agents' interests within the context of a duty to adopt the 'project-level interest' standard.

⁹¹ Rulli, "Preferring," 678.

⁹² Rulli ("Preferring," 677) provides the video game example to illustrate how trivial one's interest in playing video games are, relative to the good of rescue at the scene of a car accident, but I think the example also serves to illustrate the point about the negative value of such an interest.

⁹³ Friedrich, "A Duty to Adopt?" 26.

A second standard they apply is meant to temper the project-level interest standard. In the context of a duty to adopt, Rulli explains, appeals to an agent's projects alone cannot justify a preference for a biological child over an adopted child; rather, appeals to projects must be moderated by a second standard: parental flexibility.⁹⁴ According to this standard, parents must be flexible and accommodating enough to love their child, however they may turn out. In Rulli's words,

Becoming a parent is, in part, about raising an independent, autonomous person who may defy our expectations and have [their] own interests. We must allow our children to become and to be their own people. Though parents play a crucial role in shaping their children's values and interests, they must be able to find parental satisfaction in the variety of ways their children may turn out.⁹⁵

Call this limit on prospective parents' projects within the context of a duty to adopt the '*parental flexibility*' standard.

To recap, with respect to P3, Rulli and Friedrich establish two standards by which to evaluate proposed defeating conditions to a duty to adopt. The 'project-level interest' standard provides agents with some protection from the high demands of morality (in this case, a duty to adopt). Appeals to project-level interests must also meet the standard of parental flexibility, which requires that prospective parents be open to loving a child, however they may turn out. These two standards serve as criteria for evaluating supposed 'special burdens' that prospective parents may incur as a result of adopting a child, rather than procreating.

In addition to these two standards, Rulli and Friedrich stipulate that successful defeating conditions to a duty to adopt must distinguish biological or

⁹⁴ For an example of an interest failing to meet this standard, see §4.3.

⁹⁵ Rulli, "Preferring," 685.

genetic children from adopted children⁹⁶ and that preferences for biological children must be based on informed desires, that is, desires that are not based on mistaken or false conceptions about adoption or the desired state of affairs (i.e., having biological children).⁹⁷ In all cases, one must be able to show that they would incur a *special burden* (i.e., sufficient costs) in adopting a child that they would otherwise avoid through biological procreation. Both philosophers dedicate a substantial portion of their arguments to defending them against various reasons that people may have for preferring a biological child over an adopted child. Let us review the proposals they consider.

4. Possible Defeating Conditions

In this section, I systematically review Rulli's and Friedrich's engagement with proposed defeating conditions and identify the grounds upon which they reject or accept each one. I begin with proposals that, in my view, are relatively weak and progress to those that seem to be promising candidates for defeating a duty to adopt. Like Rulli and Friedrich, I ultimately reject most of the proposals they consider but accept a few. I will indicate clearly along the way where my reasoning resonates with or differs from theirs.

I review their responses carefully for two key reasons. First, a defense of a duty to adopt requires thoughtful and critical engagement about different scenarios that seem to present cases about special burdens that adoptive parents incur that biological parents do not. Although I agree with Rulli's and Friedrich's reasoning with respect to many scenarios, I also disagree at critical points. Drawing out these differences between their views and mine will provide the reader with insight about my interpretation and application of their standards (see S 3.3). Second, as I will discuss in Chapter 2, there are reasons to favour procreation about which neither Rulli nor Friedrich engage. Reasoning carefully

⁹⁶ Rulli, "Preferring," 671.

⁹⁷ Friedrich, "A Duty to Adopt?" 28.

through the objections that they *do* consider will provide a blueprint for evaluating an uncharted set of proposed defeating conditions in subsequent chapters.

For Parent-Child Physical Resemblance

Some might appeal to the desire to have a child who shares a physical resemblance as a reason to have biological rather than adopted children. After all, it is often treated as a positive thing if one shares resemblances with one's child. Genetically-related parents and children who 'look alike' are complimented, and adoptive parents and children can be faced with non-innocent questions about why they do not look alike.⁹⁸ Friedrich casts this proposal aside, and Rulli also dismisses it, citing its failure to rise to the level of a project due to its triviality.

However, social meanings associated with parent-child physical resemblance may not be as trivial as Rulli and Friedrich presume. Consider that resemblance with one's child could be a symbolic marker of "true kinship," a sign of an intimate and caring relationship, "an index of a 'real' family connection."⁹⁹ In the ways that Rulli and Friedrich think about the desire for parent-child physical resemblance, I regard the desire as trivial and narcissistic. However, Rulli addresses my point about symbolism in parent-child resemblance in terms of family resemblance, more generally.

For Family Resemblance

Perhaps what is important for a parent is that their child shares with them family resemblance: they stand in a 'looks like' relationship to members of the genetic lineage, sharing certain 'family-typical' features even if their looks are not specifically alike to one's own. For example, one may have a distinctive aquiline nose that 'runs in the family' or long arms that are 'typical' of one's side of the

⁹⁸ Rulli, "Preferring," 679.

⁹⁹ Kathryn E. Goldfarb, "'Coming to Look Alike': Materializing Affinity in Japanese Foster and Adoptive Care," *Social Analysis* 60, no. 2 (2016): 59.

family. Beyond physical characteristics, one may share a personality trait common to members of a family. In this way, desired features in one's child are not merely trivial but, rather, are "social" and "relational properties" that "serve various purposes: bonding family members, explaining behaviour, assigning blame."¹⁰⁰ Understood this way, the value of family resemblances, Rulli contends, are not obviously trivial, for they hold symbolic meaning and signify connection with familial others.¹⁰¹

Even though the desire to experience such resemblances is non-trivial, I agree with Rulli that it is nonetheless a poor candidate for defeating a duty to adopt. Nelson Goodman's work in the philosophy of art sets the stage for evaluation. In two excerpts, Goodman writes:

Anything is in some way like anything else. ... the fact that a term applies, literally or metaphorically, to certain objects may itself constitute rather than arise from a particular similarity among those objects.¹⁰²

That we know what we see is no truer than we see what we know. Perception depends heavily on conceptual schemata.¹⁰³

In essence, Goodman's critique of resemblance is that any number of things (or, in our case, people) can be said to resemble one another in some relevant respect, as determined by some frame of reference or conceptual framework. What we see as a relation of resemblance is prejudged by our eye,

¹⁰⁰ Charlotte Witt, "Family Resemblances: Adoption, Personal Identity, and Genetic Essentialism," In *Adoption Matters: Philosophical and Feminist Essays*, edited by Sally Haslanger and Charlotte Witt, 135-145. Ithaca: Cornell University Press, 2005. 141.

¹⁰¹ Rulli, "Preferring," 680.

¹⁰² Nelson Goodman, *Problems and Projects*, Indianapolis: Bobbs-Merrill, 1972: 440.

¹⁰³ Goodman, *Problems and Projects*, 142.

which “selects, rejects, organizes, associates, classifies, analyzes, constructs.”¹⁰⁴ When we make a judgement about resemblance, we do so in relation to some pre-established framework. Take this example, adapted from Goodman.¹⁰⁵ If I pour three glasses of liquid, the first two colourless and the third red, an observer would likely identify the first two glasses as being more like each other than the third, based on colour. However, as it turns out, I have filled the first and third glasses with water (one clear and one beet-dyed) and the second with vinegar. If one were informed about what liquids were in each glass, one would likely identify *this* resemblance (i.e., type of liquid) rather than (or perhaps in addition to) the former. In sum, we identify resemblances between things we know to be related, as per some pre-existing framework (e.g., colours, types of liquids). So how could this idea inform our evaluation of the proposed defeating condition?

Sally Haslanger¹⁰⁶ and Charlotte Witt¹⁰⁷ seem to channel Goodman’s abstract idea in the context of family resemblance, arguing that we identify family resemblances amongst those who fit “our own normative conception of *family*” in the first place.¹⁰⁸ That is, when we identify family resemblance amongst family members, we do so against a pre-existing conceptual framework of who counts as family. As Haslanger notices, our notions of family resemblance tend to account for differences in gender (e.g., a white girl can resemble her white grandfather), but not race (e.g., a black girl is not easily identified as resembling her white mum, although they may share physical similarities). Crucially, who we count as family in the first place is founded on a “genetic bias in the socially constructed family resemblance schema.”¹⁰⁹ We should be critical of appeals about the

¹⁰⁴ Nelson Goodman. *Languages of Art: An Approach to a Theory of Symbols*, 2nd ed (Indianapolis: Hackett Publishing Co, 1976), 7.

¹⁰⁵ Goodman, *Problems and Projects*, 445.

¹⁰⁶ Sally Haslanger, “Family, Ancestry and Self: What is the Moral Significance of Biological Ties?” *Alliance for the Study of Adoption and Culture* 2, no. 1 (2009).

¹⁰⁷ Charlotte Witt, “Family Resemblances.”

¹⁰⁸ Cited in Rulli, “Preferring,” 682, emphasis original.

¹⁰⁹ Rulli, “Preferring,” 682.

importance of having a biological or genetically-related child for family resemblance, given that the value of that connection is presupposed by our normative conception of family.

After all, Rulli reasons, if our understanding of family resemblance is socially constructed, then adopted children could fit the construct if we broaden it to capture similarities not just in physical appearances but also “certain traits that are not exclusively genetically explained, such as mannerisms, body language, facial expressions, behaviour, speech patterns, accents, interests, hobbies, and so on.”¹¹⁰ This is a key point, because the burden for prospective parents who would prefer to procreate rather than adopt, is to show that one cannot obtain certain goods from adopting a child that one would otherwise have with a biological or genetically-related child. We have seen that by simply revising our concept of family, we allow ourselves to notice physical and non-physical traits that can symbolize our relationship with one another as members of a family, and that principle includes recognizing adopted children in this way, too.¹¹¹ All in all, for its logical invalidity and conceptual unsoundness in establishing the importance of having a genetic child (as compared to an adopted child), Rulli and I dismiss this proposal as a viable defeating condition to a duty to adopt.

For Psychological Similarity

Psychological similarity with one’s child may be desired, for its supposed likelihood in facilitating a “shared point of view and mutual understanding.”¹¹² Rulli deals with this proposal by highlighting the lack of common sense in this view. Not only do genes play a largely insignificant role in determining one’s

¹¹⁰ Rulli, “Preferring,” 683.

¹¹¹ Rulli, “Preferring,” 683.

¹¹² Rulli, “Preferring,” 683.

psychological makeup¹¹³ but also it is possible that similar personalities within a family (e.g., having strong convictions) make for difficult relationships. Let us assume, though, that it is possible to significantly increase the likelihood of having a psychologically-similar child through procreative genetic connection and that that would be a good thing.

Rulli argues, and I agree, that it is very difficult to imagine how a prospective parent's desire for psychological similarity with a genetically-related child could meet the standard of a project while at the same time satisfying the standard of parental flexibility. Consider this variant of an example Rulli offers. Imagine a family in which the parents are both political activists who spend a great deal of their time rallying for justice in many forms. They eagerly want a child who shares their passion for activism, and who sees the world the way they do: with a strong psychological disposition to put others before them. If their genetic child turns out not to be psychologically inclined in this way (perhaps they turn out to be selfish and greedy for personal gain), their project-level interest in having a psychologically-similar child would be unrealized. As parents, however, their love for their child should not evaporate for reasons of project non-fulfilment. Recall Rulli's advice about parental preferences, accommodation, and flexibility: "Though parents play a crucial role in shaping their children's values and interests, they must be able to find parental satisfaction in the variety of ways their children may turn out."¹¹⁴ Because the desire for psychological similarity with one's child fails to simultaneously meet the 'project-level interest' and 'parental flexibility' standards, I agree that it fails as a defeating condition to a duty to adopt.

¹¹³ Neil Levy and Mianna Lotz, "Reproductive Cloning and a (Kind of) Genetic Fallacy," *Bioethics* 19, no. 3 (2005): 232-250.

¹¹⁴ Rulli, "Preferring," 685.

As an Expression of Love Between a Couple

Rulli considers that a couple might favour having a biological child as an expression of love between them. The biological child resulting from them is a “natural product of their love” and a “symbol of their romantic relationship and commitment to one another.”¹¹⁵ This proposal is unsuccessful for several reasons. For one thing, it fails to distinguish between biological and adoptive children. As Rulli points out, romantic love is grounded in “people’s mutual commitment to moral values, shared love of pastimes, common memories, compassion, and commitment to one another,” and adopted children would be fitting beneficiaries of this strong love in parental form. It is not necessary for a child to be a physical product of a couple to symbolize or embody their shared commitment to one another. Thus, this proposed defeating condition fails the burden of demonstrating the unique value of a biological child rather than an adopted child.

Furthermore, I would add that to desire creating a child as a means to express love within a relationship is to instrumentalize and trivialize the child’s worth. Couples can express love to one another in countless ways that do not involve the creation of a child – for example, by bestowing gifts upon one another, happily spending time together, etc. Thus, by itself, desiring a biological child for the sake of expressing love for or with another person cannot justify *creating a new person* through procreation, nor can it justify preferring a biological child over an adopted child. For these reasons, this proposed defeating condition fails to override a duty to adopt.

To Love ‘One’s Own’ Child

One might desire biological children based on the belief (or perhaps out of fear) that they would not love an adopted child in the same way that they would

¹¹⁵ Rulli, “Preferring,” 687.

love a child who shares biological ties.¹¹⁶ However, this belief is largely unsupported by both testimonies of adoptive parents and empirical data, leading Friedrich to remain unconvinced of this proposal's force.¹¹⁷ Adoptive parents often express their utmost love and affection for their adopted children,¹¹⁸ and evidence of parental favouritism of biological children over adopted children is unsupported by research.¹¹⁹ However, it is important to recognize that some adoptive families go through an adjustment period upon placement, during which time secure attachments may not yet be formed, and the loving bond that one might expect to have with one's child may initially be unrealized. To address this, adoption professionals have developed a range of strategies to help facilitate loving bonds between parents and children over time.¹²⁰ While most people's belief that they could not love an adopted child as 'their own' is most likely factually mistaken and could change if they were presented with counter-evidence, I am willing to grant an exemption to a duty to adopt for those whose

¹¹⁶ Friedrich (2013) addresses two variations of this proposal, only one with which I engage. The other has to do with the worry that one's adopted child would be taken back by the child's birth parents or that they, as adopted parents, would be competing with the child's birth parents or the fantasy of them. For Friedrich's responses, see 30.

¹¹⁷ Friedrich, "A Duty to Adopt?" 30.

¹¹⁸ Friedrich, "A Duty to Adopt?" 29.

¹¹⁹ See Nancy Segal et al., "Do Parents Favor their Adoptive or Biological Children? Predictions from Kin Selection and Compensatory Models," *Evolution and Human Behavior* 36, no. 5 (2015): 379-388. For comparisons of parental investment in adoptive and biological families, see Laura Hamilton, Simon Cheng, and Brian Powell, "Adoptive Parents, Adaptive Parents: Evaluating the Importance of Biological Ties for Parental Investment," *American Sociological Review* 72, no. 1 (2007): 95-116; Kyle Gibson, "Differential Parental Investment in Families with both Adopted and Genetic Children," *Evolution and Human Behavior* 30, no. 3 (2009): 184-189; Joan Suwalsky, Charlene Hendricks, and Marc H. Bornstein, "Families by Adoption and Birth: I. Mother-Infant Socioemotional Interactions," *Adoption Quarterly* 11, no. 2 (2008): 101-125.

¹²⁰ See Ellen Singer and Madeleine Krebs, "Assisting Adoptive Families: Children Adopted at Older Ages," *Pediatric Nursing* 34, no. 2 (2008): 170; April Moyer and Abbie E. Goldberg, "'We Were Not Planning on This, But ...': Adoptive Parents' Reactions and Adaptations to Unmet Expectations: Adoption Expectations." *Child & Family Social Work* 22, (2017): 12-21.

belief is so deeply-held that it would most likely materialize and thus negatively affect the quality of care that an adopted child would receive.¹²¹

To Witness Early Childhood ‘Firsts’

One may prefer to have a biological child for the sake of capturing memories, perhaps especially early childhood ‘firsts’, such as a child’s first time walking, first word, first birthday, etc. Consider someone for whom sharing in and documenting early memories with one’s child is a cherished experience that deeply enriches their parenting experience. My view, which resonates with Friedrich’s and Rulli’s, is that while memory-sharing is an understandable desire to have as a parent, it is a mistake to think that it cannot be fulfilled through adopting a child. Of course, adopting a baby or very young child considerably dissolves the concern, but the desire can also be fulfilled through adoptions of older children. There are many memories and milestones that one can experience with an adopted child because children experience various types of milestones and ‘firsts’ throughout their childhood (e.g., first day at school, first time reading a book, first music recital, first vacation) and even into their teenage years (e.g., getting a driver’s license, graduating from high school, working at their first job). Also, being able to experience certain moments *together* with one’s child for the first time is special, even if it’s not their first ever experience of an event (e.g., celebrating their birthday as a family). These meaningful, memorable experiences deserve to be treasured just as much as one would treasure other typical early childhood firsts. Positive memories can be made and documented at any stage of one’s life, and so the desire to have biological children for the sake of capturing early childhood memories should be put into perspective. As compared to the

¹²¹ Consider, for example, a family who could not adopt a child of a different race for this reason. Perhaps their worldview is shaped by ideas of racial hierarchies, and they could not imagine themselves loving a child of a different race. While there is a possibility for personal transformation upon transracial adoption placement (and some might argue that such a placement would positively enrich the parents’ worldview), some individuals may harbour such deeply-held beliefs about their ability to care for a certain child that it might compromise the quality of care that the child would receive.

benefits that a child would receive from being adopted, the desire to witness early childhood firsts is trivial and can be fulfilled through memory-sharing in other ways. For these reasons, I am unpersuaded by this proposal in favour of having biological children.

For the Value of Creating a Child

Rulli considers that if one has an interest in *creating* a child, perhaps this reason is strong enough to justify one's non-fulfillment of a duty to adopt in favour of procreating. However, this proposal fails because whatever particular method of procreation one has an interest in pursuing, the point is that one's interest in doing so must be accompanied by an interest in *raising* the child or otherwise "ensur[ing] reasonably that the child is responsibly raised by someone else."¹²² This is because one cannot permissibly create a child without any concern for the child's life after coming into existence. Crucially, given that the interest in creating a child must be linked to *raising* a child, this proposal fails to distinguish between the value of a biological child and an adopted child. The value of creating a child is valuable insofar as it creates an opportunity to *parent* the child (or have someone else care for the child), and adopted children provide these parenting opportunities. As Rulli explains, this proposal is thus not successful in challenging one's duty to adopt.

For Genetic Connection

Perhaps genetic connection, for its own sake, is strong enough to justify procreation over adoption. Drawing on Niko Kolodny's account of partiality,¹²³ Rulli considers whether his explanation of special connection with one's genetic offspring could validate this proposal. The relevant feature of Kolodny's view is that the special valuing of one's genetic offspring could be explained by genetic

¹²² Rulli, "Preferring," 693.

¹²³ Niko Kolodny, "Which Relationships Justify Partiality? the Case of Parents and Children," *Philosophy & Public Affairs* 38, no. 1 (2010): 37-75.

partiality: because one values one's own "genetic, biologically-based identity," it can be inferred that one has reason to value one's genetic child in virtue of them being "similarly connected" to oneself.¹²⁴ Kolodny's account seems to match our intuitions in a *Baby Swap* case, where two families go home with each other's genetic children due to an accidental swap at the hospital. Many would think that, in such a case, each set of families has been given *the wrong* child, even if each of them would be excellent parents to either child. This thought experiment seems to support the idea that desiring a genetic connection with one's child would, in itself, be strong enough to justify a desire for a genetically-related child over an adopted child.

Nevertheless, Rulli identifies a critical problem with Kolodny's account of genetic partiality, namely, that it cannot explain the lack of genetic partiality that parents of both adopted and genetically-related children experience. In these 'mixed' families, genetic partiality towards one's genetic children over one's adopted children would likely seem implausible, unintuitive, or even reprehensible. Even if we agree that there is value to genetic partiality in the case of *Baby Swap*, Rulli argues, the case of mixed families shows that the preference for a genetic child does not persist past the point of having children. I interpret Rulli as saying that, for its failure to show the continuing value of genetic connection once one has children – biological or adopted – genetic partiality falls short of providing us with a sufficient reason to prefer having a genetically-related child over an adopted child. She rightly concludes that one's interest in having a child for the sake of sharing a genetic connection (even if we grant that it is non-trivial), fails to meet the standard of a project and, for this reason, cannot defeat a duty to adopt.

To Pass on One's Good Genes

The desire to pass on one's genes in order to rule out certain negative health risks for the child is a reason to prefer a biological child that Friedrich

¹²⁴ Rulli, "Preferring," 691.

carefully evaluates. Adoptions, some may think, are risky because one cannot be sure of a child's genetic makeup or history, whereas investments of known genetic material from procreators is a safer bet for positive health outcomes in the child. There are two parts to this proposal that Friedrich addresses: one, by having a biological child, one can safeguard against having a child with a genetic disorder; and two, one increases the likelihood of passing on good traits to their children if they procreate rather than adopt.

Regarding the idea that genetic conditions can be prevented, Friedrich points out the distinction between medical conditions that have a genetic component (i.e., having to do with genes) and those that are hereditary (i.e., having the property of being passed down from one generation of genetically-related individuals to another). Genetic conditions can result from gene mutations without heredity,¹²⁵ they can be passed on from a previous generation, or they can manifest from epigenetic factors that trigger phenotypic expression. For example, Down Syndrome results from a gene mutation but only a small fraction of cases involve hereditary factors. Some cases of breast cancers are hereditary, whereas others are non-inherited (i.e., sporadic) but involve a gene mutation. Some diseases arise from a combination of genetic predisposition and environmental factors (e.g., stress, exposure to infection, etc.). In these latter sorts of cases, one may have the gene for x medical condition but, absent epigenetic contributors, the condition might not even manifest itself. Thus, the business of trying to prevent certain genetic disorders through gene selection is much more complex than it may seem.

With respect to wanting to pass on 'good genes', Friedrich warns of the dangers of overconfidence about one's own positive traits. Inflated optimism about the passage of one's positive traits can overshadow one's perception of the possibility of the passage of one's negative traits. Consider a couple who keenly

¹²⁵ Note that the initial mutation may not be passed on from a previous generation but may be hereditary in the sense that it can be passed on thereafter.

envisages having a child with A's looks and B's intelligence, all the while failing to contemplate a perhaps less-than-desirable outcome: passing on B's looks and A's intelligence.¹²⁶ Psychologically, people tend to have “optimistic bias – the tendency to overestimate one's chances of good fortune and to underestimate one's risk for misfortune,” a phenomenon that contributes to a “better-than-average” opinion of oneself.¹²⁷ This psychological disposition can distort one's perception about the traits one's biological child will possess.

Furthermore, Friedrich argues, consider that many of us have inadequate information about the genetic disorders of our relatives and ancestors, either because those disorders went unnoticed or undiagnosed, or because the medical community's understanding of such disorders were unknown at the time.¹²⁸ For this reason, it is often a misconception that one can accurately predict ‘genetic success’ of one's biological children. What is often not considered is that parents have a better chance of selecting particular phenotypic traits when they adopt because they can evaluate a child after they are born and screen them for certain disorders, disabilities, and so on. Therefore, the preference for a biological child for these reasons is misguided.

There is, however, a significant difference between biological and adopted children that Friedrich overlooks. Adoptive parents often do not have access to “base knowledge” about the child's biological parents or their medical history that could help with “prevention, treatment and management” of their child's existing

¹²⁶ This is a variation of Friedrich's ‘Bernard Shaw’ example (“A Duty to Adopt?” 29).

¹²⁷ Mark Alicke, ‘The Better-than-Average Effect’ in *The Self in Social Judgment*, edited by M. D. Alicke, D. A. Dunning & J. I. Krueger (New York: Psychology Press, 2005), 85. Also see Ulrike Malmendier and Timothy Taylor, “On the Verges of Overconfidence.” *The Journal of Economic Perspectives* 29, no. 4 (2015): 3-7.

¹²⁸ See Ian Hacking. “Making Up People,” *London Review of Books*, 28 (2006): 23-26.

health concerns.¹²⁹ Without access to a child’s medical history and genetic profile prior to adoption, the argument goes, adoptive parents have less medical information about their child than do biological parents and, thus, incur a greater risk in adopting rather than procreating. If a duty to adopt depends on a cost analysis (i.e., one is obligated to adopt *if* the cost to oneself is small and does not carry a special burden), then more needs to be said about access to medical “base knowledge” that many adoptive parents do, in fact, lack.

However, although parents may lack *genetic* information about their adopted children, there are other ways to evaluate a child’s current health, for example, through medical examinations, bloodwork, and psychological evaluations. They may also pursue genetic testing post-adoption. Some critics of genetic testing in adoption argue that a cultural background of geneticization – characterized by a fascination (by medical professionals and the general public) with finding underlying genetic causes of illness and disease – creates an unnecessary anxiety for adoptive parents to have genetic information about the child.¹³⁰ As Lebner argues, the concerns of adoptive parents about their child’s health surpass practical inquiry and, instead, enter the realm of the “medical abstract, comprised of unknown futures and unknown health risks.”¹³¹ Shifting the focus away from the importance of genetics, Kimberly Leighton argues in favour of “a unified policy on information and adoption” that allows prospective adoptive parents to be “*responsibly* informed” of their child’s life background,

¹²⁹ For instance, study participants reported that having genetic information about their adopted child could have helped explain their child’s existing medical problems (e.g., hearing loss), prevent certain adverse reactions (e.g., morphine administered in hospital), and mitigate certain conditions (e.g., depression) (Julia Crouch, Joon-Ho Yu, Aditi G. Shankar, and Holly K. Tabor, “We Don’t Know Her History, Her Background”: Adoptive Parents’ Perspectives on Whole Genome Sequencing Results.” *Journal of Genetic Counseling* 24, no. 1 (2015): 70-71.

¹³⁰ Ashley Lebner, “Genetic “Mysteries” and International Adoption: The Cultural Impact of Biomedical Technologies on the Adoptive Family Experience.” *Family Relations* 49, no. 4 (2000): 371-377.

¹³¹ Lebner, “Genetic ‘Mysteries’ and International Adoption,” 371.

including the circumstances of the child's relinquishment and their living conditions since then. Whereas genetic testing is a narrow measure of health and cannot detect the most common health conditions that adoptive children have,¹³² Leighton maintains that educating parents about the limited value of genetic testing and about how to "research the background conditions of children available for adoption" is a better method of ascertaining the actual or potential health conditions of an adoptive child. While I agree with Friedrich that the desire to pass on one's good genes is a poor reason to prefer biological children over adopted children, perhaps Leighton's suggestion would help to bridge the existing gap between biological and adoptive parents' knowledge about their children's health.

For Familial Harmony

A preference for biological children might reflect one's desire for familial harmony, in line with the belief that adopting a child will likely bring familial strife, conflict and discord. But while it is true that some adoptive families experience hardships, so too do biological families.¹³³ There are many potential sources of hardship and conflict for any family, regardless of whether children are adopted or biological. For example, families of any kind can experience the loss of loved ones, difficulties due to medical issues, and stresses related to work, school, personal relationships, and other aspects of life. Friedrich addresses the worry that adoptive families have an *added* level of disharmony by emphasizing that significant differences between adoptive and biological families on measures of parental well-being and family interactions are empirically unsupported.¹³⁴ In a

¹³² Leighton cites as the most common health problems that adoptive child have "fetal alcohol syndrome, emotional attachment disorders, and cognitive underdevelopment due to extreme environmental and nutritional deprivation" (Kimberly J. Leighton, "Accepting Adoption's Uncertainty: The Limited Ethics of Pre-Adoption Genetic Testing," *Journal of Bioethical Inquiry* 11, no. 2 (2014): 258).

¹³³ Friedrich, "A Duty to Adopt?" 30.

¹³⁴ L DiAnne Borders et al., (1998) criticize early adoption research for their methodological flaws, notably, researchers' presumptions of adoptive families as

critical meta-analysis of 22 studies of adoptive families, and 16 comparative studies of adoptive and biological families, researchers found that, contrary to common belief, adoptive families were not more troubled than biological families. Instead, across the numerous studies, adoptive families tended to report “positive outcomes with regard to satisfaction with the adoption, familial functioning, and parent-child communication.”¹³⁵ Furthermore, research shows that stresses that accompany having an adopted child are shared with biological parenthood, as well. In general, the addition of a child places stress on the parents, as they adjust to and manage their roles and relationships as parents and partners. A comparative, longitudinal study by León et al. (2015)¹³⁶ found no significant difference on measures of parental stress between adoptive and biological parents, a finding supported by Ceballo et al., (2004)¹³⁷ and others. Overall, current research suggests that adopting a child does not impose a greater burden on families than does having a biological child. Because the preference for biological children on grounds of familial harmony is empirically unsupported, I

inherently pathological. The division of adoptive versus biological families seems to have primed results in favour of positive outcomes for the latter (p. 237). However, in their independent study of adoptive parents, Borders et al. found no significant differences on measures of “depression, self-esteem, and overall well-being” in adoptive parents as compared to biological parents (p. 240). These results have been replicated in more recent, methodologically sound, studies. Borders, L. DiAnne, Lynda K. Black, and B. Kay Pasley. “Are Adopted Children and their Parents at Greater Risk for Negative Outcomes?” *Family Relations* 47, no. 3 (1998): 237-241.

¹³⁵ Karen M. O'Brien and Kathy P. Zamostny, “Understanding Adoptive Families: An Integrative Review of Empirical Research and Future Directions for Counseling Psychology,” *The Counseling Psychologist* 31, no. 6 (2003): 690.

¹³⁶ León, Palacios, Román, Moreno, and Peñarrubia, “Parental Stress, Family Functioning and Children's Psychological Adjustment in Adoptive Families: A Comparative and Longitudinal Study.” *Family Science* 6, no. 1 (2015): 50.

¹³⁷ Rosaria Ceballo, Jennifer E. Lansford, Antonia Abbey, and Abigail J. Stewart, “Gaining a Child: Comparing the Experiences of Biological Parents, Adoptive Parents, and Stepparents,” *Family Relations* 53, no. 1 (2004): 38-48.

agree with Friedrich that it cannot be a successful defeating condition to a duty to adopt.

To Have Well-Adjusted Children

A related belief that might inform one's desire to have biological children is that adopted children are more likely than biological children to be behaviourally maladjusted and unhappy.¹³⁸ Friedrich's response to this proposal is that empirical evidence does not support this belief and thus, that it is an unsuccessful challenge to the duty. Research shows that adoptees are, on the whole, well-adjusted in psychological, socioemotional and cognitive domains, both independently and as compared to non-adopted peers.¹³⁹

I would also argue that it is presumptuous to think that having a biological child will guarantee optimal adjustment and happiness. As Lamb (2012) reports, biological-relatedness to one's child is of "little or no predictive importance" when it comes to a child's psychological adjustment. Many biological children behave poorly, rebel, and exhibit the very signs of maladjustment that prospective parents might fear would result from having an adopted child. Many factors determine a person's level of adjustment – socially, psychologically, cognitively, etc. – and so the generalized belief that adopted children will likely be maladjusted and unhappy is, in my view, problematic. Interestingly, current

¹³⁸ See Borders et al., "Are Adopted Children and their Parents at Greater Risk for Negative Outcomes?"

¹³⁹ Marta Reinoso, Noemí Pereda, Linda Van den Dries, and Carlos G. Forero, "Internationally Adopted Children's General and Adoption-Specific Stressors, Coping Strategies and Psychological Adjustment: Stress, Coping and Adjustment in Adoptees." *Child & Family Social Work* 21, no. 1 (2016): 1-13; Marinus H. van IJzendoorn, Femmie Juffer, and Caroline W. Klein Poelhuis, "Adoption and Cognitive Development: A Meta-Analytic Comparison of Adopted and Nonadopted Children's IQ and School Performance," *Psychological Bulletin* 131, no. 2 (2005): 301-316; 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): 1228-1245.

research on adoption is focusing on the underlying factors that mediate adoptees' adjustment.¹⁴⁰ For example, socioeconomic statuses of adoptive parents seem to correlate with patterns of maladjustment in adoptees¹⁴¹ while age at the time of adoptive placement does not.¹⁴² In general, across adoptive and non-adoptive families, adolescents raised in families that emphasized open communication and conversation amongst members of the family were at a lower risk for adjustment problems.¹⁴³

Altogether, for its lack of empirical foundation and for failing to distinguish biological from adopted children I am also unpersuaded that the desire for a well-adjusted child could successfully defeat one's duty to adopt in favour of having a biological child.

¹⁴⁰ Jesús Palacios and David Brodzinsky, "Review: Adoption Research: Trends, Topics, Outcomes." Vol. 34. London, England: SAGE Publications, 2010.

¹⁴¹ Hjern et al., (2002) report findings of a "higher risk for social maladjustment in adoptive white-collar families than in blue-collar families" (p. 447). Hjern, Anders, Frank Lindblad, Bo Vinnerljung, Medicinska fakulteten, Medicinska och farmaceutiska vetenskapsområdet, Institutionen för kvinnors och barns hälsa, and Uppsala universitet. "Suicide, Psychiatric Illness, and Social Maladjustment in Intercountry Adoptees in Sweden: A Cohort Study." *The Lancet* 360, no. 9331 (2002): 443-448.

¹⁴² Femmie Juffer and Marinus H. van IJzendoorn, "Behavior Problems and Mental Health Referrals of International Adoptees: A Meta-Analysis," *JAMA* 293, no. 20 (2005): 2501-2515.

¹⁴³ Martha Rueter and Ascan F. Koerner, "The Effect of Family Communication Patterns on Adopted Adolescent Adjustment," *Journal of Marriage and Family* 70, no. 3 (2008): 715-727; David Brodzinsky, "Family Structural Openness and Communication Openness as Predictors in the Adjustment of Adopted Children," *Adoption Quarterly* 9, no. 4 (2006): 1-18. These two studies do not differentiate between families of different socio-economic statuses. Reuter et al., "Family Communication Patterns" mentions that future studies on communication patterns in adoptive and non-adoptive families could take into account families with varied socioeconomic backgrounds. Brodzinsky, "Family Structural Openness and Communication Openness" does not measure the impact of socioeconomic status.

For Immortality

Rulli acknowledges that the desire for immortality by having children whose lives continue forward into future generations, surpassing finite individual lives, may be offered as a reason to procreate rather than adopt children. Those who “see children as extensions of themselves, as a way of transcending their own finite lives”¹⁴⁴ may be interpreted as saying at least one of two things: that one can live on through the passage of one’s *genes* from one generation to another, and so on; or that one can transcend one’s finite existence by helping to pass on *cultural artifacts* to successive generations, of “projects, values, commitments, traditions, and customs.”¹⁴⁵ The former interpretation is problematic if only because only a fraction of one’s original genetic material will be passed on from one generation to the next, reaching “exponentially smaller” portions as generations generate.

However, the latter interpretation is intriguing. The idea here is it that we may desire immortality through passing down “familial and cultural legacies [that] endure *via* knowledge, values, and customs.”¹⁴⁶ Rulli’s response to this more charitable interpretation is that it fails to distinguish a biological child from an adopted child. After all, she explains, adopted children can “assume, celebrate, and carry on their families’ customs, speak their families’ language, and endorse their families’ beliefs,”¹⁴⁷ as a genetic child would. Because this proposal fails to identify the value of a genetic over an adopted child, Rulli regards it as an unsuccessful challenge to the duty.

I agree with Rulli’s rejection of the genetic interpretation of immortality, but unlike her (at least for now), I suspend my judgment about the cultural interpretation of immortality. Perhaps she is ultimately correct that the proposal

¹⁴⁴ Rulli, “Preferring,” 688.

¹⁴⁵ Rulli, “Preferring,” 689.

¹⁴⁶ Rulli, “Preferring,” 689.

¹⁴⁷ Rulli, “Preferring,” 689.

fails in precisely the way she identifies (i.e., by failing to distinguish between the value of a genetic and adopted child), but I think it is deserving of more thorough exploration first. When tied to the idea that cultures are bound up with ancestral lineages, the idea that we may have “a duty, not just a permission, to carry on our lineage”¹⁴⁸ invites further investigation. I will revisit this idea in more detail in Chapter 2.

Desiring the Experience of Pregnancy

For Rulli, the only reason she unreservedly accepts (in some cases) as a successful defeating condition to one’s duty to adopt is a woman’s strong desire to experience pregnancy. Perhaps the very “experience of carrying and nurturing nascent human life inside one’s body” can ground a successful defeating condition.¹⁴⁹ Rulli accepts that, even taking into consideration the potential risks of pregnancy and the advantages of adoption over pregnancy, even then there are women who will have project-level interests in desiring “to know what [pregnancy] feels like, and to experience quickening and the process of giving birth.”¹⁵⁰ Thus, in her view, to deny someone the experience of pregnancy “may be to deny (what she takes to be) a foundational experience of being a *woman*.”¹⁵¹ In addition to the desire rising to the level of a project, for some, the experience of pregnancy is “not easily substitutable.”¹⁵² The experience is unique; nothing else can quite mimic or replicate it. Moreover, it is clear that adoption cannot provide the goods of pregnancy, and those who desire the experience can point to a clear difference between having a biological child versus an adopted child. I would point out, too, that the value of pregnancy goes beyond one’s subjective

¹⁴⁸ Rulli, “Preferring,” 689.

¹⁴⁹ Rulli, “Preferring,” 694.

¹⁵⁰ Rulli, “Preferring,” 694.

¹⁵¹ Rulli, “Preferring,” 696, emphasis original. Rulli clarifies in fn 71 that her claim is not that all woman would accept this conception of womanhood but rather, that some women may feel strongly that pregnancy and child-bearing defines them as woman.

¹⁵² Rulli, “Preferring,” 696.

valuation, which could possibly be contested by those who would regard pregnancy as having negative value for them. That is, even if we agree that pregnancy is more or less desirable for different people, we can still understand its objective value in providing a unique bodily experience. Rulli grants that a desire to experience pregnancy can defeat one's duty to adopt, but only once per person; once someone has had the experience of pregnancy, they cannot rely on this reason again.¹⁵³

I disagree with Rulli's reasoning. For one thing, in arguing that the desire to experience pregnancy can provide a "moral exemption"¹⁵⁴ *but only once*, Rulli incorrectly assumes that all experiences of pregnancy and birth are the same, as evidenced by her repeated reference to "*the pregnancy experience.*"¹⁵⁵ However, experiences of pregnancy can vary significantly. For example, some pregnancies are uneventful and overall pleasant, while others are accompanied by various ailments, cravings, discomfort, etc.; some pregnancies terminate prematurely, while others are carried out past a typical full-term duration; some involve one fetus, while others involve multiple; some women experience pregnancy with the support and help from others, while others experience it with very little support; and so on. Moreover, there are many ways to experience childbirth (e.g., with or without an epidural, home or hospital birth, Caesarean section or vaginal, etc.). It is plausible that someone might want to experience a phenomenologically *different* pregnancy and childbirth after going through the process a first time, and so it seems that the desire to experience pregnancy and even childbirth can be used as a defeating condition more than once (if at all), and perhaps as many times as is desired, as long as the expected experience would be predictably different from previous ones. For these reasons, the argument that one can appeal to a desire to experience pregnancy and childbirth, *but only once*, is not defensible.

¹⁵³ Rulli, "Preferring," 696.

¹⁵⁴ Rulli, "Preferring," 696.

¹⁵⁵ Rulli, "Preferring," 696, emphases added.

Apart from the implausibility of Rulli's limit of one pregnancy experience per woman, it is questionable in my view that the desire to experience pregnancy can successfully defeat a duty to adopt, at all. This is because desiring the experience of pregnancy to the extent of having a "moral exemption" to a duty to adopt is selfish when compared to the extreme consequences of not providing "critical benefits" to a child in need of adoption. For all the reasons pregnancy could be incredibly valuable for one person (or even a few people, counting those close to the pregnant person), the relatively short time one experiences pregnancy cannot compare to the benefits that a child could receive if they were to be adopted. Given that there are adoptable children who need parental care, it seems problematic to place such a high value on experiencing pregnancy,¹⁵⁶ for every experiential benefit that one could appeal to can easily be eclipsed by the benefits of parental care that a child would receive through adoption. In my view, the desire for pregnancy is relatively trivial as compared to the life of a child.

Third, the idea that denying a woman the experience of pregnancy is tantamount to denying her the experience of womanhood is troubling in that it willingly accepts and reinforces a gender-essentialist view about womanhood: that women are women in virtue of their ability to bear children. Even if we do not endorse such a conception of 'woman-ness,' as Rulli clarifies, granting moral permission for certain women whose gendered identity is bound up with this self-conception nonetheless tacitly endorses it. This, to me, is problematic. Many women experience infertility, yet that has no bearing on whether or not they are, in fact, women. To concede to a desire to experience pregnancy on these grounds

¹⁵⁶ Not to mention, the high value placed on pregnancy often overshadows the potential dangers of pregnancy and childbirth, including preeclampsia, gestational diabetes, depression, anemia, hypertension, hyperemesis gravidarum (morning sickness), miscarriage, stillbirths, infant deaths, and severe maternal morbidity (Centers for Disease Control and Prevention: <https://www.cdc.gov/reproductivehealth/maternalinfanthealth/pregnancy-complications.html>). Friedrich points out that the benefits of pregnancy are often considered apart from its potential downsides, thus distorting (i.e., overinflating) one's desires to have the experience ("A Duty to Adopt?" 31).

is to submit to the sexist idea that ‘womanliness’ is contingent upon one’s ability to produce children, even if one has internalized this as a deep desire. For all these reasons, I reject appeals to one’s desire to experience pregnancy as a justified defeating condition to a duty to adopt.

Social Costs of Not Procreating

What if women’s desires to become pregnant and bear children were not merely (or perhaps at all) related to a desire to experience pregnancy, *per se*, or their “self-conception as women” but, rather, were influenced by social norms in their respective societies about the value of women as child-bearers? More specifically, what if women’s desire to have biological children reflected their interest in avoiding social costs associated with non-compliance of gendered expectations, namely, bearing children? This proposal goes beyond what Rulli or Friedrich consider.

As McLeod and Ponesse highlight, in some pronatalist societies, “childbearing is a woman’s social role and if a woman does not bear children, then she does not ‘count’ (i.e., have value) in society, or she counts less than other women.”¹⁵⁷ Not all societies share the same degree of pronatalist pressures, but women do face a range of social costs across different places if they were to have the “moral bad luck” of infertility or even if they just preferred not to bear children at all. Motherhood through procreation, in many parts of the world, represent “cornerstones of adult femininity” and are “often viewed as the quintessential component of womanhood.”¹⁵⁸ Social costs of choosing not to procreate or being unable to procreate could range from being subject to invasions of privacy and familial pressures to bear children,¹⁵⁹ to much more

¹⁵⁷ Carolyn McLeod and Julie Ponesse, “Infertility and Moral Luck: The Politics of Women Blaming Themselves for Infertility,” *IJFAB: International Journal of Feminist Approaches to Bioethics* 1, no. 1 (2008): 135.

¹⁵⁸ Park and Wonch Hill, “Is Adoption an Option?” 603.

¹⁵⁹ Overall, *Why Have Children?* 64.

severe consequences, like devaluation of one's worth in a society, divorce and death rites.¹⁶⁰

Reflecting on the work of Anne Donchin, Carolyn McLeod¹⁶¹ suggests that a woman's interest in having biological children is strengthened by her interest in being free from potential harms, such as being ostracized, stigmatized, or experiencing "domestic violence, abandonment, divorce, and infidelity."¹⁶² One's situation within a community or communities provides a context within which one's interest in procreation is formed and negotiated. While some women may face relatively mild consequences of infertility, others may have their lives threatened as a result. Accordingly, we must consider that women who face a "gendered cycle of vulnerability" may have a "socially constructed" desire to have biological children, one that is informed by their intimate knowledge of cultural expectations and social expectations within their communities.¹⁶³

In my view, women who face overwhelming social pressures to bear children should be morally permitted to favour procreation over adoption, for personal safety and self-protection. At the same time, though, efforts should be made to challenge and reform the social landscape so that women do not face these social pressures in the first place and so that parentless children are not deprived of the opportunity for a family.

¹⁶⁰ Kwame Akonor, "Procreation," In *Encyclopedia of African Religion*, edited by M. Kete & A. Mazama. doi: <http://dx.doi.org/10.4135/9781412964623.n338>. 2009.

¹⁶¹ Carolyn McLeod, "Does Reproductive Justice Demand Insurance Coverage for IVF?: Reflections on the Work of Anne Donchin," *IJFAB: International Journal of Feminist Approaches to Bioethics* 10, no. 2 (2017): 133-143.

¹⁶² Donchin, 2010, p. 329, cited in McLeod, "Does Reproductive Justice Demand Insurance Coverage for IVF?", 138.

¹⁶³ Donchin, 2010, p. 329; Donchin, n.d., "Procreation, Power, and Feminist Autonomy," cited in McLeod, "Does Reproductive Justice Demand Insurance Coverage for IVF?" 138.

Costs Associated with Adoption

Another set of proposed defeating conditions to a duty to adopt appeal to the costs associated with adoptions. Adoptions can be financially costly,¹⁶⁴ time-consuming, stressful, logistically difficult, and emotionally taxing, prompting Rulli to speculate that the complexity of adoption practices “may constitute the most promising challenges to a duty to adopt”¹⁶⁵ It may be argued that adoption imposes special burdens *en route* to parenthood that procreation (at least, for cases that are relatively simple) does not. Rulli’s view on these various kinds of costs is that they are “oftentimes overstated,”¹⁶⁶ “socially-continent” barriers to adoption,¹⁶⁷ while Friedrich considers each kind of cost separately. I suggest that we can differentiate these various kinds of costs by placing them on a spectrum of negligibly to sufficiently burdensome. Recall that the duty to adopt requires prospective parents to adopt rather than procreate so long as they do not incur “special burdens” that meet a threshold of sufficient costs: i.e., costs sufficient for an exemption. Let us systematically evaluate each set of cost-based appeals to favour procreation over adoption. While it is difficult to set definitive answers, reasoning through each set of adoption-related costs may provide some guidance as to how we should weigh them in our moral analyses.

Logistical Costs

Some costs associated with adoption are logistical. For example, adoptive parents are subject to parental licensing, a rigorous process that involves paperwork, home studies, parental training sessions, and meetings with social

¹⁶⁴ It is worth noting that the idea that adoptions are *necessarily* more financially costly than procreation is false. For more on this, see Friedrich, “A Duty to Adopt?” 32. Theixos and Jamil (2014), who also defend a duty to adopt, identify legal and financial barriers to adoption as a justified defeating condition (p. 43).

¹⁶⁵ Rulli, “Preferring,” 698.

¹⁶⁶ Rulli, “The Duty to Adopt,” 188.

¹⁶⁷ Rulli, “The Duty to Adopt,” 198, 200; Rulli, “Preferring,” 698.

workers, none of which biological parents are required to complete.¹⁶⁸ These are logistical costs to parenthood that biological parents do not have to incur, lending support to appeals that adoptive parenthood imposes special burdens that could override one's duty to adopt. Many scholars have written about the incongruous treatment that adoptive and non-adoptive parents face, arguing that licensing one group and not the other is unjustified. Despite almost unanimous agreement in favour of system reform, there is substantial disagreement about the means of reform and it is difficult to predict when such changes would be implemented. For now, willing adoptive parents must face logistical hurdles to adoption.

But how significant are logistical costs? It is difficult to provide a definitive answer because each case will vary, but I follow Friedrich in thinking that these are relatively minor (i.e., insufficiently weighty) costs.¹⁶⁹ Preparing paperwork and obtaining certain documentation may be tedious and time-consuming, attending parental training courses may be mind-numbing, and completing home studies may feel invasive, but these are relatively minor costs to incur in the process of having (i.e., adopting) a child. Granted, these costs are not trivial or negligible, but they do not pose a particularly compelling challenge to a duty to adopt. If anything, the demandingness of logistics in adoptions reflects a need for parental licensing reform, but it is unlikely that one's appeal to logistical costs, alone, is sufficient to override a duty to adopt. Perhaps if accompanied by some of the following kinds of adoption-related costs, the case against fulfilling one's duty to adopt would be stronger.

Financial Costs

On the spectrum of costs, financial costs associated with adoptions can be more burdensome than procreation, but the idea that adoptions are *necessarily*

¹⁶⁸ See Carolyn McLeod and Andrew Botterell. (forthcoming), "Parental Licensing and Discrimination" In *The Routledge Handbook on the Philosophy of Childhood and Children*, edited by Anca Gheaus, Gideon Calder, and Jurgen De Wispelaere (Abingdon: Routledge).

¹⁶⁹ Friedrich, "A Duty to Adopt?" fn 34.

financially costlier than procreation is misguided for a few reasons.¹⁷⁰ First, some adoptions (e.g., domestic public adoptions) are financially non-burdensome.¹⁷¹ Second, some couples experience infertility for which associated treatments or alternative methods of procreation require substantial investments. Financial costs of procreation with the use of assisted reproductive technologies (ARTs) can be much more than adopting a child. Third, adoptions of older children can reduce the costs that a family would incur had the child been adopted when they are newborns, infants, or toddlers. For all these reasons, it is false to think that adoptions are necessarily more expensive than procreating.

While Friedrich concedes that one who lacks the financial means (including, e.g., access to loans or other “lending instruments”), to pursue adoption is justified in non-fulfilment of their duty, I want to offer two alternative suggestions to this problem. First, for those who cannot secure the financial means to pursue adoption, perhaps delaying the process until one is in a more financially secure position would be advantageous for the child, morally speaking. After all, all children – biological or adopted – are expensive. Second, the problem of financial costs brings out an important distinction between necessary and unnecessary costs. Some costs in adopting a child, Rulli argues, are “based on socially contingent and eliminable factors”¹⁷² that can be alleviated through a restructuring of our adoption systems. For example, one way to make adoptions more accessible is to provide financial support to adoptive families who would benefit from it. In sum, for those who would be overly burdened by the costs of adopting a child (even with respect to adoptions that are least expensive), it may be wise to delay adoption until one has accrued enough financial security; it would be a mistake to think that procreation would solve this

¹⁷⁰ Friedrich, “A Duty to Adopt?” 32.

¹⁷¹ In Canada, the process of adopting a child through the domestic, public system has estimated costs ranging from \$0 to \$3,000. See the Adoption Council of Canada: <http://www.adoption.ca/faqs>.

¹⁷² Rulli, “Preferring,” 698.

problem. At the same time, we should work towards making adoptions, in general, less financially burdensome.

Emotional Costs

The process of adopting a child can also be emotionally costly, Rulli recognizes.¹⁷³ Some couples' diligent efforts to adopt a child span many years,¹⁷⁴ without foreseeable placement. Other families' efforts to adopt a child internationally are frustrated by fast-changing international policies. Those who pursue transracial adoptions may do so against negative familial pressures. In cases like these, people make significant emotional investments and experience stress in the process of adopting a child. Once again, as with the case of financial costs, it is important to remember that, while it is true that the process of adopting may be stressful and emotionally onerous, this cost is not unique when compared to the emotional costs that some prospective parents experience while pursuing assisted reproduction for procreation. Second, for all the emotional obstacles one must deal with when adopting, we need not accept these as fixed hurdles that prospective adoptive parents must overcome. Rather, as Rulli explains, features of adoption systems that are unnecessarily burdensome can be subject to revision to make adoptions more accessible.¹⁷⁵ I agree with Rulli that adoption systems should be amended for this reason, but also, in my view, for those who are confronted with current systems, it is important to balance the emotional costs of the prospective adoptive family with the emotional costs endured by parentless children. In doing so, one is reminded that the relative scale of burdens will most likely favour the child.

¹⁷³ Rulli, "The Duty to Adopt," 194.

¹⁷⁴ Rulli, "Preferring," 697, acknowledges lengthy waiting times.

¹⁷⁵ Rulli, "The Duty to Adopt," 200.

Social Costs

Some families who pursue adoption are faced with significant social costs prior to pursuing adoption, during the adoption process, or post-adoption.¹⁷⁶ These social costs range from scrutiny about the legitimacy of their familial bonds, parents' motivations to adopt, or shame surrounding infertility (or presumptions thereof). Ideals about bionormativism – the idea that families formed through biological reproduction, in which parents and children share genetic ties, are superior to families formed through adoption – may operate in the background.¹⁷⁷ Assumptions that family members should resemble one another present challenges for adoptive families, perhaps especially in transracial adoptions. To avoid social stigmas associated with adoption for both adoptive parents and adopted children, one might prefer to have biological children through procreation rather than adopt a child.

Understandably, social pressures to have biological children can be discouraging for prospective parents, and the thought of avoiding certain encounters with people who question the legitimacy of one's adoptive family is tempting. However, in my view, these costs are manageable and can be overcome. Through experience, adoptive parents become equipped to fend off scrutiny about their family, and children can be educated about the unsoundness of bionormative ideals. Furthermore, if anything, adopting a child provides opportunities for personal and social transformation. Rulli explains the point nicely:

The possibility for transpersonal transformation is yet another benefit of adoption and testament to the unique moral value of adoption; it allows us to transcend the constraints of our own accepted identities and integrate into them what was once outside or foreign to ourselves. In

¹⁷⁶ Rulli, "The Duty to Adopt," documents several stories of adoption to illustrate this point, 191-195.

¹⁷⁷ Witt, "A Critique of the Bionormative Concept of the Family," 50.

a way, adoption makes us bigger than our original selves; it expands us beyond our original kin and community.¹⁷⁸

In sum, there are opportunities for personal transformation that can result only from adopting a child, and opportunities for personal transformation extend to those beyond the adoptive family. Extended family members, neighbors, school educators, the child's friends, and members of one's community at large are in a position to confront and reformulate their beliefs about families and adoption, kinship, and perhaps also racial hierarchies, cultural difference and appreciation, and so on. Where possible, rather than viewing social costs in an entirely negative light, we should embrace the opportunities that adoption brings to change our society for the better. However, we could imagine that some communities would be so hostile to adoptive families that adopting a child would compromise the child's well-being. These sorts of cases, I think, would meet the threshold of sufficient costs, though many would not.

Systematic Barriers

Another set of costs to adoption take the form of systematic barriers. For instance, prospective adoptive parents with disabilities can face suspicion, scrutiny, and discrimination by social workers, family court judges, other adoption professionals, friends and family, resulting in misjudged parental 'fitness' to care for children.¹⁷⁹ According to the National Council on Disability, disabled individuals face discrimination at various stages of the adoption process, most notably during home studies.¹⁸⁰ Many disabled people experience difficulty

¹⁷⁸ Tina Rulli, "The Unique Value of Adoption," in *Family-Making: Contemporary Ethical Challenges*, ed. Francoise Baylis and Carolyn McLeod (Oxford: Oxford University Press, 2014b), 125.

¹⁷⁹ See Dave Shade, "Empowerment for the Pursuit of Happiness: Parents with Disabilities and the Americans with Disabilities Act." *Law & Inequality: A Journal of Theory and Practice* 16, no. 1 (1998): 153.

¹⁸⁰ As the report further states, "Many prospective parents with disabilities are categorically denied the opportunity to adopt because of their disability, while others

completing the screening process or, ultimately, are placed with adoptive children at much lower rates as compared to non-disabled individuals.¹⁸¹ Same-sex couples face discrimination in the process of adoption, as well. In some places, adoptions by same-sex couples are illegal.¹⁸² Lesbian and gay couples also experience discrimination and face suspicions about whether they can produce the same positive outcomes for children in their care as heterosexual couples.¹⁸³ Moreover, although same-sex couples in some jurisdictions are approved for adoption in equal proportion to heterosexual couples, they are being matched at lower rates with children awaiting placement.¹⁸⁴ Therefore, some prospective adoptive parents incur differential burdens in adoption in the form of discrimination.

Rulli very briefly touches on this issue but deals with it quickly, treating discrimination in adoption systems as a product of unfair parental licensing.

encounter bias and speculation concerning their parenting abilities” (2012, p. 188), <https://ncd.gov/publications/2012/Sep272012/Ch10>.

¹⁸¹ Michele Wates, “Disability and Adoption how Unexamined Attitudes Discriminate Against Disabled People as Parents,” *Adoption & Fostering Journal* 26, no. 2 (2002): 53.

¹⁸² See Jasmine H. Barkodar, “Gay Marriage is Legalized, Now What? Discriminatory Adoption Regulations,” *Southern California Review of Law and Social Justice* 26, no. 2 (2017): 131. Many countries have bans on adoptions by same-sex couples.

¹⁸³ See David Brodzinsky and Adam Pertman, *Adoption by Lesbians and Gay Men: A New Dimension in Family Diversity*. New York: Oxford University Press, 2012; Justin Lavner, Jill Waterman, and Letitia Anne Peplau, “Can Gay and Lesbian Parents Promote Healthy Development in High-Risk Children Adopted from Foster Care?” *American Journal of Orthopsychiatry* 82, no. 4 (2012): 465-472.

¹⁸⁴ Richard Sullivan and Margaret Harrington, “The Politics and Ethics of Same-Sex Adoption,” *Journal of GLBT Family Studies* 5, no. 3 (2009): 235-246. For more on adoption discrimination against gay and lesbian couples, see Claire Kimberly and Alexa Moore, “Attitudes to Practice: National Survey of Adoption Obstacles Faced by Gay and Lesbian Prospective Parents,” *Journal of Gay & Lesbian Social Services* 27, no. 4 (2015): 436-456.

Ultimately, she remains uncompromising, writing that “it does not generate sufficient reason to avoid adoption”¹⁸⁵ My own view differs. While I agree with Rulli that adoption systems and government policies could (and should) change over time to make adoption more accessible for the sake of children in need, and that many of these barriers to adoption are “nonessential,”¹⁸⁶ another feature of morality is relevant.

Moral duties require that agents be *able* to fulfill their duty. Recall the case of *Railroad*. If a bystander is physically incapable of dislodging the child’s leg from the track, s/he would not fail a moral duty to save the child from critical harm. Failure to attempt any aid strategy at all would be morally wrong (e.g., one could attempt to flag third-party help), but if despite one’s best efforts one is unable to save the child’s leg, one would not fail in one’s duty to rescue. Likewise, people who find themselves in overly taxing (i.e., sufficiently burdensome) positions when trying to adopt a child – despite their willingness and genuine efforts to do so – are justified in their non-fulfillment of their duty. However, because there may be ways to overcome such barriers and practical constraints, one should make an attempt to fulfill their duty to adopt first. When a threshold of sufficient costs is demonstrably met despite one’s efforts, one is exempted from moral obligation. Furthermore, in cases where one is unable to fulfill their duty, Rulli argues that a duty to adopt creates secondary obligations for collective action.¹⁸⁷ These collective action efforts could include advocating for adoption reform to reduce placement wait times, providing better support services to birthmothers and infants, and enforcing policies that serve to protect children in the adoption process.¹⁸⁸ Thus, when individuals cannot fulfil duties to adopt, there are many other ways to fulfil a more general duty to assist children in need.

¹⁸⁵ Rulli, “The Duty to Adopt,” 182.

¹⁸⁶ Rulli, “Preferring,” 698.

¹⁸⁷ Rulli, “The Duty to Adopt,” 195.

¹⁸⁸ Rulli, “The Duty to Adopt,” 199.

In this section, I have evaluated numerous proposed defeating conditions, making the case that a duty to adopt is very compelling and, but for a few exceptions, withstands strong criticism. However, some critics of a duty to adopt may offer a more foundational set of objections that may present an even stronger threat to a duty to adopt. That is, they may question the very foundations of the duty itself. Let us now turn our attention to this next set of objections.

5. Foundational Objections to a Duty to Adopt

In this section, I engage with objections to a duty to adopt that challenge its very foundations. This set of objections differs from the set of defeating conditions we reviewed in §4 in that, instead of identifying instances of ‘special burden’ that could defeat a duty to adopt in specific cases, it targets the idea that there could be such a thing as a duty to adopt. I have chosen to include my discussion of these objections toward the end of the chapter because they have the potential to undercut any variation of a duty to adopt argument. Even if one is persuaded at this point by the force of a duty to adopt, this set of objections could altogether overturn its moral foundations. Let us attend to each foundational objection in turn.

5.1. Undesirable Implications

One may object to a duty to adopt because it seems to allow for certain undesirable implications. For instance, a duty to adopt may seem to entail other duties, like a duty to abort a fetus¹⁸⁹ or a duty to prevent procreation through forced sterilization of women or men. It is thus worth clarifying what a duty to adopt *does not* entail. Let me address these concerns in turn.

¹⁸⁹ Rulli, “The Duty to Adopt,” 36.

First of all, the duty to adopt applies to people's choices about having children prior to conception. Once a pregnancy or fertilization process has begun, moral considerations about gestation become complicated by additional facts. Once a woman becomes pregnant and has "[a]n interest in nurturing a life already underway"¹⁹⁰ considerations about bodily autonomy become part of the moral picture. The moral wrong of procreation is located in the act of procreating rather than adopting a child when one can adopt without incurring sufficient costs to oneself, but that calculus does not entail honouring the duty to the exclusion of post-conception considerations. While the duty to adopt does not itself entail a duty to abort a pregnancy, one who is persuaded by arguments in favour of a duty to adopt might desire to terminate a pregnancy in favour of adopting a child.

Second, the duty to adopt does not entail a duty to forcibly sterilize people or carry out forced abortions. Such actions would be defeated by a right to bodily autonomy. A similar concern comes up in parental licensing debates. Some opponents of parental licensing express the fear that requiring moral licenses for parents will authorize the state to enforce licensing through physical force. However, on the moral basis of parental licensing arguments alone, the state would not be justified in, for example, sterilizing all unfit parents or forcing women to have abortions should they be poor candidates for obtaining a parenting license. The same applies for a duty to adopt.

5.2. Obligating Intimate Relations

Another objection against a duty to adopt is that certain spheres of life, including intimate relationships, cannot be subject to moral obligation for they "simply fall beyond the scope" of duty.¹⁹¹ Travis Rieder (2015) argues that, while there are many good reasons to adopt children, morality cannot require that we adopt

¹⁹⁰ Rulli, "The Duty to Adopt," 36.

¹⁹¹ Friedrich, "A Duty to Adopt?" 26.

children rather than procreate. Relying on Margaret Little's work, Rieder argues that relationships of radical intimacy cannot be subject to strict moral obligation. He draws an analogy between cases of gestation, sex, marriage, and adoption to make the case that, just as we cannot morally obligate a person to marry or have sex with another person, we cannot subject people to a duty to adopt. Thus, the objection goes, while it may be good to adopt children instead of procreating, people would not be acting contrary to moral duty if they were to do otherwise. Because Rieder's view relies heavily on Margaret Little's argument about the permissibility of abortion, let us briefly review it.

In an effort to re-characterize the abortion debate in the United States, Little focuses our attention on the "gestational connection" involved in pregnancy that places a woman and fetus in "a particularly intimate physical relationship with one another."¹⁹² Little vividly describes the unique "fetal 'geography'" of bodily occupation, enmeshment, habitation, intertwinement, and intrusion.¹⁹³ Regardless of the nature of the particular pregnancy (e.g., positive, medically burdensome, etc.), the fact is that the fetus "shifts and alters the very physical boundaries" of a woman's body.¹⁹⁴ To obligate a woman to carry a fetus to term without her consent (i.e., to force gestation) is to impose a liberty harm on the woman.¹⁹⁵ Importantly, Little's point is that gestation involves an "intimacy of the first order," and so women should have the moral option to determine whether or not they have the "space – material, psychic, emotional" to carry the pregnancy to term.¹⁹⁶

Although Rieder does not provide an interpretation of 'relationships of intimacy,' we can gather that he imagines gestation, marriage, sex, and adoption

¹⁹² Margaret Olivia Little, "Abortion, Intimacy, and the Duty to Gestate," *Ethical Theory and Moral Practice* 2, no. 3 (1999): 295, 299.

¹⁹³ Little, "Abortion, Intimacy, and the Duty to Gestate," 299, 301.

¹⁹⁴ Little, "Abortion, Intimacy, and the Duty to Gestate," 301.

¹⁹⁵ Little, "Abortion, Intimacy, and the Duty to Gestate," 303.

¹⁹⁶ Little, "Abortion, Intimacy, and the Duty to Gestate," 309, emphasis original.

to involve intimate connections with another person such that morality cannot impose strict obligations to enter into these relationships. Crucially, Rieder's central claim – that people cannot be subject to a duty to adopt – relies on an analogy between gestation, marriage,¹⁹⁷ sex, and adoption. As he explains, even if it would be a good thing' in many respects¹⁹⁸ to gestate a fetus, marry someone, or have sex with someone, one cannot be *obligated by morality* to do these things. Likewise, because adoption is also a relationship of radical intimacy, prospective parents cannot be subject to a duty to adopt.¹⁹⁹

The fault in Rieder's argument is that it fails to establish a secure analogy between the types of relationships he compares with adoption and thus misapplies the standard of morality uniformly across all cases. Let me point out relevant dis-analogies in each case. First, consider gestation and adoption. The intimacy of gestation is different from the intimacy that one can expect right away from an adopted child. Whereas pregnancy involves an immediate physical bond, many adopted children experience an adjustment period, during which time they gradually develop a physical bond with their adoptive parents. In some cases, adopted children never express physical intimacy. The idea that gestation and adoption both *necessarily* involve physical intimacy – and a comparable kind of physical enmeshment – does not capture the experiences unique to each kind of relationship. Little's point that forced gestation imposes a liberty harm to the woman does not align with the case of adoption, where the child and prospective parent do not exist in an intertwined, embodied relation at the point of moral obligation. Rather, adoptive parents are bound by a moral duty to fulfil their

¹⁹⁷ Note: Little does not mention marriage but, rather, uses an example of being asked on a date by a stranger (307).

¹⁹⁸ E.g., beneficial to both parties, helpful to the local economy, enriching for third-parties, etc.

¹⁹⁹ Interestingly, Rieder phrases his argument as a conditional statement and accepts the antecedent. In his words, "*if* the intimacy of sex, marriage, and gestation is what explains why it is generally inappropriate to see them as the target of a positive obligation, *then* we should judge adoption-rather-than-procreation in the same way" ("Procreation, Adoption and the Contours of Obligation" 304, emphases added).

parenting desires by caring for an existing child rather than bringing a new child into existence. In sum, because gestation involves an intricately embodied relationship with another being – one that threatens the spatial and social landscape of the woman’s life – morality cannot impose an obligation for a woman to remain pregnant. A duty to adopt is different in character in that it involves prospective parents with no prior physical attachments entering into parent-child relationships, in which physical intimacy with one’s child may develop gradually over time.

Next, compare sex with adoption, a much easier case. Simply put, relationships with a sexual partner are different in kind from parent-child relationships. Intimacy associated with the former should absolutely be absent from the latter. Whereas one cannot be forced to engage in sexual intimacy with another, morality can certainly prescribe us with an obligation to care for another through adoption. This is because children are uniquely vulnerable and cannot provide for themselves optimally without parental care. We have duties to care for others in need of care, and parentless children are in need of care. For those who wish to be parents, morality demands that we care for those who already exist and with whom we can have a parent-child relationship.

Finally, compare marriage with adoption. Marriage is paradigmatically different from adoption in that it involves entering into a relationship with an equal, for the sake of roughly equivalent benefits for each party. One chooses a partner to marry based on their fully-formed (not to be confused with unchanging) values, beliefs, and personality, along with the perceived compatibility between oneself and the other. Intimacy in marriage oftentimes (though not always) includes a physical connection. One cannot be morally obligated to marry someone, for the decision to enter into this kind of relationship is based primarily on individuals’ willingness to be recognized in a particular way (i.e., as a married couple). In the case of adoption, however, a prospective parent enters into a relationship not as an equal but, rather, as a caregiver to a child in need of care. The child is a developing being, with a yet-to-be-formed personality and set of values, beliefs, and preferences. Given this fact

about the nature of children, two things are true in a parent-child relationship: 1) a parent can shape their child in various ways, but 2) a parent must be open to the kind of being that the child turns out to be. While intimacy is a part of both parent-child and marital relationships, the key difference is that a parent, as caregiver, occupies an unequal position in relation to their child. Whereas morality cannot obligate one to enter into a marital relationship, it seems reasonable that morality could prescribe us with a duty to provide parental care to those in need of it.

Overall, I find that Rieder's claim that general principles of obligation do not apply in certain cases (e.g., adopting children) lacks argumentative support. More specifically, the cases of marriage, sex, gestation upon which Rieder grounds his core claim are disanalogous with adoption in crucial respects. As I have shown, there is good reason to treat adoptions differently than marriage, sex, and gestation, especially given the unique nature of parent-child relationships in which the parent stands in a caregiving relationship to the child.

Andrew Botterell²⁰⁰ also remains unconvinced that one cannot be obligated to adopt children rather than procreate, and he provides a persuasive account to challenge Rieder's conclusion. As Botterell nicely puts it, "one cannot infer from the fact that gestation and adoption are both forms of intimate relationships that concepts of duty and obligation apply to them in the same way." He provides a compelling comparison between the morality of foster care and adoption to show that our intuitions about forming intimate relationships do not clearly "block the application of obligation or duty," as Rieder contends.²⁰¹ Botterell recalls the evacuation of British children during WWII, in 1939, in an effort to protect them from the threats of war in urban centres. As part of 'Operation Pied Piper,' over one million children were evacuated over the course of three days from their urban homes and placed in foster care throughout the

²⁰⁰ Andrew Botterell, Unpublished manuscript, 2017.

²⁰¹ Rieder, "Procreation, Adoption and the Contours of Obligation," 304.

United Kingdom. Under the dire circumstances that presented themselves at the time, Botterell argues, it is compelling to think that morality imposed a strict obligation upon able individuals to foster these children. As he demonstrates, the parallels between foster care and adoption provide a much clearer comparison between two kinds of relationships of intimacy, in which morality does seem to prescribe us with a duty to care. The key to understanding this comparison, I suggest, is to view the global orphan crisis of millions of children around the world as an up-scaled analogue to Operation Pied Piper. In sum, Rieder's argument that adoption – in virtue of being a relationship of radical intimacy – cannot be subject to moral obligation is unsound and thus does not pose a threat to a duty to adopt.

5.3. Duties to Assist as Imperfect

It may be argued that the duty to assist is not strong enough to generate an obligation for one to adopt children.²⁰² Duties to assist are *imperfect* in nature, meaning that they allow for latitude and discretion on the part of the agent. In other words, agents can fulfill imperfect duties in a variety of ways. Granted that we have a duty to assist, the objection goes, we can exercise a range of options to fulfill this moral demand. Adoption is one means of fulfilling the duty but there are many other ways to do so, such as volunteering at an old age home, rescuing animals, teaching people how to read, offering transportation services to disabled people, and so on. In this way, the duty to assist is so wide in its prescription that it cannot ground a duty to adopt, specifically.

An alternative version of this objection is that one is under an obligation to assist children in need of parental care, but not *at the expense of* (i.e., instead of) procreating. Rather, the duty to rescue may allow for people to procreate, as long as they also contribute to efforts that support children who lack adequate parental care. Perhaps one can donate substantial sums of money to orphanages

²⁰² Friedrich, "A Duty to Adopt?" also considers this objection on p. 33.

or devote time to being involved in associations that lobby the government for increased child welfare services. As the argument goes, these commitments toward the betterment of children's lives could fulfill one's duty to assist to such an extent that it would offset any duty to adopt. Let me address each objection in turn.

While duties to assist are imperfect in nature, the moral prescriptions that follow from them are sometimes context-specific. For instance, my obligation to assist others in a multitude of ways I deem fitting (as per my discretion as an agent) would not fulfil my duty to rescue a drowning person, should I encounter such a situation. Likewise, prospective parents are presented with a context-specific moral problem: satisfy one's parenting desires by bringing a new child into the world, or do so at a comparably insignificant cost to oneself by adopting a child. Individuals can fulfil duties to assist in many ways, but within the specific context of having children, the duty to assist requires that one forgo procreating and, instead, satisfy one's parenting desires by adopting an existing child in need.

As for the suggestion that one can permissibly procreate so long as one offsets one's duty to assist children in need of care, I regard this as misguided reasoning. Adoptive children require rescue in the form of parental care, specifically, and creating a new child instead of adopting a child merely generates the need for an additional bundle of parental resources: "dedicated time, guardianship, care, emotional commitment, financial support and attention to basic needs."²⁰³ The creation of a child diverts potential parental resources away from existing children, toward newly created children. Absent special burden, the act of procreating, even if supplemented with voluntary contributions to child welfare, fails to attend to the needs of existing children in place of one's biological offspring. Friedrich nicely brings out the problem through an analogy: "it is not permissible to ignore the plight of one person just because one has already helped others; 'I could have easily prevented her suffering but I already donated \$100 to

²⁰³ Rulli, "The Duty to Adopt," 8.

UNICEF' is not an acceptable justification."²⁰⁴ Thus, the moral wrong of procreating lies in one's ability to provide care for an existing child in need in favour of creating a new child with the same kinds of needs, thereby depriving an existing child of parental resources. Challenges to a duty to adopt that rely on the claim that the duty to aid is imperfect are, therefore, unsuccessful.

5.4. Misdiagnosed Problems & Inappropriate Solutions

Perhaps one may challenge the foundations of a duty to adopt on the grounds that it misdiagnoses the underlying problems that many parentless children face and thus issues in an inappropriate moral response to their situation: adoption. Children become normatively parentless for a wide variety of reasons, and sometimes the underlying causes of their situation are preventable. For example, some birth parents are in positions of extreme financial vulnerability and do not have the means to care for their biological children. In some places, women cannot easily access abortions or are discouraged by strong social disapprobation to seek it. In recent history, Romania enforced strict fertility policies mandating procreation that ultimately left hundreds of thousands of children orphaned. The list of circumstances under which children become parentless is extensive, and many are, arguably, preventable. Given the "large-scale" nature of the global orphan crisis and core underlying causes of children's welfare status, one might argue, a more appropriate response to the global orphan crisis would require "institutional solutions and not remediation through individuals' duty to rescue."²⁰⁵ Thus, the objection goes, prescribing individuals with a duty to adopt incorrectly diagnoses the problem of children in need of adoption and overlooks the massive efforts that are needed to overhaul institutional failures at the root of children's predicaments. Perhaps the duty even seems to tacitly endorse or

²⁰⁴ Rieder, "A Duty to Adopt?" 33.

²⁰⁵ Rulli, "Preferring," 675.

encourage the *diversion* of efforts to improve social conditions for people around the world so that children are not placed in positions in which they lack adequate parental care.

While it is true that many of the circumstances that lead to children's status as parentless are preventable, the timeframe required to establish many of the necessary conditions of change far exceed the *immediacy* of the children's need for parental care. Even if we identify them as underlying causes of children's status, we cannot overhaul political systems, restructure economic systems, remedy international relations, reform problematic social norms, and so on, in a timely manner. We could make efforts towards doing all these things but, still, we would not beat the clock. Time is of critical importance for the children. Rulli also stresses this, illustrating the point through *Railroad*, in which the child's leg being caught in the track is determined to be a result of institutional failure (perhaps inadequate public safety protocols). Despite this fact, a bystander would not be justified in failing to save the child. Rulli's example nicely emphasizes the time factor, and it also reinforces a point made earlier: while institutional responses to the global orphan crisis (as duties to assist) do not stand *in opposition* to individual duties to adopt, they are also *no substitute* for individual duties – in this case, providing needy children with parental care. In sum, this objection incorrectly assumes that institutional action can provide the immediate parental care that children need.

5.5. Numbers and Collective Duties

Another objection to a duty to adopt is that not *every prospective parent* could be morally obligated to adopt children, for that would require enough adoptable children for every prospective parent: the numbers simply do not add up. The numbers of adoptable children and prospective adoptive parents, within any particular context, fluctuate: currently, there are far fewer willing adoptive parents than there are children in need of adoption worldwide (hence, the global orphan crisis), though historically, there have been domestic shortages (in the

United States, for example) of adoptable children for willing adoptive parents.²⁰⁶ As the objection goes, the problem for those who advocate in favour of a duty to adopt as an individual duty is that they overlook practical implications having to do with numbers and distribution. Thus, it may be argued that assigning *collective* duties to assist might be preferable, for this avoids the problem of assigning a duty to adopt to all prospective parents, not all of whom could fulfil the duty.

I have three responses. First, the numbers problem, at least for now, is not a pressing issue. In our current situation, “the number of children who could benefit from adoption far surpasses the number of actual adoptions in a year.”²⁰⁷ Second, while duties to aid could be collective (e.g., a medical team performing surgery, a group of people engineering running water systems, etc.), children’s needs for parental care can only be satisfied by individuals. Third, if we do, in time, approach a genuine numbers problem (one that reflects global numbers of adoptees and prospective adopters), there are a variety of ways we could deal with distribution issues. One suggestion is to be more open to multiple family adoptions, whereby a child is placed in the joint care of individuals from different family units, each and all of whom would provide the child with parental care.²⁰⁸ Another suggestion for dealing with an uneven ratio is to devise a matching scheme to pair best-suited families with available adoptable children.²⁰⁹ Whatever the practical policy solution is, I agree with Friedrich that some creative solution can be developed to take into account the needs of both

²⁰⁶ Laura Briggs, *Somebody's Children: The Politics of Transracial and Transnational Adoption* (Durham: Duke University Press, 2012). 6.

²⁰⁷ Richard Carlson, “Seeking the Better Interests of Children,” 769-771.

²⁰⁸ See Matthew Liao, “The Right of Children to be Loved,” *Journal of Political Philosophy* 14, no. 4 (2006): 437.

²⁰⁹ Friedrich, “A Duty to Adopt?” 33.

parties.²¹⁰ Perhaps not every prospective parent will get to adopt a child, but that outcome would be better than an ongoing global orphan crisis.

This brings me to my last point. The duty to adopt is a context-dependent duty: it relies on the existence of adoptable children. While it would be ideal if there were no children in need of adoption worldwide, we live in a non-ideal world, in which the problem of parentless children not only exists but exists on a scale of global crisis. Rather than being a critical objection to the duty to adopt, advocates of a duty to adopt embrace the possibility, as an ideal, that some parents would not be able to fulfill their duty to adopt due to a lack of adoptable children. After all, the argument is premised on children's welfare. Herein lies the paradox of adoption: while it is "an impressive intervention" for parentless children, the conditions that give rise to the need for adoptions "should be prevented as much as possible."²¹¹

5.6. Corruption in Intercountry Adoptions

Some might issue a challenge to the very idea of a duty to adopt children by citing corrupt systems of adoption that perpetuate harms against children by treating them as products of global economic exchange. The charge here is that many nations are drastically ill-equipped to properly regulate the care of children and, instead, leave them exposed to harmful outcomes, such as trafficking, for-profit schemes, and instrumentalist treatment for the benefit of global elite adoptive families.²¹² Intercountry adoption-related corruption has been uncovered in a

²¹⁰ Jurgen De Wispelaere and Daniel Weinstock (2014) envision a similar practical problem of distribution that could potentially arise in the context of access to publicly funded assisted reproductive technologies. In *Family-Making: Contemporary Ethical Challenges*, ed. Francoise Baylis and Carolyn McLeod (Oxford: Oxford University Press, 2014), 89-108.

²¹¹ van IJzendoorn and Fuller, "Adoption as Intervention" 1240.

²¹² See *Baby Markets* (2010), esp. Goodwin's "Baby Markets," Dorow's "Producing Kinship Through the Marketplaces of Transnational Adoption" and Krawiec's "Price and Pretense in the Baby Market."

number of countries.²¹³ Charges include recruiting and paying for babies from poor families; kidnapping, trafficking, and selling children (many of whom are not in need of adoption) for organ harvesting; and forging documents for illicit adoptions. The demand for intercountry adoptions has, some argue, created a market demand for babies and children. As the challenge goes, we should not be advocating adoption (especially international adoption), let alone a moral duty to adopt, because systems of child welfare in many parts of the world are far too corrupt.

These concerns need to be taken very seriously, given the potential harms against children. However, we should be careful to not generalize from a sampling of cases – which, to be sure, *are* atrocities – to all adoptions. Rather, we should aim to glean lessons from these cases and focus on developing and enforcing effective regulatory measures. This sort of response echoes Elizabeth Bartholet, who considers such cases of corruption to be “occasional” rather than “systemic.” She writes:

The harms caused by any adoption abuses that exist are far outweighed by the harms caused when international adoption is shut down and children are denied by the tens of thousands the nurturing homes they need. The obvious solution is to do better at enforcing the laws prohibiting these abuses and penalize the perpetrators rather than the children.²¹⁴

²¹³ These countries include, among others, India, Guatemala, Brazil, Vietnam, Romania, Honduras, Peru, Samoa, and many others. Also see Jorge L. Carro, “Regulation of Intercountry Adoption: Can the Abuses Come to an End?” *Hastings International and Comparative Law Review* 18, no. 1 (1994): 121; Laura Briggs, *Somebody's Children: The Politics of Transracial and Transnational Adoption* (Durham: Duke University Press, 2012); Michele Goodwin, *Baby Markets: Money and the New Politics of Creating Families*. (New York: Cambridge University Press, 2010).

²¹⁴ Elizabeth Bartholet, “Intergenerational Justice for Children: Restructuring Adoption, Reproduction and Child Welfare Policy,” *The Law & Ethics of Human Rights* 8, no. 1 (2014): 121.

However, we may criticize Bartholet on this point, for perhaps the perception of these incidents as isolated is only so because only the most egregious cases are known. It could be that the very hiddenness of the problem of child trafficking, for instance, masks its rate of occurrence.²¹⁵ Either way, enforceable guidelines are needed as a means of regulating intercountry adoptions, and The Hague Convention on Intercountry Adoption is promising.²¹⁶ As an inter-governmental agreement designed to ensure the best interests of the child in intercountry adoption, and to “prevent the abduction, sale, and trafficking of children”, it includes requirements by which each signatory country must comply and guidelines for cooperation between contracting states.²¹⁷ Thus, criticisms about corruption in adoption systems call for acute awareness about the conditions surrounding intercountry adoptions but do not undermine the duty to adopt.

6. Conclusion

In this chapter, I have argued that a *pro tanto* duty to adopt children instead of procreating is very compelling and defensible against many strong criticisms. I began by highlighting features of the global orphan crisis, in which millions of children around the world are in need of parental care. Applying the framework of a duty to assist, I reviewed Rulli’s and Friedrich’s arguments in favour of a duty to adopt children instead of bringing new children into the world through procreation. I reviewed their reasoning about several proposed defeating

²¹⁵ Rotabi makes a similar point on p. 67, in Judith L. Gibbons and Karen Smith Rotabi. *Intercountry Adoption: Policies, Practices, and Outcomes*. Farnham: Ashgate, 2012.

²¹⁶ See Sara Dillon, “Making Legal Regimes for Intercountry Adoption Reflect Human Rights Principles: Transforming the United Nations Convention on the Rights of the Child,” *Boston University International Law Journal* 21 (2003): 179-257; and Richard Carlson, “Seeking the Better Interests of Children with a New International Law of Adoption,” for critiques of The Convention.

²¹⁷ See Articles 4.b., 1.b., 4, 5, and 7.1 of The Convention: <http://www.hcch.net/en/instruments/conventions/full-text/?cid=69>

conditions to a duty to adopt and offered my own assessments along the way. Furthermore, I engaged with a set of objections that challenged the foundations of a duty to adopt. Ultimately, I have demonstrated the strength of a duty to adopt. In the next chapter, I consider three group-based proposals in favour of procreation.

Chapter 2: Group-Based Reasons in Favour of Procreation

1. Introduction

In Chapter 1, I strengthened Tina Rulli's and Daniel Friedrich's defense of a duty to adopt against two sets of objections: one premised on the idea that willing prospective parents have a justified preference for biological children and the other having to do with foundational challenges to a duty to adopt. At the end of the chapter, I mentioned that there could be a different set of objections against the duty, namely, group-based reasons to favour procreation over adoption.

My central aim in this chapter is to develop three group-based reasons in favour of procreation that challenge a duty to adopt. I will begin by constructing a taxonomic characterization of different kinds of reasons in favour of procreation. In doing so, I will identify a category that has been left largely unaccounted for by proponents of a duty to adopt, namely, group-based reasons. After articulating the distinct nature of social groups and the nature of races as social groups, I will include a brief commentary on the metaphysics of race, focusing on two social constructionist theories of race. These two ways of thinking about race will provide the basis for my development of three group-based reasons in favour of procreation: for reparative justice, racial solidarity, and cultural preservation. While in-depth critical engagement with the arguments against a duty to adopt that follow from these reasons will be the focus of subsequent chapters, in this chapter I will offer the strongest arguments in support of members of racially oppressed groups to have biological children, against a duty to adopt.

2. A Taxonomy of Procreative Reasons

According to what Mianna Lotz calls the “reasons-relevance thesis,” the reasons “*why* we procreate matters for the morality of our procreative conduct”.²¹⁸ Many of us intuitively regard some reasons in favour of procreation as, at best, morally suspect and, at worst, morally reprehensible. For example, wanting a child to save one’s marriage and wanting to have a child through whom to live vicariously are morally dubious and commonly frowned-upon reasons to procreate;²¹⁹ and most of us would agree that wanting to have a child in order to profit from the child’s labour is one such unacceptable reason to procreate. However, as we encountered in Chapter 1, some reasons offered in favour of procreation seem initially convincing and thus require thoughtful reflection to gauge their strength against a duty to adopt. In this section, I develop a taxonomy of reasons in favour of procreation and, in so doing, uncover a largely under-examined type of reason to procreate: for the sake of one’s social group. I will suggest that a successful defense of a duty to adopt must respond to challenges posed by what I refer to as ‘group-based’ reasons in favour of procreation.

As part of her project to clarify how we might think about the rightness and wrongness of procreative conduct, Lotz categorizes different reasons offered in favour of procreation. While her project differs markedly from my own, I take inspiration from her identification of a taxonomy of reasons. Mapping out and distinguishing different kinds of reasons that people have for preferring biological children over adopted children, I contend, will help us to assess their unique challenges against a duty to adopt.

²¹⁸ Mianna Lotz, “Procreative Reasons-Relevance: On the Moral Significance Ofwhywe have Children” *Bioethics* 23, no. 5 (2009): 291, emphasis original. In her paper, Lotz offers three possible approaches to supporting the reasons relevance thesis. She concludes that a moderate reasons relevance thesis, according to which procreative reasons are appropriate subjects of private moral scrutiny, is plausible. However, she finds that a strong version of the thesis, according to which procreative reasons are *determinative* of the morality of procreative conduct, needs further support.

²¹⁹ Lotz, “Procreative Reasons-Relevance,” 292.

The first main category of reasons to favour procreation is what I will refer to as *self-regarding reasons*. These are reasons in favour of having biological children that are derived from the interests of the prospective parents. Reasons of this type include wanting to have a child who shares one's physical appearances, desiring the experience of pregnancy and, as Lotz mentions, giving one's life purpose and meaning, gaining social acceptance, and wanting to experience parenthood.²²⁰ Interestingly, Tina Rulli and Daniel Friedrich focus heavily on self-regarding reasons to procreate (see Chapter 1). That is, when evaluating claims about one's desire to procreate instead of adopt children, both Rulli and Friedrich tend to consider reasons that are based upon the self-interests of the prospective parents. Rulli reveals her emphasis on self-regarding reasons when she says, "arguments in favour or defence of procreation tend to emphasize the importance of the biological child's connection to oneself through genes or body. The value of procreation is located in the value of oneself."²²¹ I have provided a detailed analysis in Chapter 1 of why I think many (in fact, in my view, most) procreative reasons in this category fail to justify procreation over one's duty to adopt. There are, however, other types of reasons that might motivate one's desire to procreate, and it is worth exploring whether they might pose more compelling challenges to the duty.

The second main category is what I will refer to as *child-centered reasons*. These are reasons in favour of procreating that appeal to the goods or welfare that would befall the future child, such as wanting to give the anticipated child the gift of life, or desiring procreation for the sake of the projected well-being of the possible future child. As several philosophers have pointed out,²²² however,

²²⁰ Lotz, "Procreative Reasons-Relevance," 292.

²²¹ Rulli, "The Unique Value of Adoption," p. 120.

²²² See Derek Parfit, *Reasons and Persons* (Oxford: Clarendon Press, 1984); David Benatar, *Better Never to Have Been: The Harm of Coming into Existence*. Oxford: Clarendon, 2006; Mianna Lotz, "Procreative Reasons-Relevance: On the Moral Significance of Why We have Children," *Bioethics* 23, no. 5 (2009): 291-299; Mianna

child-regarding reasons fall prey to non-identity or value-attribution problems, which makes them questionable grounds upon which to justify bringing a child into existence. To simplify, the issue at stake here is whether we can benefit someone by bringing them into existence: if they do not yet exist, then how can they stand to benefit?²²³ The problem is, by appealing to the anticipated goods that a future child would receive or its anticipated well-being upon being born, we incoherently attribute value to a life that does not yet exist.

Lotz offers a charitable interpretation of child-centered reasons in favour of procreation. As she explains, although the anticipated good of the possible future child cannot *justify* bringing a child into existence, a possible child's predicted welfare should be *taken into account* when contemplating whether or not to procreate.²²⁴ She explains by way of example that being able to benefit one's future child by passing on one's family inheritance may factor into one's decision to procreate, but it cannot count as a reason for bringing a child into existence.²²⁵

I reject child-centered reasons in favour of procreation because the very idea of benefitting someone who does not yet exist by bringing them into existence is incoherent. Moreover, barring goods such as the 'gift of life,' the goods that one may desire to give a biological child can be given to an adopted child. For instance, one could pass on one's family inheritance to an adopted child; one could nurture an adopted child and provide them with a life full of valuable goods. In this way, adopting a child unambiguously avoids the value-attribution problem that having a child through procreation inescapably faces. In

Lotz, "Rethinking Procreation: Why it Matters Why we have Children," *Journal of Applied Philosophy* 28, no. 2 (2011): 105-121.

²²³ Note that David Benatar argues that people can be harmed by being brought into existence, but they cannot benefit from being brought into existence.

²²⁴ Lotz, "Procreative Reasons-Relevance," 294.

²²⁵ Lotz, "Procreative Reasons-Relevance," 293-294.

sum, because child-centered reasons to favour procreation face insurmountable value-attribution problems and also fail to show the unique value of a biological child, they cannot justify procreation over a duty to adopt.

The third category of reasons in favour of procreation I will call *other-regarding reasons*. These are, as Lotz describes, reasons to procreate that are “based upon, derived from, or characterized ... by reference to the good, interests or needs of someone other than the being brought into existence.”²²⁶ I suggest that this category includes several sub-divisions: those reasons respectively derived primarily from the interests of individuals other than the prospective parents and children, collectives or associations, and social groups. Examples of reasons to procreate for another individual’s sake include to create a ‘saviour sibling’ for one’s existing child, to have a child for an infertile family member via altruistic surrogacy, to express commitment to one’s spouse, and to honour one’s parents with a grandchild. Reasons to procreate that are based on the interests of collectives or associations, as Christine Overall recognizes, may derive from the interests of one’s nation state. For instance, one might desire to have children as a way of expressing loyalty to one’s nation, or perhaps to help build a larger national citizenry for purposes of strengthening one’s state’s military, economic, industrial, or intelligence agendas.²²⁷

Some procreative reasons share features of more than one category and are thus mixed in nature. For example, wanting to procreate to save one’s marriage involves both an appeal to one’s self-interest in preserving one’s marriage and concern for one’s partner, with whom one values sharing an interpersonal bond. Likewise, we can interpret Lotz’s example of desiring to have a child who would inherit the family business²²⁸ as mixed because, in addition to expressing one’s self-interest in continuing the family business, one may also

²²⁶ Lotz, “Procreative Reasons-Relevance,” 292.

²²⁷ Overall, *Why Have Children?* 69-70.

²²⁸ Lotz, “Procreative Reasons-Relevance,” 292.

hold a child-centered view that the inheritance of the family business would be of benefit to the anticipated child.²²⁹

Also within the category of other-regarding reasons, I propose, are group-based reasons to procreate, reasons that are derived primarily from the interests of a social group to which one is a member. Here, the primary source of motivation for one to procreate depends on reasons related to one's assented-to identity as a member of the social group. As I will argue, group-based reasons present a pressing challenge to a duty to adopt and, thus, a robust defense of a duty to adopt must address them. Existing literature on a duty to adopt altogether ignores group-based challenges. Before moving into an analysis of specific group-based reasons, it is worth thinking about the nature of social identities, and why group-based reasons to procreate are distinct from other types of other-regarding reasons.

3. Group-Based Reasons

Group-based reasons in favour of procreation are characteristically distinct from other sorts of other-regarding reasons in that they capture procreative interests that are founded upon appeals to one's assented-to membership in a *social group*. In this section, I differentiate group-based reasons as a unique subset of other-regarding reasons by distinguishing social groups from other types of collectivities.

3.1. Social Groups

Social groups are a unique type of collectivity of people, distinguishable from other types of collectivities. Drawing upon the works of Iris Marion Young, Katherine Richie and Linda Martín Alcoff, I contrast aggregates and associations

²²⁹ For many more reasons people may be motivated to procreate, see Overall, *Why Have Children?*

from social groups and present what I take to be the latter's key distinguishing features.

Let us first compare aggregates and associations. *Aggregates*, Young describes, are classifications of people based on any set of shared attributes – for example, eye colour, the brand of computer people use, the number of languages people speak, and so on.²³⁰ Contrast this type of collectivity with that of an *association*, a “formally organized institution, such as a club, corporation, political party, church, college, or union.”²³¹ Whereas one's membership in an aggregate is involuntary and ascribed, one's membership in an association is intentional and assented to.²³² For example, a member of a soccer team (a type of association) actively seeks belonging in the group by attending practices and games, and so on, and assents to being a member of the sports team. On the other hand, someone who wears jeans would be ascribed membership in an aggregate that picks out ‘those who wear jeans’ without having to intentionally seek membership or assent to being classified as a member of such a collectivity.

What makes social groups – e.g., of genders, racial groups, ethnicities, classes, dis/abilities, etc. – distinctive from aggregates or associations? I suggest that social groups have at least three key distinguishing features. First, social groups are socially constructed: they exist and are contextually defined within a society, and they are subject to society-wide ascriptions of meaning and value. For example, racial categories shift from one society to the next, and ascriptions of value (e.g., relative power and privilege) to different racial groups have a *real*, causal impact on people's life chances.²³³ Whereas one may be identified as ‘coloured’ in South Africa, in other parts of the world, one may be identified as

²³⁰ Iris Marion Young and Danielle S. Allen, *Justice and the Politics of Difference* (Princeton, N.J: Princeton University Press, 2011), 43.

²³¹ Young, *Justice and the Politics of Difference*, 44.

²³² Young, *Justice and the Politics of Difference*, 44.

²³³ Michael Root, “How we Divide the World,” *Philosophy of Science* 67, no. 3 (2000): S628-S639.

'black'. Michael Root describes this phenomenon of racial category fluidity in terms of race being localized to socio-historical sites and not necessarily traveling from one place to the next.²³⁴ Although social groups are socially constructed, they are nonetheless *real* because they impact people's lives. To illustrate this point, consider that the life chances of an indigenous woman in Canada are grossly compromised as compared to the life chances of a white male in the same society. Crucially, social groups comprise individuals whose identities are fundamentally bound up with the social groups to which they are a part. "They are a specific type of collectivity," Young explains, "with specific consequences for how people understand one another and themselves."²³⁵

A second distinguishing feature is that one's membership in a social group is either ascribed, assented to, or a combination of both. Although members of a social group can embrace, sculpt, or resist their group-based identities, membership in social groups may also be ascribed or perceived by others without one's assent. An example of ascription without self-identification would be a person from South Africa who identifies as racially 'coloured' but is labelled as 'black' in Canada, perhaps despite resisting or rejecting that label. Another possibility is self-identification without ascription, as in the case of a person who identifies as gender non-conforming but is misidentified by others as being of a

²³⁴ Root. "How we Divide the World," S631.

²³⁵ Young, *Justice and the Politics of Difference*, (44). Like Young, Alcoff emphasizes that membership in a social group impacts one's lived experiences, holding that social identities are "fundamental to one's experience of the world and to the development of one's capacities. ... It contributes to one's perspective on events – to one's interpretation of conversations, media reports, and social theories – and it determines in large part one's status within the community and the way in which a great deal of what one says and does is interpreted by others. Thus, our 'visible' and acknowledged identity affects our relations in the world, which in turn affects our interior life, that is, our lived experience or subjectivity. If social identities such as race and gender are fundamental in this way to one's experiences, then it only makes sense to say that they are fundamental to the self....Whether or not they are essential to the self, they are certainly essential to the way the self experiences the world" (Alcoff, *Visible Identities: Race, Gender, and the Self*. New York: Oxford University Press, 2006, 92).

specific binary gender. Finally, self-identification and ascription may align, as in the case of someone who identifies as indigenous and is also identified as such by others.

Finally, unlike associations, social groups lack structural-functional organization, and members lack shared intentionality.²³⁶ Take a ballet company, for instance, which is an association. Members of a ballet company each play a role in its operation. Administrators market the shows, technicians manage audio-visual aspects of production, artists create costumes and stage scenery, directors and choreographers orchestrate the production, and dancers perform. A ballet company is *organized* in the sense that each of its members plays a role in the structure and functioning of the collectivity. Without this organization, the company (i.e., the association) would crumble. Moreover, members of the ballet company have *shared intentionality*, all working toward the goal of producing a polished piece of performance art to showcase to an audience.

On the other hand, social groups are unorganized, as members of a social group do not all have the same goals, plans, actions, and beliefs, and they do not have specific roles to fulfil in order for the group to exist. In addition to being different from associations, social groups are also different from *collectives* of people who band together in striving to achieve an outcome, as in a group of bystanders on land who coordinate their efforts to save someone who is drowning in a river, or a movement of vegans who work together to liberate animals. Alcoff captures this *unorganized* feature of social groups by pointing out that the identities of members within any social group are dynamic and contested.²³⁷ Individuals may accept, transcend, or reject their group-based identities, giving social groups themselves the feature of being dynamic, ever-changing and evolving. Social groups contain within them microcosmic representations of

²³⁶ Katherine Ritchie, “The Metaphysics of Social Groups,” *Philosophy Compass* 10, no. 5 (2015): 313.

²³⁷ Alcoff, *Visible Identities*, 232.

difference and heterogeneity present in the wider society.²³⁸ One's identification in a social group can shape one's identities and lived experiences in both positive and negative ways and, as a result, individuals in social groups may choose to take pride in or challenge their group-based identities, to varying degrees. In at least these three ways, social groups are distinctive types of collectivities.

Aggregate- or association-based reasons in favour of procreation would likely present unconvincing challenges to one's duty to adopt, but reasons deriving from one's membership in a social group have the potential to present critical challenges. Recall that group-based reasons are those derived primarily from one's interest in a social group to which one belongs, and for which one's primary source of motivation depends on reasons related to one's group-based identity. Rather than basing one's motivation to procreate upon one's coincidental belonging in a random aggregate (e.g., people who live in tiny houses) or one's affirmed belonging in an association (e.g., university professors), the rich socio-political identity-conferring features of social group membership provides a more plausible starting point for thinking about the moral justification of procreation. Of course, the degree to which one values one's membership in a social group will influence whether and to what extent one appeals to group-based reasons in favour of procreation. I take it to be essential that, in appealing to a group-based reason to procreate, one would necessarily identify as a member of the relevant group and be motivated to act in its interests.²³⁹

Group-based reasons could appeal to the interests of any number of social groups, including ethnic, gender-based, dis/ability groups, but I focus on those

²³⁸ Young, *Justice and the Politics of Difference*, 44.

²³⁹ Note that it is possible that one may identify as a member of a particular social group and be motivated to act in its interest but be overlooked or discounted as a social group member by others. A classic example of self-identification that goes unnoticed or is not accepted by others is failing to pass as a member of a particular social group. For the phenomenon on passing or failing to pass, see Linda Martín Alcoff, 2006. "On Being Mixed." in *Visible Identities*, 264-290; and Rachel McKinnon, "Stereotype Threat and Attributional Ambiguity for Trans Women," *Hypatia* 29, no. 4 (2014): 857-872.

pertaining to racial groups for two reasons. First, I focus on race because of the prominence of race-talk and race-related considerations in child welfare and adoption systems. Race is a key factor that determines children's connection to child welfare, and issues related to race play a central role in adoption systems and individuals' decisions about family-making. Second, I focus on race so as to carefully attend to issues related to these kinds of social groups. As Alcoff nicely puts it, "Social identities operate in very specific ways, utilizing and invoking different features of social realities, practices, and discourses, and therefore they require analyses that will not lose sight of these particularities."²⁴⁰ While there are many more social groups that could potentially claim for its members a limited right to procreate, I limit my discussion to racial groups in order to attend to the specificities of such social identities, and to avoid casting unthoughtful claims onto others. My hope is that critical analysis of racial group-based reasons to procreate can illuminate some of the insightful or problematic ways that other social identities are used to justify procreative decisions.

3.2. Races as Social Groups

The nature of race is widely contested amongst philosophers. Some philosophers argue that race is fundamentally biological in nature, while others locate the fundamental nature of race in its social significations. An overview of competing theories of race,²⁴¹ or a defense of any particular conception, would require substantial argumentation and is thus beyond the scope of my project. However, the group-based arguments I develop in this chapter rely on certain general theories of race, both of which take race to be socially constructed. In this section, I briefly outline core commitments of political and cultural theories of race. The group-based reasons in favour of procreation I consider in §4 – reparative justice,

²⁴⁰ Alcoff, *Visible Identities*, 10.

²⁴¹ For a thorough overview of philosophical accounts of race, see Jorge J. E. Gracia, *Race Or Ethnicity?: On Black and Latino Identity*. Ithaca: Cornell University Press, 2007; and Sally Haslanger, Chike Jeffers, Quayshawn Spencer, and Joshua Glasgow. *Four Views on Race* (Forthcoming).

racial solidarity, and cultural preservation – invoke these two general theories of race.

It is widely held that races are socially constructed, meaning that they exist “as a matter of social reality that we produce and maintain through widespread patterns of thought and behaviour.”²⁴² Within the framework of social constructivism about race, there are two distinct theories of race: political and cultural. According to political theories, races are distinct groups of people with shared political histories who are positioned in hierarchical relationships to one another. Many philosophers articulate a view of races along these lines. Sally Haslanger includes in her definition of racialized groups that they are “*socially positioned as subordinate or privileged* along some dimension (economic, political, legal, social, etc.)” in relation to one another.²⁴³ Paul C. Taylor defines races as “probabilistically defined populations” whose members are “similarly situated with regard to certain social conditions, including the mechanisms and measures of *social stratification*.”²⁴⁴ Linda Alcoff affirms the fundamental *political* significance of the origin of racial groups, emphasizing that systems of oppression and discrimination create the conditions for racial groupings.²⁴⁵ Charles Mills references a racial order in many parts of the world that imparts significance to race, identifying “vertical racial systems,” characterized by hierarchical political and economic orders that serve to privilege some and subordinate others into superior and inferior races, based on perceived physical,

²⁴² Jeffers, *forthcoming*, in *Four Views on Race*. Contrast social constructivism about race with biological accounts of race, according to which races are delineated fundamentally by individuals’ biological features and geographical origins. For non-essentialist biological accounts of race, see Quayshawn Spencer, “A Radical Solution to the Race Problem.” *Philosophy of Science* 81, no. 5 (2014): 1025-1038; and Robin O. Andreasen, “Race: Biological Reality or Social Construct?” *Philosophy of Science* 67, no. 3 (2000): S653-S666.

²⁴³ Sally Haslanger, “Gender and Race” 44, emphasis added.

²⁴⁴ Paul C. Taylor, *Race: A Philosophical Introduction*. Cambridge, UK; Malden, MA; Polity, 2004. 117, emphasis added.

²⁴⁵ Alcoff, *Visible Identities*, 165, 278.

intellectual, and moral-characteristic features.²⁴⁶ Theorizing about a political philosophy of race, Falguni Sheth argues that race is a long-standing, continual phenomenon by which “power relationships between sovereign authorities and subject populations” create and reproduce groups of people who are *politically divided against one another*.²⁴⁷ Similarly, David Theo Goldberg argues that race is used as a tool of governance in modern states and that “racial identification is elaborated through formalized classification schemes establishing *population hierarchies*.”²⁴⁸ Finally, Omi and Winant conceive of race as mediated through social and historical processes that “*signif[y] and symboliz[e] social conflicts and interests by referring to different types of human bodies*.”²⁴⁹ While the details of these accounts of races vary, they all hold at minimum that races are groups of people connected to political systems of hierarchy, in which some groups of people are dominant and others subordinate. I take this to be the defining characteristic of political theories of race.

Cultural theories of race, which hold less prominence in the philosophical literature, foreground culture in defining races. In “The Conservation of Races,” W. E. B. Du Bois writes that a race is a

a vast family of human beings, generally of common blood and language, *always of common history, traditions and impulses*, who are both voluntarily and involuntarily striving together for the accomplishment of certain more or less *vividly conceived ideals of life*.²⁵⁰

²⁴⁶ Charles W. Mills, *Blackness Visible: Essays on Philosophy and Race*. (Ithaca, N.Y: Cornell University Press, 1998), 44.

²⁴⁷ Falguni A. Sheth, *Toward a Political Philosophy of Race* (Albany: SUNY Press, 2009), 172, emphasis added.

²⁴⁸ David Theo Goldberg, *Are We all Postracial Yet?* Cambridge; Polity, 2015.

²⁴⁹ Michael Omi and Howard Winant. *Racial Formation in the United States*. (Third ed. New York, NY: Routledge, Taylor & Francis Group, 2015), 110, emphasis original.

²⁵⁰ Cited in Alcoff and Mendieta’s *Identities*, 2003, 44, emphasis added. Notice that Du Bois accepts as part of his view of race that people are divided “into distinct races”

Similarly, for Lucius Outlaw, races

are associated with *conceptions, beliefs, values, and practices* and are used to make important distinctions among groups of peoples, and among persons, on the basis of physical features *and cultural factors* which are thought to be shared by persons in the group and which constitute the group as a distinct race and/or ethnies.²⁵¹

Outlaw goes on to identify a race as a distinct group whose biological features, geographical ties, *and cultural processes* “combine to constitute a ‘race’” whose members “know [themselves] as a distinct group” and comprise a “*self-reproducing, encultured population*.”²⁵² Finally, Chike Jeffers endorses a cultural theory of race, according to which members of a particular race share (in addition to political histories) certain ways of life (i.e., a common culture), with respect to any combination of traditions, expressions, linguistic and extralinguistic communication, and other markers of social existence.²⁵³ Though varied between different philosophers’ accounts, cultural theories of race minimally hold that races comprise people who fundamentally share common ways of life.

One notable normative implication of political and cultural theories of race is their answer to the question about whether races are worth preserving. Cultural theorists tend to answer the question in the affirmative, holding that the positive value of races lies in the cultural goods that members create and share.

whose relationship is characterized by separation into “*dominant and subordinate groups*” (cited in Jeffers, 2013, 409, emphasis added). However, Jeffers (2013; forthcoming) interprets Du Bois as ultimately endorsing a cultural theory of race.

²⁵¹ Lucius Outlaw, “Against the Grain of Modernity: The Politics of Difference and the Conservation of ‘Race,’” *Man and World* 25, no. 3 (1992): 445, emphasis added.

²⁵² Outlaw, “Against the Grain of Modernity,” p. 445, emphases added.

²⁵³ Chike Jeffers, “The Cultural Theory of Race: Yet another Look at Du Bois’s ‘The Conservation of Races,’” *Ethics* 123, no. 3 (2013): 422.

Although racial divisions have structured hierarchies in our world, cultural theorists of race hold that there is positive value to race, hierarchies aside. These cultural goods, it is argued, are valuable in themselves, even in a future world where classificatory systems founded on racial domination and subordination are outdated. As Jeffers believes, “the preservation of distinctive cultural traditions is desirable and admirable” and may ground *obligations* to preserve one’s culture in oppressive contexts.²⁵⁴ ²⁵⁵ Cultural preservationists would maintain that, if it were possible to eradicate race-based discrimination, we ought to hold on to races in their cultural forms and celebrate racial (i.e., cultural) diversity. With an emphasis on the positive value of race, the existence of races on cultural theories is not inherently negative; in fact, it is positive because the cultural aspects of race can be (and perhaps ought to be) celebrated, remembered, shared. On the other hand, political theorists of race tend to reject ideals of race preservation. Recall that race, according to political theories, is defined in terms of hierarchical divisions between groups of people. Hence, in a future world without racism and vertical racial orders, there simply would be no races. The significance of these two different theories of race – political and cultural – will become clearer in S4, in which I develop from these two general concepts three group-based reasons in favour of procreation.

As I have defined social groups and races, any individual could appeal to racial group-based reasons to procreate, including those who are members of dominant racial groups. However, to extend a point that Charles Mills makes in the context of same-race marriage, I contend that when it comes to having children, examining the value of racial endogamy or self-segregation for members of a dominant racial group would yield “philosophically uninteresting racist reasons” to procreate.²⁵⁶ As I will touch on in the next section, notions of

²⁵⁴ Chike Jeffers, “The Ethics and Politics of Cultural Preservation,” *The Journal of Value Inquiry* 49, no. 1 (2015): 205-220. 215.

²⁵⁵ Jeffers, forthcoming in *Four Views on Race*.

²⁵⁶ Charles W. Mills, “Do Black Men have a Moral Duty to Marry Black Women?” *Journal of Social Philosophy* 25, no. s1 (1994): 131.

racial superiority are used to promote the creation of individuals within privileged social groups, but I reject these reasons in favour of procreation because they rely on perpetuating systems of oppression.

Rather, my interpretation of group-based reasons to procreate takes the foundational motivation of its advocates to be *an ethic of resistance to historical injustice or ongoing racism*. This will become evident in §4, where I explicate racial group-based reasons in favour of procreation. Following Mills, I begin with the view that these reasons are worthy of philosophical attention and scrutiny although, upon inspection, we may find that some (or all) of them rest on misguided motivations, or are factually or empirically ill-founded.²⁵⁷ Although those who espouse a ‘one human race’ ideal might quickly reject any appeal to group-based reasons in favour of procreation (or group-based reasons in favour of adoption, the topic of Chapter 3), the reality is that concerns about race in the realm of family-making have prompted complex philosophical and political debates. For this reason, it is important to engage carefully with group-based reasons having to do with race that might challenge a duty to adopt. In the rest of this chapter, I consider whether members of oppressed racial groups could be exempted from a duty to adopt for reasons having primarily to do with the interests of the racial group to which they belong.

4. Reasons in Favour of Procreation

A few philosophers have gestured toward the possibility of group-based reasons in favour of procreation. Andrew Botterell and Carolyn McLeod very briefly suggest that groups of people (e.g., minority ethnic or racial groups, disabled people) who have been targeted by eugenics programs may have a right to reproduce as an act of political resistance. They emphasize that this right to reproduce would apply only to groups that have experienced oppression in the form of state-restricted reproduction (i.e. eugenics); Botterell and McLeod do not

²⁵⁷ Mills, “Do Black Men have a Moral Duty to Marry Black Women?” 149.

endorse a general right to reproduce (i.e., one that applies to everyone).²⁵⁸ Similarly, Maureen Sander-Staudt suggests that “the moral right to become a biological parent may be fundamental for those who have descended perilously from slavery, were sterilized because of their ethnic heritage and/or perceived incompetence, or are/were the targets of genocide.”²⁵⁹ In this way, appeals to one’s membership in a social group could provide a firm basis for claiming not merely a *desire* to procreate but, more strongly, a right (i.e., an *entitlement*) to procreate. These are fascinating proposals in favour of procreation, and I think they carry serious potential to override a *pro tanto* duty to adopt, at least for some individuals. Both Botterell and McLeod, and Sander-Staudt seem to have in mind reasons to procreate based specifically on reparative justice.

Let us consider reasons in favour of procreation grounded in reparative justice first, and then two others: racial solidarity; and cultural preservation. In the rest of this chapter, I aim to accomplish three things: first, to develop and provide support for each of these reasons; second, to identify how each of them locate the value of procreation; and third, to interpret each of their challenges against a duty to adopt rather than procreate. Reserved for sustained engagement over the two chapters following this one is my evaluation of whether these reasons can successfully override one’s duty to adopt.

4.1. Reparative Justice

Reparative justice seems to present a compelling reason in favour of procreation. Consider this proposal: as a remedy for anti-natalist oppression or sexual and reproductive injustices against certain racial groups, direct victims or descendants of victims have a moral right to procreate. Where the reproductive

²⁵⁸ Andrew Botterell and Carolyn McLeod. “Can a Right to Reproduce Justify the Status Quo on Parental Licensing?” in *Permissible Progeny*, eds. Richard Vernon, Samantha Brennan, and Sarah Hannan (New York: Oxford University Press, 2015), 196.

²⁵⁹ Maureen Sander-Staudt, “Frontiers in Parenthood: Queer Mothering, Maternal Ambivalence, Adoption, and Reproductive Technology,” *Hypatia* 31, no. 2 (2016): 465.

liberties of individuals in these groups have been eliminated (perhaps through the elimination of the individuals themselves) or compromised (e.g., through anti-natalist regimes), claims to reparative justice in the form of a limited right to procreate would allow for individuals to reclaim control over their reproductive choices by procreating.

Fundamental to the idea of reparations – in contexts of interpersonal, socio-political, and intergenerational injustices – is remedying wrongs.²⁶⁰ Reparative justice offers a framework for redressing wrongs against direct victims and descendants of victims,²⁶¹ which may involve restitution, truth and reconciliation, redistribution, apologies, guarantees of non-repetition, honouring of treaties, and so on. Margaret Urban Walker contends that appropriate reparations for injustice are fitting, interactive, useful, and effective.²⁶² A reparative measure is *fitting* just in case it applies appropriately (e.g., in kind, in proportion) to the wrong at stake. For instance, appropriate reparative responses to suppression of truth may be truth-finding and public memorializing; remedies for physical violence may require medical care and personal protection for victims; to redress civil war conflicts, truth-telling and peace initiatives may be critical; and so on. Reparative measures are *interactive* if they allow for open dialogue with victims and take direction from their input, desires, and expectations of the process, rather than foreclosing communication and unilaterally imposing the terms of remediation. Relatedly, the *usefulness* of

²⁶⁰ Margaret Urban Walker, *What is Reparative Justice?* Milwaukee: Marquette University Press. (2010). 49, 9.

²⁶¹ There is considerable debate about whether or not descendants of direct victims of historical injustices can claim for reparations in virtue of being linked through ancestral lineage. See Vernon, Richard. *Historical Redress: Must we Pay for the Past?* New York: Continuum, 2012; Vernon, Richard. *Justice Back and Forth: Duties to the Past and Future*. Toronto: University of Toronto Press, 2016. I follow Janna Thompson (2001) in her view that descendants of victims have a claim to reparations: Janna Thompson, “Historical Injustice and Reparation: Justifying Claims of Descendants,” *Ethics* 112, no. 1 (2001): 114-135.

²⁶² Walker, *What is Reparative Justice?* 21.

reparative measures corresponds to whether they are suitable in helping victims come to terms with the losses and harms they have suffered, and whether they can empower victims and facilitate their building of positive relationships with others. Finally, we can judge the *effectiveness* of reparative measures by whether they are attentive to victims' needs and abilities to access and utilize the reparations offered. Reparative measures that ultimately do not effect change within the context of an injustice fail the standard of effectiveness.

Throughout the world, cases of state-sanctioned restrictions on procreation or sexual and reproductive injustices against members of racialized groups have affected certain individuals' abilities to exercise their procreative liberties. Consider the following sorts of injustices. Genocides and massacres, sometimes euphemistically referred to as 'ethnic cleansings,' have been used as methods of eliminating groups of people based on their race. By wiping out groups of people entirely – perhaps through biological warfare or armed sabotage – dominant racial groups have asserted absolute control over the reproduction of future generations of certain peoples. This means of anti-natalism is abhorrently direct, for it leaves no option for procreation to occur but for those who escape death.

Some anti-natalist regimes target women's ability to procreate by way of coerced or forced sterilization. Sterilization practices around the world have historically affected women who are racialized, treating them as fundamentally unworthy or undeserving of the ability to bear children.²⁶³ Racialized women have been prime targets of sterilization programs, with state-sanctioned administration of long-term contraceptives occurring without consent, and often with no or inadequate medical supervision.²⁶⁴ The contraceptive Norplant has

²⁶³ Priti Patel, "Forced Sterilization of Women as Discrimination," *Public Health Reviews* 38, no. 1 (2017).

²⁶⁴ In Canada, one of the many harms resulting from colonization was the forced sterilization of Aboriginal women (Boyer, Yvonne, University of Saskatchewan. Native Law Centre, and National Aboriginal Health Organization. *First Nations, Métis, and*

been used as a method of international population control, designed to suppress birth rates of certain populations in third-world countries, including Indonesia, Bangladesh, and Peru.²⁶⁵ Mass sterilizations of indigenous women in North America without their consent were aimed at eliminating whole populations, leading many to recognize the practice as “literally genocidal.”²⁶⁶ Sterilization has been and continues to be²⁶⁷ a method of state-sanctioned population control that targets members (especially women) of oppressed racial groups.

Furthermore, eugenics programs and nation-building²⁶⁸ projects seek to propagate the best, most ‘pure’ groups of citizens and eradicate those groups that

Inuit Women's Health. Vol. no. 4. Ottawa: National Aboriginal Health Organization, 2006). A thorough history of sterilization methods in the United States and internationally can be found in Dorothy Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty*, (1st ed. New York: Pantheon Books, 1997). Also see Jennifer Nelson, *Women of Colour and the Reproductive Rights Movement* (2003), esp. “An Instrument of Genocide: The Black Nationalist Campaign Against Birth Control,” 85-111 for a history of resistance movements in the United States to end population control, including sterilization abuse, against women of colour.

²⁶⁵ Roberts, *Killing the Black Body*, 139.

²⁶⁶ Jane Lawrence, “The Indian Health Service and the Sterilization of Native American Women,” *American Indian Quarterly* 24, no. 3 (2000): 400-419; Roberts, *Killing the Black Body*, 95.

²⁶⁷ For contemporary examples of sterilization abuses against black women, see Erica Lawson, “Black Women’s Mothering in a Historical and Contemporary Perspective,” *Journal of the Association for Research on Mothering*, 2(2), (2000): 21-30. At the time of writing this dissertation, indigenous women in Saskatchewan, Canada have filed a class-action lawsuit for having been subjected to coerced sterilization from at least the 1930s through to the early 2000s. See Alex Soloducha’s CBC report (2017): <https://www.cbc.ca/news/canada/saskatchewan/sask-indigenous-women-file-lawsuit-claiming-coerced-sterilization-1.4348848>.

²⁶⁸ I understand nation-building in terms of state-based efforts to cultivate a unified citizenry with a sense of national unity. While the concept of nation-building seems inviting, it is often accompanied by insidious intentions and discriminatory effects. In sculpting desirable nations, states impose policies and differential treatment upon “non-core groups” – aggregates of individuals who are treated as ‘other’ by those in power within and outside the state – in ways that determine which of those non-core

are deemed impure or less pure. An example of nation-building that has aided in the killing of racialized bodies are the extremely high rates of indigenous youth suicides in Canada, borne out of poor social conditions and legacies of colonialism, which have only recently signaled a national crisis for intervention and supports. Systemic racial oppression sends a clear message, with material and social implications, that some groups of people are lesser and do not have absolute value. Constructing a nation comprised of the purest citizens entails employing means to eliminate – through direct and sometimes subtle means – certain groups of people who do not meet dominant racial groups’ standards.

An example of contemporary eugenics involves separating people through means of incarceration, thereby preventing procreation by restricting contact between potential progenitors. James Oleson²⁶⁹ makes the case that race-based segregation via mass incarceration has the effect of significantly depressing reproductive rates amongst racialized minorities, who are disproportionately represented in prison systems. Consider that rates of incarceration amongst racialized men and women in the United States and Canada (among other countries) are disproportionately high,²⁷⁰ and that procreation for prisoners is hindered by prison restrictions on conjugal visits and access to assisted reproductive technologies, if needed.²⁷¹ Committing racialized men and women in vast numbers to prison has serious consequences for the possibilities of certain racialized populations to have biological children and pass on their lineage.

groups are “assimilated, accommodated, or annihilated by their host states” (Harris Mylonas, *The Politics of Nation-Building: Making Co-Nationals, Refugees, and Minorities* (New York: Cambridge University Press, 2012)).

²⁶⁹ James Oleson, “The New Eugenics: Black Hyper-Incarceration and Human Abatement,” *Social Sciences* 5, no. 4 (2016): 66.

²⁷⁰ Oleson, “The New Eugenics”; Samantha Jeffries and Philip C. Stenning. “Sentencing Aboriginal Offenders: Law, Policy, and Practice in Three Countries,” *Canadian Journal of Criminology and Criminal Justice* 56, no. 4 (2014): 447-494.

²⁷¹ Oleson, “The New Eugenics”.

Systems of colonization, slavery, and racial domination have also denied procreative liberties to people by means of rape or coerced impregnation. Adrienne Davis explains how black women's bodies were exploited for political and economic gain during slavery in the United States. Black women were forced to reproduce "the slave workforce through giving birth and serving as forced sexual labor to countless men of all races."²⁷² Likewise, Dorothy Roberts affirms that "For slave women, procreation had little to do with liberty. To the contrary, Black women's childbearing in bondage was largely a product of oppression rather than an expression of self-determination or personhood."²⁷³ Thus, included in the list of atrocities committed against people who were enslaved was the sexual and reproductive labour of women that denied them autonomy and governance over their own bodies. Although this form of injustice is not anti-natalist *per se* (in fact, these acts have an odd connection with *pronatalism*), such methods of controlling women constrain their choices about procreation (whether to procreate at all, with whom, and when, etc.), contra sexual and reproductive justice. These are just a few of the ways in which individuals (*qua* members of targeted racial groups) have been subjected to wrongs that hindered their ability to exercise control over their bodies and reproductive choices.²⁷⁴

In the context of family-making, reparations for procreative injustices would, on Walker's account, take the form of granting moral permission for wronged individuals (or descendants of those wronged) to procreate. In political terms, reparative justice may require state-based initiatives to actively support procreation (e.g., through state funding for reproductive services) amongst those

²⁷² Adrienne Davis, "Don't Let Nobody Bother Yo' Principle: The Sexual Economy of American Slavery." In *Sister Circle: Black Women and Work*, ed. Sharon Harley. (New Jersey: Rutgers. 2002): 105.

²⁷³ Roberts, *Killing the Black Body*, 23.

²⁷⁴ I limit my sample of injustices here for the sake of concision but welcome a broader interpretation of reproductive injustices, whereby limited access to healthcare and social conditions of poverty would also count as barriers to women's reproductive autonomy.

who have been deprived of their procreative liberties. Arguably, the remedy of supporting procreation for members of groups who have suffered injustices that compromised their reproductive liberties meets Walker's criterion of fittingness, given the clear connection between wrong and remedy. We could also determine with relative accuracy – through political history, ancestral lineage, and intergenerational memory – the affected victims and descendants of victims, so that the reparations are awarded to the appropriate individuals. Whether reparations through procreation are interactive depends on whether there are supporters of something akin to a moral right to procreate for certain individuals, amongst those who count as victims. Likewise, for judging its usefulness and effectiveness. I suggest that we keep these criteria in mind and revisit them in more detail in Chapter 3.

Importantly, claims to reparation through procreation challenge a duty to adopt by providing moral license for some individuals to have biological children. From a reparative justice perspective, the value of procreation cannot be substituted for adopting a child. This is because procreation serves as a symbolic act of resistance to oppression, namely, by asserting or reclaiming one's reproductive liberties. Whereas anti-natalist oppression and reproductive injustices have deprived individuals (*qua* members of targeted social groups) of their abilities to bear children, procreation motivated by reparative justice allows for those individuals to embrace pregnancy, childbirth, and childcare as positive experiences, with autonomy and self-governance over one's body, and (to a significant degree) free from similar conditions of oppression. In sum, procreation motivated by reparative justice provides a compelling case for granting a limited right to procreate to some individuals. Whether it can ultimately overturn one's duty to adopt is something we will discuss in the next chapter. For now, let us turn to the next proposed reason in favour of procreation.

4.2. Racial Solidarity

A second group-based reason in favour of procreation is premised on the idea that members of oppressed racial groups have a moral right to procreate as a way to express social or political solidarity with one's group. This argument is also founded on an ethic of resistance to historical and contemporary injustices against certain groups of people, and so the same considerations about anti-natalism, and sexual and reproductive injustices, carry over. However, instead of the idea being that members of certain groups have a limited right to procreate in virtue of having a claim to reparations, on this view, they would have a right to procreate as a way of honouring their group through bonds of solidarity and also at achieving social change.

Solidarity comes in many different forms. At times, it operates as a unifying force of humanity, bringing together all peoples despite their differences, where the recognition of human-ness takes precedence in interactions with and treatment of one another. As Sally Scholz explains, this “human solidarity” differs from “political solidarity” and “social solidarity.”²⁷⁵ Political solidarity involves the unification of people based on their common interest in resisting oppression and striving for social change.²⁷⁶ Unlike with social solidarity, those who band together in political solidarity need not (though they may) mutually recognize one another as members of an already existing group. Importantly, it is the shared commitment to “a struggle for liberation” that forms the basis of political solidarity, not necessarily shared social identities or lived experiences.²⁷⁷ For example, vegans are unified in their commitment to abolish animal use, suffering and exploitation, though vegans have vastly

²⁷⁵ Sally J. Scholz, “Political Solidarity and Violent Resistance,” *Journal of Social Philosophy* 38, no. 1 (2007): 39.

²⁷⁶ Katie Stockdale (2017) calls this moral-political solidarity, “solidarity based in a shared moral vision carried out through political action” (188). Katie Stockdale, “Oppression and the Struggle for Hope” (PhD diss., Dalhousie University, 2017), 188.

²⁷⁷ Scholz, “Political Solidarity and Violent Resistance,” 39-40.

different lived experiences and identities, coming from all parts of the world and representing vastly different ages, religions, genders, races, etc. Unified by their dedication to alleviate the oppression of non-human animals, vegans form a group in political solidarity aimed at bringing about social change.

Social solidarity, Scholz explains, is the basis of unification amongst people – a family, a social group, an organization, a geographical nation, etc. – who mutually identify with one another, perhaps due to having a shared “history, consciousness, identity, location, or experience.”²⁷⁸ Crucially, social solidarity requires that individuals self-identify and have an affinity with their group, and that there is “mutual recognition among members of an already existing community.”²⁷⁹ For instance, one might feel social solidarity with other Buddhist philosophers in virtue of having been trained in a similar way to think critically and to pursue a life aimed at the elimination of *dukkha* (suffering). Members of an LGBTQ+ community may also be unified in social solidarity in virtue of having a shared consciousness about, among other things, gender identity and expression. The key to social solidarity is the *mutual recognition* that members within a community have for one another.²⁸⁰

²⁷⁸ Scholz, “Political Solidarity and Violent Resistance,” 39.

²⁷⁹ Scholz, “Political Solidarity and Violent Resistance,” 39.

²⁸⁰ Lawrence Blum (2007) distinguishes between two kinds of social solidarity: “identity group” solidarity and “shared experience” solidarity. One may feel solidarity with others simply in virtue of having a shared identity as a member of the same social group, apart from having shared experiences, beliefs, or values. An Irish person who feels an affinity with other Irish people simply in virtue of being Irish exemplifies identity group solidarity. See Lawrence Blum, “Three Kinds of Race-Related Solidarity,” *Journal of Social Philosophy* 38, no. 1 (2007): 53-72.

Tommie Shelby (2005) acknowledges the value of social solidarity of this kind when he says that “Some [blacks] may seek solidarity with other blacks simply because they see intrinsic value in the social interaction and the feelings of community that it brings” (206). But one may also feel solidarity with others on the basis of having shared experiences as members of the same social group, such as the experience of being subject to ableist discrimination. Here, the feeling of solidarity arises from a profound knowing of the other person’s experiences (though they may not be exactly the same) that cannot

Social solidarity and political solidarity may operate independently, but it is when they operate together – when people unify in solidarity in virtue of having shared identities as well as common interests and goals in achieving social change – that group-based reasons in favour of procreation start to become apparent. From the point of view of racial solidarity, the value of procreation lies in its symbolic assertion that “dispossessed and disempowered groups share the means to be self-determining and valued members of society.”²⁸¹ At the heart of this reason to procreate is an attempt to reclaim or assert the dignity of one’s group, in a world in which that message may run counter to social realities. Recall the many ways in which certain groups of people were (and perhaps still are) subject to anti-natalist oppression, and sexual and reproductive injustices, on the basis of their race. Crucially, systems of race-based oppression devalue certain bodies and undermine the worth of certain groups of people.

For members of racially oppressed groups, procreation may be seen as a means of liberation from injustice. The act of having children is an act of political resistance, an expression of self-worth and an affirmation of the value of one’s racial group. By having biological children, one expresses social solidarity with members of one’s group by desiring to contribute another member to the group. But the contribution of a biological child also serves a political function: namely, it symbolizes liberation from the burdens of reproductive suppression and resistance to the endemic undervaluing of one’s social group.

This reasoning may seem to run together with the appeal to reparative justice, so let me clarify the difference. Those motivated to have biological children for reparative justice reasons position their actions as a response to

be shared with those who are themselves not privy to them. Tommie Shelby, *We Who are Dark: The Philosophical Foundations of Black Solidarity* (Cambridge, MA: Belknap Press of Harvard University Press, 2005).

²⁸¹ Dorothy Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty*. (1st ed. New York: Pantheon Books, 1997): 312.

injustices that concern their procreative liberties. However, those motivated to have biological children for reasons of racial solidarity are expressing a sense of solidarity toward the group in which they identify, whether in response to historical wrongs or contemporary injustices. Bonds of solidarity (rather than claims to reparations) are the mechanisms of political resistance, liberation from injustice, and social change. Procreation, then, cannot be substituted by adoption because having biological children allows for the expression of bonds between those whose identities as members of certain social groups are challenged within an existing social order.

Thus, racial solidarity provides a second group-based reason to perhaps favour procreation over adoption. Let us now explore a third reason.

4.3. Cultural Preservation

Recall Tina Rulli's suggestion that one may desire to procreate for the sake of cultural immortality. She considers the idea that, by having biological children, one can transcend one's finite existence by helping to pass on *cultural artifacts* – “projects, values, commitments, traditions, and customs” – to successive generations.”²⁸² Procreation, on this view, allows for the passing down of “familial and cultural legacies [that] endure *via* knowledge, values, and customs.”²⁸³ Rulli dismisses this reason to favour procreation over adoption for failing to establish the unique value of biological children over adopted children for, as she argues, adopted children can inherit cultural artifacts just as biological children can. However, I would like to offer another attempt at developing the proposal: from a cultural preservationist perspective, a strong case can be made that members of racial groups are entitled to procreate in order to honour their cultural traditions; to resist socio-political pressures to assimilate; or to prevent cultural extinction by producing more members in one's cultural group.

²⁸² Rulli, “Preferring,” 689, emphasis original.

²⁸³ Rulli, “Preferring,” 689.

To begin, let us draw the connections between culture, race, and biological kinship. This will help us identify the value of procreation from a cultural preservationist point of view. Recall that cultural theories of race minimally hold that races comprise people who fundamentally share common ways of life (i.e., a common culture). Jeffers (*forthcoming*) clarifies that the idea is not that *all* members of a race share common ways of life. Rather, the cultural distinctness and distinctiveness of races is a result of being socialized into different ways of life as a result of being treated differently as members of different races, based on perceived physical features and ancestry. What substantiates the ‘common culture’ nature of race is that *many* (i.e., not necessarily all) members of a race identify with and are invested in practices that they regard as distinctive to the racial group. This, Jeffers explains, is compatible with heterogeneity amongst members’ levels of investment and engagement with their race’s cultural ways of life. Nonetheless, the access connection that one has as a member of a race with a particular culture means that members of a race are bearers and keepers of that race’s culture, whereas non-members of a race can only appreciate and learn from the culture of a race from which they are not a part. For instance, as much as I appreciate and value many cultural contributions of Maori peoples, I can never lay claim to Maori culture as a non-Maori person.

The connection between race, culture, and ancestral lineage (including biological kinship) is also strong. Elizabeth Anderson explains that some views of culture – including, I contend, those that fall within cultural theories of race – tend to associate ancestral lineages with distinct cultures, where “each ancestral group’s culture is the expression of its unique identity.”²⁸⁴ Those born into a cultural community automatically have claim to “their own” (birth) culture, and the cultural community also claims the offspring as ‘their own.’ These phrases signify cultural belonging and possession, respectively. Race is conceptually tied to culture in that races are distinguished from one another by different ways of

²⁸⁴ Elizabeth Anderson, *The Imperative of Integration* (Princeton, N.J: Princeton University Press, 2010): 77.

life, and access to a race's culture are shared by those who share bloodlines and ancestral lineages. Now that we have established a connection between race, culture, and ancestry, we can think about how a cultural theory of race can provide group-based reasons for procreating.

Chike Jeffers conceptualizes cultural preservation as “efforts by individuals or groups to maintain the distinctness and distinctiveness of a cultural group to which they belong.”²⁸⁵ Jeffers, like other cultural preservationists, answers the question about whether races are worth conserving in the affirmative, suggesting that the value of racial groups lies in the cultural goods that members share. These cultural goods are valuable in themselves, it is argued, even where hierarchical division of racial groups are absent, as in a future world where classificatory systems founded on racial domination and subordination are outdated.²⁸⁶ Jeffers defends the idea that cultural preservation may not just be morally permissible but, more strongly, morally obligatory. He considers the case of an Ojibway Winnipegger who “feels no particular need to remain connected with her cultural heritage” and would, furthermore, “feel no sense of injury if Canada were to revive its older commitment to cultural assimilation as a policy regarding indigenous peoples.”²⁸⁷ Her lack of cultural affiliation, apathy, and cultural investment, Jeffers comments, is reflective of not just internalized oppression but also active assent to colonialism and, thus, seems to constitute a moral deficiency. Jeffers argues that “it is reasonable to think that the issue of cultural preservation attains a special level of importance and an urgency it may not have elsewhere in the context of the history of racism and

²⁸⁵ Jeffers, “The Ethics and Politics of Cultural Preservation,” 206. For Jeffers, cultural preservation is valuable for members of *all* races, for the value in one's culture persists beyond a world with racial hierarchies, but in the context of a group-based claim to procreation, I would argue that, on the basis of race, members of minority racial groups have a far more plausible claim to procreative rights than do members of dominant racial groups.

²⁸⁶ Jeffers, “The Ethics and Politics of Cultural Preservation,” 215.

²⁸⁷ Jeffers, “The Ethics and Politics of Cultural Preservation,” 214.

colonialism.”²⁸⁸ For Jeffers, efforts to preserve one’s culture, especially in contexts of colonialism and racism, constitute “hugely significant cases of resistance to oppression.”²⁸⁹ Cultural preservation can thus be means of political resistance and, according to Jeffers, it may obligate action on the part of individuals.

While Jeffers does not consider or advocate for procreation as a way to pursue cultural preservation, Saul Smilansky offers a version of this idea. He raises the idea that for some people, having children might be morally obligatory in order to continue a “cultural *form of life*.”²⁹⁰ As he explains, one may have an ethical obligation to ensure the continuation of a group’s future, especially if the population is at risk of extinction. If one belongs to such a group, he asserts, “Even if [one] does not identify with [one’s] group,” membership alone and “the value of the form of life” morally requires that a person do her part to ensure the group’s future.²⁹¹ Identification and affinity with one’s social group is deemed irrelevant and the continuation of the group’s future takes the spotlight.

Smilansky’s proposal is troubling for several reasons, not least because it places seemingly non-negotiable burdens on women to bear children. As Amin and Hossain warn, “women’s fundamental rights to reproductive freedom, security, and health” are restricted and violated by religious and cultural fundamentalists who, under the guise of cultural preservation, impose on women patriarchal standards of reproductive labour.²⁹² They point to the existence and enforcement of population-control programs that treat women as mere means to achieving demographic targets, as determined by dominant members (i.e., men)

²⁸⁸ Jeffers, “The Ethics and Politics of Cultural Preservation,” 216.

²⁸⁹ Jeffers, “The Ethics and Politics of Cultural Preservation,” 215.

²⁹⁰ Saul Smilansky, “Is there a Moral Obligation to Have Children?” *Journal of Applied Philosophy* 12, no. 1 (1995): 47, emphasis original.

²⁹¹ Smilansky, “Is there a Moral Obligation to have Children?” 47.

²⁹² Sajeda Amin and Sara Hossain. “Women’s Reproductive Rights and the Politics of Fundamentalism: A View from Bangladesh,” *American University Law Review* 44, no. 4 (1995): 1320.

in that community.²⁹³ An *obligation* to preserve one's racial group (for the sake of cultural preservation or otherwise) places unjustifiable procreative burdens on women. Thus, I reject the idea that one could have a moral *obligation* to bear children. Those individuals who choose not to procreate and are simply not persuaded to do so would not be failing a moral obligation to procreate.

In the realm of family-making, I contend that there are three ways in which one might appeal to cultural preservation as a reason to procreate. The first way appeals to a desire to honour one's cultural traditions, specifically, the high value of procreation in one's culture. Consider this example from Mulela Munalula:

Many African people see in reproduction an opportunity to prove their masculinity or femininity and assure their posterity. Large numbers of children also represent a new resource base which may, through the principle of reciprocity, enable the entire extended family to survive. Thus, although many people no longer live the way they did prior to the widespread urbanization that now typifies much of Africa, social reproduction of the conditions that sustain the traditional social system continues.²⁹⁴

Munalula's report reflects the ways in which procreation, as a cultural good, is valued by some for its regulation and maintenance of a traditional social order. In this particular case, procreation adheres to and helps to maintain a certain way of life. Traditions, beliefs, and values about gender roles and identities (e.g., masculinity and femininity) are represented in the act of having biological children. Men and women perform their gendered identities to others in the cultural community by subscribing to social expectations about begetting

²⁹³ Amin and Hossain, "Women's Reproductive Rights," 1324. The focus of their research is on Islamic culture and laws, but they indicate the generalizability of their analyses to other political and cultural contexts.

²⁹⁴ Mulela Margaret Munalula, "Rethinking the Right to Procreate: An African Imperative," *Theoretical Inquiries in Law* 13, no. 1 (2012): 306.

and bearing children.²⁹⁵ Procreation is also valued as a cultural practice because it generates a familial population in which members contribute materially to the survival of the family. Here again, it is an imperative of one's traditional culture to have many biological children through procreation. Procreation, itself, as a cultural practice has special value. As Munalula explains, procreation serves as a means of conserving culture, despite changing times, through the reproduction of biological offspring. In sum, this first cultural preservationist reason in favour of procreation locates the value of procreation in its being an expression of one's traditional culture, which values procreation: in structuring a social order; in maintaining kinship structures; and in conserving culture through the continuation of ancestral lineages.

The second way in which one could appeal to cultural preservation as a reason to procreate is that by having a biological child (presumably, to make the argument stronger, with someone of the same race), one protects against pressures to assimilate by passing on one's culture through progeny. Notice that one is not appealing to the value of procreation as located *within* one's culture but rather, to the value of procreation as an expression of one's *commitment* to one's racial group, with its encompassing cultural values that can be passed on through one's lineage. Recall that, on a cultural theory of race, people's lived experiences are shaped by culture in deeply meaningful ways that are distinct and distinctive from one racial group to the next. Individuals are connected in significant ways to others in the same group by way of shared language, traditions, values, and so on.²⁹⁶ Crucially, for some, ancestral lineage is a vital

²⁹⁵ Similarly, in some South Asian cultures, "rituals centring [*sic*] around fertility, pregnancy, and childbirth were essentially rites of procreation and the continuity of the lineage (Marion den Uyl, "Kinship and Gender Identity: Some Notes on *Marumakkathayam* in Kerala," In *Culture, Creation and Procreation: Concepts of Kinship in South Asian Practice*, ed. Monika Böck and Aparna Rao (New York: Berghahn Books, 2001): 190. Kinship founded on procreative relations were (and perhaps, for some, still are) most valued.

²⁹⁶ Noreen Mokuau documents the importance of biological children to Hawaiians and Samoans, writing that, "In both cultures, the wish for descendants and large families

part of one's cultural history and a key way of understanding oneself in relation to one's racial group. In sum, according to this second cultural preservationist reason, procreation serves as a means of resistance against pressures to assimilate into dominant culture, and as a means of preserving the cultural distinctness and distinctiveness of one's race, by way of passing on culture through ancestral lineage.

Finally, one may appeal to cultural preservation as a reason to procreate for the sake of cultural continuation through ancestral lineage, particularly when cultural extinction is foreseeable. Suppose that a racial group's population numbers are low or there is an imminent threat of extinction (due to, e.g., low birth rates and high mortality rates). In this case, cultural preservation might require procreation for the purpose of repopulating one's group.²⁹⁷ Notice that pressures to assimilate into dominant culture need not be present, as they are in the second case; rather, one need only be motivated to procreate as a way to prevent the extinction of one's race and its distinctive culture.

Anca Gheaus argues that there may be a duty to procreate in a world in which *global human extinction* is imminent.²⁹⁸ She grounds the argument in the interests of the last generations of persons, who would likely experience psychological distress and face a lack of material infrastructure as they witness drastic depopulation around them and imminent extinction. In the case of cultural preservation, this sort of idea is localized to distinct cultural groups, and the same concerns about psychological distress apply. For some groups,

was derived from a spiritual concern for cultural revitalization" (Noreen Mokuau, "Human Sexuality of Native Hawaiians and Samoans," in *Sexuality, Ethnoculture, and Social Work*, ed. by Larry Lister. 1986: 69).

²⁹⁷ Smilansky makes the point that people could respond to attempts at cultural oppression through "a historical ethical fight, by having children" ("Is there a Moral Obligation to have Children?" 49).

²⁹⁸ Gheaus, "Could There Ever Be a Duty to Have Children?"

foreseeable extinction is a stark reality. Those experiencing drastic depopulation or those faced with imminent extinction may seek to implement various methods of cultural revitalization (e.g., intergenerational language education; technological documentation of language, culture, and stories) to ensure that culture is not lost with the people, should the group go extinct.²⁹⁹ In addition, efforts to repopulate one's cultural community through biological reproduction may reach a level of urgency. In losing one's cultural community, one risks losing a sense of self and community, and the world loses a cultural group, with its distinctive traditions, values, beliefs, music, language, and so on.

In sum, this third cultural preservationist reason in favour of procreation locates the value of procreation in its continuation of a culture threatened by extinction. One preserves culture by reproducing progeny who, by default of birth, become members of and sustain the cultural group. Common to all three variations of these cultural preservationist motivations to procreate is that procreation cannot be substituted by adoption because the value of having children lies primarily in the act of physically producing them through biological reproduction. Consequently, this presents a challenge to a duty to adopt, for procreation seems to have highly significant and non-substitutable value. Procreation motivated by cultural preservation provides a compelling case for granting moral license for some individuals to procreate, and it carries the potential to override a duty to adopt. This concludes my development of three group-based reasons in favour of procreation.

²⁹⁹ In recent years, states have encouraged procreation to boost their nation's populations. Denmark implemented a "Do It for Denmark" campaign, and Spain has appointed a government commissioner tasked with boosting the nation's birth rates. While these programs are implemented by the state and mainly concerned with growing the nations' populations for economic reasons, individuals motivated to procreate for cultural preservation would be doing so for reasons of honouring one's culture or resisting cultural pressures to assimilate.

5. Conclusion

In this chapter, I presented three group-based reasons in favour of procreation. I first presented a distinction between different kinds of reasons to procreate, distinguishing social groups as a particularly compelling basis upon which to construct reasons in favour of procreation. Focusing on race-based social groups, I briefly outlined two theories of race and then explained how they grounded three possible group-based reasons in favour of procreation: for reparative justice, racial solidarity, and cultural preservation. While duty to adopt arguments tend to be resistant against self-regarding reasons in favour of procreation, I showed that group-based reasons in favour of procreation – which are largely overlooked in philosophical literature – present a special set of challenges. Sustained critical engagement with these proposals against a duty to adopt will be presented in Chapters 3 and 4.

Chapter 3: Group-Based Reasons in Favour of Adoption

1. Introduction

In Chapter 2, I developed three group-based reasons in favour of procreation, founded on respective claims to reparative justice, racial solidarity, and cultural preservation. I argued that these reasons support procreation and challenge a duty to adopt by demonstrating a unique value to having biological children that cannot be substituted by adopting a child, and by distinguishing biological children from adopted children. From a reparative justice perspective, I considered the idea that direct victims or descendants of victims of reproductive injustices have a moral right to procreate, in response to historical state-imposed restrictions on procreation. With respect to racial solidarity, I recognized the persuasive proposal that members of oppressed racial groups have a moral right to procreate as a way of honouring, expressing solidarity with and asserting the value of one's group. Finally, based on resources within cultural preservationism, I engaged with the idea that members of racial groups have a right to procreate as a way of honouring one's cultural traditions, resisting pressures to assimilate, or preventing cultural extinction.

In this chapter, I will argue that reparative justice, racial solidarity, and cultural preservation each do not definitively support procreation over adoption. Rather, as I will show, these group-based reasons also support adopting children either within or outside one's racial group, instead of procreating and therefore are in line with a duty to adopt. First, I will provide demographic information about racialized children in child welfare systems, contending that this information provides necessary contextualization for a productive philosophical examination of a moral duty to adopt. Next, I will explain how reparative justice, racial solidarity, and cultural preservation support adoption rather than procreation. Toward the end of the chapter, I will identify any remaining group-based challenges to a duty to adopt but will withhold conclusive judgment about

their ultimate success, leaving a final layer of analysis for Chapter 4, in which I discuss the politics of children's belonging.

In preparation for the critical analysis that follows, let us review from Chapter 1 the logical structure of a duty to adopt:

P1: We have a moral duty to assist those in need, if the risk of harm to them is critical and the cost to us is small.

P2: Parentless children are exposed to critical risk of harms that would be alleviated through adoption.

P3: Many prospective parents could adopt children at little cost to themselves (i.e., absent 'special burden'), instead of procreating.

C: Therefore, many prospective parents morally ought to adopt existing children in need of parental care, instead of bringing new children into the world through procreation.

Moreover, recall the ways in which a challenge to Premise 3 (i.e., a proposed defeating condition to a duty to adopt) would be unsuccessful:

- a) it fails the 'project-level interest' standard
- b) it fails the 'parental flexibility' standard
- c) it fails to distinguish biological or genetic children from adopted children
- d) it fails to establish that prospective parents would incur a special burden (i.e., sufficient costs) in adopting a child that they would otherwise avoid through biological procreation.

That is, if a proposed defeating condition fails any one of these criteria, it would ultimately be unsuccessful in justifiably overriding one's duty to adopt. Conversely, a successful defeating condition to a duty to adopt must demonstrate that adopting a child would impose sufficient costs on prospective parents that would be avoided through procreation. Such a challenge may appeal to the unique value of biological children that cannot be substituted by adopting a child, or to any other calculation of special burden. The group-based reasons in Chapter

2 attempt this argumentative move; I suggest that a more nuanced understanding of child welfare demographics will help inform our assessment of them.

2. Racial Demographics of Child Welfare

The majority of children in need of adoption – including those who are on the streets or undocumented, have lost one or both birth parents, or those who have either been relinquished by or apprehended from their birth families – are children of colour. UNICEF reports an estimated 140 million orphans (children under 18 who have lost one or both parents) worldwide as of 2015, with over 90% of these children being from Asia, Africa, Latin American and the Caribbean, and Eastern Europe and Central Asia.³⁰⁰ Not all orphaned children are in need of adoption, and not all children in need of adoption are orphans, but some of the factors that place children at a higher risk of being in need of parental care include abuse, neglect, and abandonment from current caregivers; personal sickness and disease;³⁰¹ parental poverty and low parental education levels;³⁰² disability of the child or parents; government policies that limit the number of children per family; familial or civic conflict;³⁰³ and effects of natural disasters.

Many children who have lost their parents or who lack adequate parental care face severe risks to their well-being. Social researcher Susan Mapp reports that, globally, there are an estimated “158 million child laborers, including 250,000 child soldiers and 1.2 million children who have been trafficked. As a

³⁰⁰ UNICEF (2017). “Orphans”.

https://www.unicef.org/media/media_45279.html.

³⁰¹ In sub-Saharan Africa, an estimated 12.3 million children have lost one or both parents to AIDS, and an estimated 80% of the world’s AIDS orphans are from this part of the world (Roby and Shaw, 2006). Lee et al., (2014) report that 16.6 million children have lost one or both parents to HIV and that 90% of HIV orphans are from sub-Saharan Africa.

³⁰² UNICEF (2017). “Orphans”.

³⁰³ Susan C. Mapp, *Global Child Welfare and Well-being* (New York: Oxford University Press, 2011): 126; 27.

result of armed conflict, 20 million children have fled their homes and millions more have died or been permanently disabled.”³⁰⁴ The link is undeniable between children who lack parental care and those who experience conditions of poor welfare that threaten their health, safety, security, and overall quality and length of life.

Reliable global statistics on the number of children in need of adoption do not exist, but we do have some statistical data about adoptable children in intercountry adoptions. The leading ‘sending’ countries between 2003 and 2010 were China, Russia, Guatemala, Ethiopia, and South Korea; and the leading intercountry adoption ‘receiving’ countries during the period of 1998 to 2010 were the United States, Spain, France, Italy, and Canada.³⁰⁵ Together, the top five sending countries for intercountry adoptions sent over 14,000 children in 2010. Together, the top five receiving countries took in over 24,000 children in 2010; peak intake was in 2004, at close to 38,000 children. Notably, international adoptions typically involve relatively privileged white people from developed countries adopting children who are born into less affluent families of less privileged racial or ethnic groups in developing countries.³⁰⁶

In addition to children of colour being disproportionately in need of adoption on a global scale, racialized children are highly represented within particular child welfare systems. Canada and the United States are just two

³⁰⁴ Mapp, *Global Child Welfare and Well-being*, vii.

³⁰⁵ See data from Peter Selman, “The Global Decline of Intercountry Adoption: What Lies Ahead?” *Adoption & Fostering* 36, no. 3 (2012): 141. For limitations of this data, see Selman (2006). For decades, researchers have been aware of the lack of reliable global data on intercountry adoptions. Weil comments that “worldwide availability of data on foreign adoptions is uneven in both quantity and quality” (Weil, R.H., 1984), International adoptions: The quiet migration, *International Migration Review* 18 (2): 276–293).

³⁰⁶ Elizabeth Bartholet, in *Baby Markets: Money and the New Politics of Creating Families*, (New York: Cambridge University Press, 2010): 94.

exemplars of this phenomenon.³⁰⁷ In Canada, indigenous and black children are proportionally overrepresented in adoption and foster care systems. For instance, the Ontario Association for Children's Aid Societies (OACAS) reports that African-Canadian children and youth in the Toronto Children's Aid Society represent 41% of those in the care of the state in that region, despite African-Canadians representing only 8% of the general population in Toronto.³⁰⁸ Furthermore, across all provinces and territories in Canada for which publicly accessible data exists, Aboriginal children in care are proportionally overrepresented as compared to their non-Aboriginal peers. The provinces with the three highest rates of proportional disparity, from highest to lowest, are Manitoba, Alberta, and British Columbia. In Manitoba, Aboriginal children represent 23% of the childhood population of the province but 85% of children in child welfare; in Alberta, the proportions are 9% vs. 59%; and, in British Columbia, 8% vs. 52%. Non-Aboriginal children are, across the board, represented at lower rates in child welfare systems per province as compared to populations of Aboriginal children.³⁰⁹

³⁰⁷ Disproportionate representation of racialized children in child welfare systems are not limited to Canada and the United States. For this phenomenon in Australia, see Clare Tilbury, "The over-representation of Indigenous Children in the Australian Child Welfare System," *International Journal of Social Welfare* 18, no. 1 (2009): 57-64; Philip Mendes, Bernadette Saunders, Susan Baidawi, and Monash University, "Indigenous Young People Transitioning from Out-of-Home Care (OOHC) in Victoria, Australia: The Perspectives of Workers in Indigenous-Specific and Non-Indigenous Non-Government Services," *International Indigenous Policy Journal* 7, no. 3 (2016). In New Zealand, see Cram et al., (2015). In Britain, see Owen and Statham (2009), <http://dera.ioe.ac.uk/11152/1/DCSF-RR124.pdf>. These are countries for which this phenomenon is researched and documented.

³⁰⁸ Pon et al. cite an Ontario urban city Black population of 8% as compared to an 65% rate of Black children in care. See their co-authored "Immediate Response: Addressing Anti-Native and Anti-Black Racism in Child Welfare," *International Journal of Child, Youth and Family Studies* 2, no. 3/4 (2011): 386.

³⁰⁹ Vandna Sinha, Canadian Electronic Library (Firm), and Assembly of First Nations. *Kiskisik Awasisak: Remember the Children : Understanding the Overrepresentation of First Nations Children in the Child Welfare System*. (Ottawa:

Likewise, in the United States, racialized children are overwhelmingly overrepresented in foster care and adoption systems. Despite black children representing 17 percent of youth in the United States, they represent 42 percent of children in foster care.³¹⁰ Indigenous children and Hispanic children are also represented at higher rates in child welfare than their respective childhood populations. The disparity in 2004 was reflected in American Indian children representing less than 1 percent of the total child population in the United States but 2 percent of children in foster care. While the numbers of Hispanic/Latino children in foster care (17 percent) were lower than their respective total child population, they still outnumbered the comparison group of their white peers.³¹¹

In both Canada and the United States, racialized children and families experience markedly different child welfare surveillance and interventions as compared to that of non-racialized children and families. In terms of entry into foster care, children of colour are more likely than white children to be removed from their homes and placed in foster care; they tend to remain longer in care, receive fewer services, have less contact with child welfare caseworkers while in care; and they are less likely to be placed in adoptive care or returned to their original homes. In terms of exiting the foster care system, white children most often exit by means of reunification with their families, whereas non-white children most frequently age out of care and face issues such as educational

Assembly of First Nations, 2011). *Understanding the Overrepresentation of First Nations Children in the Child Welfare System*. Ontario: Assembly of First Nations.

³¹⁰ Dorothy Roberts, *Shattered Bonds: The Color of Child Welfare* (New York: Basic Books, 2002): 8.

³¹¹ Marian Sabrina Harris, *Racial Disproportionality in Child Welfare* (New York: Columbia University Press, 2014): xv.

discontinuation, homelessness and unemployment, and criminality.³¹² This is a brief summary of racial demographics of child welfare and adoption systems.

Crucially, racial disparities in child welfare and adoption systems are a result of historical and ongoing racial injustices against certain groups of people. For this reason, formal domestic and intercountry adoptions of children of colour typically involve parents who are racially privileged, and transracial adoptions involving racialized children and dominant-race parents are a subject of intense controversy and debate. Let us now review a bit of history surrounding child welfare and the main concerns raised by critics of transracial adoptions.

3. Concerns about Race in Adoption

Many researchers and interest groups have expressed concerns about the implications of a racially disparate child welfare system, especially as it relates to transracial adoptions. In this section, I provide a brief overview of the main concerns surrounding transracial adoptions of indigenous children and transracial adoptions of non-indigenous children, in both domestic and intercountry contexts. It is important for us to have a sense of these issues because they provide a background for Section 4, in which I detail group-based reasons in favour of members of oppressed racial groups adopting children.

3.1. Indigenous Transracial Adoptions

In settler-colonialist countries, indigenous peoples have faced discrimination and prejudice that has had intergenerational effects. As it concerns child welfare and adoption, colonialist policies have had drastic effects on indigenous families, communities, parents, and children. In this section, I reflect on Canada's government policies that oppress indigenous peoples by way of disintegrating indigenous families through removing children from their homes and placing

³¹² Harris, *Racial Disproportionality in Child Welfare*, xv; Roberts, *The Colour of Child Welfare*.

them into institutionalized, foster, and adoptive care arrangements outside children's communities of origin. The following narrative is not unique to Canada, but I focus on this case study in order to adequately detail the structural oppression in this and similar child welfare systems that has contributed to the overrepresentation of indigenous children in child welfare, and to identify the associated harms of transracial adoptions to indigenous children, parents, families, communities.

In Canada, a critical series of historical and ongoing injustices against indigenous families include residential schooling, the 60s Scoop, and the Millennium Scoop. During the 1800s and 1900s, the Canadian government designed elaborate regimes to assimilate indigenous peoples into Euro-Canadian ways of life or to eradicate their existence completely. The literal and cultural genocide of indigenous peoples relied upon the forced disintegration of indigenous families. Complete assimilation of indigenous peoples, through 'education' and 'civilization' of indigenous children and families became the Canadian state's mission. From 1939 to 1998, more than 150,000 First Nations, Inuit, and Métis children – seven generations of children – were forcibly removed from their families and placed in Christian institutions – residential schools – far from their homes.

Residential schools inflicted countless wrongs on indigenous children and parents. An estimated 3,200 child deaths occurred in residential schools, and for many of these deaths, the details (e.g., age, gender, cause of death) were not recorded by the schools or the government. Many parents whose children passed away (due to fires, disease outbreaks, poor nutrition, or other unidentified causes) were either completely uninformed of their deaths or were given vague information, leaving them haunted with unanswered questions.³¹³ Thousands of indigenous children were buried in unmarked graves throughout the country.

³¹³ Truth and Reconciliation Commission, "Canada's Residential Schools: Missing Children and Unmarked Burials: The Final Report of the Truth and Reconciliation Commission of Canada." *Canadian Research Index* (2015).

These deaths of indigenous children left many indigenous families and communities irrevocably harmed.

Upon entering residential schools, children were forced to cut their hair and exchange their traditional clothing for European-style outfits. They were forced to speak English and were banned from and punished for speaking their own languages. Sacred ceremonies and traditional practices were forbidden; instead, children were forced to observe Christianity. Children who survived residential schooling suffered physical, sexual, emotional, mental, psychological, and spiritual abuse.³¹⁴ In these institutions, away from their families and without parental care, indigenous children endured injuries and traumas, and every child placed in these schools was denied dignity, pride, and respect.^{315 316}

While attending these schools, indigenous children were actively prevented from bonding with their parents. Visits by parents were discouraged or drastically limited because indigenous parents' influence on their children was said to hamper their education.³¹⁷ Girls and boys were segregated, so brothers and sisters did not have adequate opportunities to stay connected with one another. When children returned home to their families for short periods of time during breaks in the school year, it was difficult for them to relate to their parents: they were separated by language, different cultural upbringings, and

³¹⁴ Simon Nuttgens, "Stories of Aboriginal Transracial Adoption," *The Qualitative Report* 18, no. 2 (2013): 2.

³¹⁵ Justice Sinclair in Truth and Reconciliation Commission of Canada, 2015, vii.

³¹⁶ On June 11, 2008, Canada's then-Prime Minister Stephen Harper issued an official apology to residential school survivors, recounting that "Two primary objectives of the residential school system were to remove and isolate children from the influence of their homes, families, traditions and cultures, and to assimilate them into the dominant culture. These objectives were based on the assumption Aboriginal cultures and spiritual beliefs were inferior and unequal":

<https://www.cbc.ca/news/canada/prime-minister-stephen-harper-s-statement-of-apology-1.734250>

³¹⁷ TRC of Canada, "Canada's Residential Schools," 86.

long periods of time spent apart.³¹⁸ Throughout the entire residential schooling regime, parents protested individually and collectively against the system. Many parents refused to enroll their children in the schools; some prevented them from returning after holidays; and others refused to return children to school who had run away.³¹⁹ ³²⁰ The traumas of residential schooling caused a host of social problems in indigenous communities, including “alcoholism, neglect, abuse, abject poverty, as well as poor conditions in terms of health, housing and nutrition”.³²¹

Instead of honouring customary care or kinship adoptions within indigenous communities, another form of familial injustice took place, this time in the realm of foster care and adoption. Between the 1960s and 1990s in Canada, during an era known as the ‘Sixties Scoop’, thousands of indigenous children were removed from their families and placed into formal child welfare systems or in the care of white families.³²² Social workers ‘scooped up’ more than 11,000 indigenous children, especially infants, from their families, often without notifying or obtaining permission from the child’s parents.³²³ In British Columbia the numbers of indigenous children who entered child welfare systems rose from less than one percent to 34 percent from 1955 to 1964.³²⁴ Many indigenous children were sent to the United States, where the demand for

³¹⁸ For more information about residential schools, see the Truth and Reconciliation Commission Reports.

³¹⁹ TRC of Canada, “Canada’s Residential Schools,” 669.

³²⁰ TRC of Canada, “Canada’s Residential Schools.”

³²¹ Madeline H. Engel, Norma Kolko Phillips, and Frances A. DellaCava. “Indigenous Children’s Rights: A Sociological Perspective on Boarding Schools and Transracial Adoption,” *The International Journal of Children’s Rights* 20, no. 2 (2012): 288.

³²² Patrick Johnston, *Native Children and the Child Welfare System*. (Ottawa, ON: Canadian Council on Social Development in association with James Lorimer & Company, 1983).

³²³ Johnston, “*Native Children and the Child Welfare System*,” 23.

³²⁴ Johnston, “*Native Children and the Child Welfare System*,” 23.

adoptive children amongst middle-class families was, at the time, relatively high in the country's history.³²⁵

Legal mechanisms for redressing these injustices against indigenous families were largely inaccessible and structurally imbalanced to disadvantage affected families. As Natasha Stirrett explains, “institutional barriers and colonial mechanisms embedded within the settler colonial court system disallowed indigenous families from equitably participating in active contestation of the removal of their children”.³²⁶ State-sanctioned policies of removing indigenous children from their communities of origin, away from their parents, and into white families contributes to familial harms to indigenous parents and communities.

The legacy of the 60s Scoop carries on today, and the new age of familial injustices against indigenous families and communities is known as the ‘Millennium Scoop’. According to Statistics Canada, in 2016, indigenous children accounted for more than half of the children under 14 years of age in foster care.³²⁷ This is an approximately threefold number of children in child welfare systems today as compared the period of the 60s Scoop.³²⁸ Tracing the legacies of residential schooling to present day, Reina Foster, indigenous former youth in care comments that “[t]he child welfare system today is a form of cultural genocide for Indigenous children. Just like the residential school system, as well as the Sixties Scoop, today's child welfare system is known as the Millennial

³²⁵ Margaret Ward, *The Adoption of Native Canadian Children* (Cobalt: Highway Book Shop, 1984).

³²⁶ Natasha Stirrett, “Re-Visiting the Sixties Scoop: Relationality, Kinship and Honouring Indigenous Stories” (MA thesis, Queen’s University, 2015), 26.

³²⁷ Annie Turner, “Living Arrangements of Aboriginal Children Aged 14 and Under,” Statistics Canada (April 13, 2016): <http://www.statcan.gc.ca/pub/75-006-x/2016001/article/14547-eng.htm>.

³²⁸ D. Mandell, Clouston Carlson, J., Fine, M., & Blackstock, C. *Aboriginal Child Welfare* (Rep., 1-64). (Waterloo, ON: Wilfrid Laurier University, Partnerships for Children and Families Project, 2003); Pon et al., “Immediate Response.”

Scoop. And it's the same legacy as to what the goals of residential schools were.”³²⁹ These are a few key structural elements of Canadian child welfare and adoption systems that explain the disproportionate representation of indigenous children.

Given the colonialist underpinnings of child welfare systems in many countries, including Canada, several harms are cited in relation to transracial adoptions of indigenous children, a few of which I mention here. First, critics of transracial adoptions argue, indigenous parents are harmed because they are deemed incapable caregivers to their own children. Negative stereotypes about indigenous parents contribute to the belief that children would fare better out of their care and in the care of non-indigenous parents and communities. In 1883, then-Prime Minister John A. Macdonald remarked on the necessity of separating indigenous children from their parents:

When the school is on the reserve the child lives with its parents, who are savages; he is surrounded by savages, and though he may learn to read and write his habits, and training and mode of thought are Indian. ... Indian children should be withdrawn as much as possible from the parental influence, and the only way to do that would be to put them in central training industrial schools where they will acquire the habits and modes of thought of white men.³³⁰

To the colonizers, indigenous parents were fundamentally flawed and incapable caregivers to their children because they were not white. Their ways of living and being in the world were inherently detrimental to their children’s well-being, and so the state decided that parents needed to be removed from their roles as primary caregivers.

³²⁹ “The Millennium Scoop: Indigenous youth say care system repeats horrors of the past.” CBC Radio. January 30, 2018.

³³⁰ TRC Report, “Canada’s Residential Schools,” https://nctr.ca/assets/reports/Final%20Reports/Volume_1_History_Part_1_English_Web.pdf.

Second, indigenous families are harmed through transracial adoption policies that systematically sever relationships between children, their parents, and communities, continuing the legacy of residential schooling and child welfare policies. Historically, assimilationist policies designed to “overcome the lingering traces of native custom and tradition”³³¹ stifled the transfer of cultural knowledge and traditions from parents to children. Justice Murray Sinclair, Chair of the Truth and Reconciliation Commission of Canada, tells of the “cultural genocide” of Canada’s residential schooling:

The residential school system established for Canada’s Indigenous population in the nineteenth century is one of the darkest, most troubling chapters in our nation’s history. While some people regard the schools established under that system as centres of education, they were, in reality, centres of cultural indoctrination. The most alarming aspect of the system was that its target and its victims were the most vulnerable of society: little children. Removed from their families and home communities, seven generations of Aboriginal children were denied their identity through a systematic and concerted effort to extinguish their culture, language, and spirit. The schools were part of a larger effort by Canadian authorities to force Indigenous peoples to assimilate by the outlawing of sacred ceremonies and important traditions. It is clear that residential schools were a key component of a Canadian government policy of cultural genocide.

That any Indigenous person survived the culturally crushing experience of the schools is a testament to their resilience, and to the determination of those members of their families and communities who struggled to maintain and pass on to them what remained of their diminishing languages and traditions. As each generation passed through the doorways of the schools, the ability to pass on those languages and traditions was systematically

³³¹ Jeannine Carriere, *Aski Awasis: Children of the Earth: First Peoples Speaking on Adoption* (Black Point, N.S: Fernwood Pub, 2010): 38.

undermined. The schools and Canada's overall treatment of its Indigenous peoples have seriously affected Indigenous pride and self-respect, and have caused individuals and communities to lose their capacity to cope with the daily tasks of living. The evidence of that is seen in the serious social conditions that Canada's Indigenous people face.³³²

The Canadian government made concerted attempts at erasing indigenous culture through assimilation of indigenous children. Former indigenous youth in care jaye simpson³³³ articulates that the foster care system "is working the way it's designed: as a machine to destroy Indigeneity."³³⁴

Third, and relatedly, through paternalistic child welfare interventions in indigenous families, indigenous communities are denied autonomy and sovereignty in the governance of its members. As Grace Atkinson writes, adding to the many layers of harms that colonization inflicted on indigenous peoples – "loss of culture, poverty, dysfunction, and extreme surveillance by police and child welfare authorities" – was the denial of indigenous communities' sovereignty over the care of their children.³³⁵ A "longstanding history of custom adoption in many of the First Nation cultures and communities across Canada" went unrecognized and un-honoured by the Canadian state.³³⁶ Governance of indigenous groups became subject to the settler state, and their self-determination was not recognized.

Fourth, indigenous children are vulnerable to crises of identity when adopted into non-indigenous families. As Jeanine Carriere explains, "For First Nations adoptees, a causal relationship exists between connection to birth family and to community and ancestral knowledge, as well as to health".³³⁷ For many

³³² Justice Sinclair, in TRC Canada, 2015, vii.

³³³ Note: this person does not capitalize their first and last names.

³³⁴ CBC Radio, "The Millennium Scoop."

³³⁵ Grace Atkinson, in Carriere, *Aski Awasis*, 37.

³³⁶ Atkinson, in Carriere, *Aski Awasis*, 37.

³³⁷ Carriere, *Aski Awasis*, 21.

indigenous peoples, in Canada and elsewhere, identity formation is a process of discovery that involves close connections with geography and ecological processes, ancestors and family members.³³⁸ In comparison to Western conceptions of identity, which are relatively atomistic and individualistic, indigenous identities are cultivated and realized through one's immersion in a familial community. To have a sense of self is to interact with one's community and thereby learn about what it is to be indigenous.³³⁹ Personal identities, for many indigenous peoples, are derived from an understanding of one's "collective self", in which kinship is foundational to social life.³⁴⁰ Elders, for instance, play a critical role in indigenous children's identity formation. They impart knowledge and guidance about how to be community members and relatives to others, including the land and ancestors. Through residential schooling and child welfare interventions in indigenous families, many indigenous children lost connections with their birth communities, resulting in losses of identity. Many indigenous adoptees experience feelings of loss and yearning for community connection. As adults, they desire to know about their birth communities, their parents, and traditions and cultures they did not have the opportunity to learn about.³⁴¹

These are some of the main observed harms that indigenous parents, mothers, families and communities endure as a result of transracial adoption placements. The case of transracial adoptions of non-indigenous children is similar, though characteristically distinct.

3.2. Non-Indigenous Transracial Adoptions

As is the case with transracial adoptions of indigenous children, transracial adoptions involving racially disadvantaged non-indigenous children are controversial because they take place within contexts of historical and

³³⁸ Carriere, *Aski Awasis*, 27.

³³⁹ Carriere, *Aski Awasis*, 28.

³⁴⁰ Carriere, *Aski Awasis*, 28.

³⁴¹ cited in Carriere, *Aski Awasis*, 21-25.

contemporary unjust race relations. Typically, both domestic and intercountry transracial adoptions involve the placement of racialized children with dominant-race (usually white) parents and, because of this, racialized communities and its members (including children) are vulnerable to various harms.³⁴²

In some countries, including Canada and the United States, resistance to transracial adoptions occurs against a backdrop of legacies of slavery and racial discrimination.³⁴³ For instance, Dorothy Roberts, one of the most vocal critics in the United States of child welfare systems, maintains that racial disparities in the American child welfare system are tied to group-based civil rights violation against black families. She argues that systematic discrimination outside child welfare systems, and racial biases against black people (especially black women) are key factors that influence the over-representation of black children in foster care. Consequently, she proposes that we take seriously the racial harms to black families and communities that result from removing large numbers of black children from their homes and placing them in foster care.

Roberts identifies three distinct harms when black children are adopted by non-black (typically white) families. First, black families are harmed through state-interventions that dissolve familial relationships. The dissolution of families, in turn, impairs groups' abilities to form healthy bonds and connections amongst its members. Second, black communities experience diminished collective agency as a result of weakened community bonds. The effects of "disproportionate state intervention in black families," she argues, "reinforces the continued political subordination of blacks as a group".³⁴⁴ Third, as we have seen argued in the case of indigenous children, the argument from critics of transracial adoption of black children (e.g., Roberts) is that these children's sense of self and community identity is hindered.

³⁴² Alice Hearst, *Children and the Politics of Cultural Belonging* (New York, NY: Cambridge University Press, 2012): 65.

³⁴³ Hearst, *Children and the Politics of Cultural Belonging*, 74.

³⁴⁴ Roberts, "Child Welfare and Civil Rights," 180.

Earlier resonances of these ideas came in 1972, when the National Association of Black Social Workers (NABSW) in the United States issued a controversial position statement firmly denouncing transracial adoptions of black children. As they strongly put it,

Black children should be placed only with Black families whether in foster care or adoption. Black children belong physically, psychologically and culturally in Black families in order that they receive the total sense of themselves and develop a sound projection of their future. Human beings are products of their environment and develop their sense of values, attitudes, and self-conception within their own family structure. Black children in white homes are cut off from the healthy development of themselves as Black people.³⁴⁵

This position, which has since softened to reflect a supportive stance on same-race adoptions instead of firm opposition to transracial adoptions, has had a significant impact on adoption theory and policies and captures a number of ideas expressed by critics of transracial adoption. For all these reasons, transracial adoptions with dominant-race parents and racialized children are seen by critics of transracial adoptions as harmful to children, parents, families, and communities of colour.

In Chapter 2, we focused on prospective parents' interests in wanting to procreate. In this chapter, I maintain that it is imperative to incorporate into our analysis of a duty to adopt children's interests in having parents and, more specifically, parents who share the child's race. In light of a global orphan crisis, and now that we have a sense of racial demographics in child welfare and adoption systems, we can explore in detail how the group-based reasons in favour of procreation we considered in Chapter 2 – reparative justice, racial solidarity, and cultural preservation – provide strong reasons for members of oppressed racial groups to adopt children.

³⁴⁵ Cited in Roberts, *Killing the Black Body*, 246.

In the rest of this chapter, mirroring the structure of the previous chapter, I reflect on group-based reasons in favour of adoption.

4. Group-Based Reasons in Favour of Adoption

In this section, my aim is to develop group-based reasons in favour of adoption. In doing so, I will identify how the same group-based reasons we considered in Chapter 2 – reparative justice, racial solidarity, cultural preservation – lend compelling support for members of oppressed racial groups to adopt children rather than procreate. This is significant because it limits the force of the group-based challenges against a duty to adopt we considered in Chapter 2 and, on the contrary, seems to further reinforce the scope and strength of the duty. As was the case in Chapter 2, my interpretations of group-based reasons to adopt children are rooted in an ethic of resistance to historical or ongoing racial injustices.

4.1. Reparative Justice

Recall that, in Chapter 2, I raised historical and contemporary examples of reproductive and sexual injustices, and state-sanctioned restrictions that have affected (and continue to affect) some individuals' procreative liberties. I argued that various measures – ranging from genocide and anti-natalism, to colonization and forced impregnation – deny procreative liberties to certain individuals, *qua* members of targeted social groups. From a reparative justice perspective, I reflected, procreation seems to serve as a symbolic act of resistance to oppression, allowing members of oppressed groups to reclaim previously thwarted reproductive liberties. Arguably, procreation provides the mechanism for actualization and, since adoption cannot offer this value, procreation is uniquely valuable, making biological children, by extension, distinct from adoptive children. Crucially, the implication for a duty to adopt is that adopting a child constitutes a special burden for some prospective parents, namely, that of

foregoing the opportunity to seek reparative justice in the realm of family life (i.e., by having biological children).

However, at the heart of this procreative reason is an attempt on behalf of members of oppressed racial groups to achieve racial justice within a society, which I will argue can be achieved through adopting a child either within or outside one's racial group. In this way, reparative justice does not definitively support procreation over adoption; rather, as I will argue, it seems to ground firm reasons in favour of members of oppressed racial groups adopting children in need of parental care. I begin with the case for same-race adoptions; afterwards, I turn to transracial adoptions.

Adopting Children Within One's Racial Group

In many countries, colonialism and state-sanctioned assimilationist policies have negatively impacted family formation and familial bonds within racialized and indigenous communities. Consider this group-based reason in support of same-race adoptions: in response to historical and ongoing assimilationist policies and familial injustices against certain racial groups, children in need of adoption who are members of these racial groups should, when possible, receive care from parents who share the child's race. Where the familial bonds between members of these groups (specifically, between parents and children) have been compromised (through assimilationist policies, e.g., residential schooling) or prevented (through transracial adoptive placements), children who are members of these oppressed racial groups would benefit from receiving care from parents who share their race. To meet this need, prospective parents who are members of oppressed racial groups should extend parental care to children of the same race (by way of adopting children in need of adoption) as a way of reclaiming familial and community bonds; and these efforts should be supported by adoption policies.

Reparative justice provides clear and compelling reasons for members of oppressed racial groups to adopt children within their racial group,³⁴⁶ but beyond this, I argue, reparative justice may also support adopting children outside one's racial group.

Adopting Children Outside One's Racial Group

Consider this proposal in favour of adoptions involving differently raced parents and children: as a way of redressing past wrongs and striving toward a racially just society, members of racially oppressed groups should adopt children of different races. To combat entrenched racial hierarchies and assumptions about fit parenthood in child welfare contexts, transracial adoptions involving adoptive parents who are members of racially oppressed groups have the potential to challenge our assumptions about racial hierarchies, both within families and in society, generally.

As some philosophers argue, one way to seek reparative justice and strive toward a racially just society is through widespread racial integration. Integrationism, in its general form, is the intermixing of people across lines of race, ethnicity, dis/ability, class, nationality, gender, and so on. Elizabeth Anderson advocates for widespread racial integration, wherein people of different races share in all aspects of life together, from neighborhoods and workplaces, to politics and family life. What makes Anderson's vision particularly significant to our discussion of a duty to adopt is that racial integration can function as a proactive, *anticipatory* "set of [antidiscrimination] principles and policies for preventing injustices from occurring" or as a *reparative* "set of principles and

³⁴⁶ For example, Simon Nuttgens makes a case that it is important for social and political reasons for Aboriginal children to be raised in Aboriginal families and communities in order to "*rectify past injustice* while promoting the restoration of Aboriginal culture and health" (2004, emphasis added, 285; cited in Carriere, *Aski Awasis*, 40).

policies for *rectifying* disadvantages and harms caused by past injustices.”³⁴⁷ Integrationism provides a framework for understanding the causes of racial injustices, and for redressing past wrongs and preventing anticipated injustices.

Philosophical proposals in favour of racial integration are, in part, substantiated by empirical research in social psychology, in which it has been found that developing relationships with people whose social identities differ from our own positively impacts our perception of members of that group. Researchers suggest that, on an interpersonal level, contact with people whose social identities differ from ours reduces prejudice and biases against members of the other group. We can account for how this cross-group contact creates positive effects in the following terms. When one interacts with people who are different than oneself, one gains exposure and knowledge, develops empathic connections, experiences reduced anxiety;³⁴⁸ acquires familiarity and liking for the other;³⁴⁹ and is able to engage in perspective taking.³⁵⁰ Whereas cognitive mediators, such as increased knowledge, have been shown to play a minor role in reducing prejudice through intergroup contact, emotive mediators, such as perspective taking and empathy, seem to have a significant impact.³⁵¹ According to Pettigrew, cross-group friendship, empathy, and perspective taking are some of the

³⁴⁷ Tommie Shelby, “Integration, Inequality, and Imperatives of Justice: A Review Essay” *Philosophy & Public Affairs* 42, no. 3 (2014): 265.

³⁴⁸ Thomas F. Pettigrew and Linda R. Tropp, “How does Intergroup Contact Reduce Prejudice? Meta-analytic Tests of Three Mediators,” *European Journal of Social Psychology* 38, no. 6 (2008): 922-934.

³⁴⁹ Lee, 2001; cited in Thomas F. Pettigrew and Linda R. Tropp, “A Meta-Analytic Test of Intergroup Contact Theory,” *Journal of Personality and Social Psychology* 90, no. 5 (2006): 767.

³⁵⁰ Cited in Pettigrew and Tropp, “A Meta-Analytic Test of Intergroup Contact Theory,” 767.

³⁵¹ Thomas F. Pettigrew, Linda R. Tropp, Ulrich Wagner, and Oliver Christ, “Recent Advances in Intergroup Contact Theory,” *International Journal of Intercultural Relations* 35, no. 3 (2011): 277.

strongest mediators of prejudice-reduction for members of the outgroup.³⁵² The stronger the interpersonal relationship, the greater the potential for these cognitive and emotive mechanisms to have a positive effect on the individuals involved.

Anderson comments on some of the positive effects that interracial relationships can have on children, in particular, emphasizing that exposure to a diverse community can benefit children's personal, educational, and professional growth by providing a larger circle of social contacts from whom to learn and form supportive networks. Crucially, Anderson's vision of racial justice through practical learning extends to family life, including the realm of family-making and adoption. She explains that informal social integration is realized "when members of different races form friendships, date, marry, have children *or adopt different race children*. At school and work, it happens when members of different races share conversations at the lunch table, hobnob over the coffee break, and play together at recess".³⁵³ Implicated in Anderson's call for integration is that adoptive parents adopt children of different races, *not just* children who are of the same race.

Another important finding in social psychology is that, in addition to a reduction of biases in those who are directly involved in the interaction, the effects of intergroup contact extend beyond the individuals directly involved in the relationship.³⁵⁴ As Pettigrew et al., explain, effects of intergroup contact and prejudice reduction extend beyond the immediate contact group, impacting perceptions of other out-groups as well:³⁵⁵

³⁵² Pettigrew, Thomas F. "Future Directions for Intergroup Contact Theory and Research." *International Journal of Intercultural Relations* 32, no. 3 (2008): 190.

³⁵³ Anderson, *The Imperative of Integration*. 116, emphasis added.

³⁵⁴ Pettigrew and Tropp, "A Meta-Analytic Test of Intergroup Contact Theory," 751-783.

³⁵⁵ Pettigrew et al., "Recent Advances in Intergroup Contact Theory," 276.

Not only do attitudes toward the immediate participants usually become more favorable, but so do attitudes toward the entire outgroup, outgroup members in other situations, and even outgroups not involved in the contact. This result enhances the potential of intergroup contact to be a practical, applied means of improving intergroup relations.³⁵⁶

This finding is significant because it posits that the effects of interracial contact do not only positively impact interpersonal relations between those in direct contact with one another; rather, the positive effects of reduced prejudice generalize beyond those directly involved to other groups, as well. Thus, as researchers contend, interpersonal contact with people who are different from us can reduce our prejudice against them, bolster our positive perceptions of them, and also make us perceive and treat others who are different than us more favourably than we otherwise would.

Tina Rulli's discussion of the unique value of adoption speaks to the transformative power of intimate connection with close family members. As Rulli explains, when one adopts a child, that child becomes an extension of oneself. This is true in the sense that the adopted child is an additional member of one's family, whose needs and experiences are integral concerns of the family unit; what one regards as central to their own and their family's wellbeing now also includes the adopted child. Moreover, in a second sense, adopting a child allows one to gain knowledge through the "intimate and extended, vicarious experience" of living through their adopted child. As Rulli eloquently explains, adoption inspires "transpersonal transformation. ... it allows us to transcend the constraints of our own accepted identities and integrate into them what was once outside or foreign to ourselves. In a way, adoption makes us bigger than our original selves; it expands us beyond our original kin and community".³⁵⁷ In the case of transracial adoptions, parents and children gain deeper understandings of

³⁵⁶ Pettigrew and Tropp, "A Meta-Analytic Test of Intergroup Contact Theory," 766.

³⁵⁷ Rulli, "The Unique Value of Adoption," 125.

themselves in relation to one another, their race, and other racial groups, and this has the potential to foster, in Rulli's words, "transpersonal transformation".³⁵⁸

Moreover, drawing from our understanding of empirical data on intergroup contact, which finds generalized effects of positive relations beyond the immediate contact group, we can imagine the transformative value of adoption that Rulli envisions extending beyond the parent-child relationship to larger family circles, communities, and society at large. In this way, I contend that Rulli's point can be extended further: not only does transracial adoption have transformative power for parents and children, but it also provides opportunities for personal transformations in those beyond the adoptive family: other family members, neighbors, school educators, the child's friends, and members of one's community at large. Let me explain.

Approaching reparative justice from an integrationist perspective provides a compelling case for adopting children outside one's racial group because adopting a child who is of a different race than oneself has important interpersonal and political effects on individuals and larger communities. While Anderson does not comment much further on transracial adoption, other philosophers writing in the area of family ethics have written about transracial adoptions in favourably integrationist terms. For example, Heath Fogg-Davis argues that if our goal is to deeply challenge racial hierarchies and negative perceptions of minority racial groups to care for children, we ought to *encourage* transracial adoption. In his words,

Those who craft and implement adoption policy should also be concerned with decreasing aversive racism by encouraging TRA that flows in all directions. Blacks should be encouraged to adopt white children, not only because TRA benefits the members of their own adoptive family, but also to show others that blacks can successfully parent white children. ... What's more, the racial fissure between a

³⁵⁸ Rulli, "The Unique Value of Adoption," 125.

white child and his or her black adopted parents may stimulate critical thinking about the social and cultural meaning of whiteness.³⁵⁹

In principle, this argument applies to other groups, as well: the widespread encouragement of transracial adoptions is a way to challenge racial hierarchies. Sally Haslanger³⁶⁰ makes a similar point that it should be our goal to live in a society in which differences between racial groups do not mark sites of privilege and subordination. Rather, she envisions a society in which cultural or ethnic difference replaces racial difference. In such a society, we would share in each other's traditions, ways of life, meanings and symbols, and we would celebrate and value our cultural differences, absent racial hierarchies.

The idea that forming and maintaining deep connections with others fosters positive interactions is captured by a number of philosophers in their discussions of adopting children. Take, for example, Sally Haslanger's account of being "transracialized" in virtue of having adopted two black children.³⁶¹ As she explains, having family members who experience a different racial reality in the world influences and shapes her perception and experience of the world in important ways. Her own racial identity becomes more nuanced and complex, informed by her understanding and appreciation of the lived experiences of her adopted children. Haslanger's experience embodies the affective mediators of empathy and perspective-taking that social psychologists have identified as important for fostering and enhancing positive intergroup relations. As Haslanger reports, her experience of adopting her two children involved forming intimate connections with them that provided her with meaningful opportunities

³⁵⁹ Heath Fogg Davis, "Racial Randomization: Imagining Nondiscrimination in Adoption," in *Adoption Matters: Philosophical and Feminist Essays*, eds. Sally Haslanger and Charlotte Witt (Ithaca, N.Y: Cornell University Press, 2005): 253.

³⁶⁰ Sally Haslanger, "You Mixed? Racial Identity Without Racial Biology," in *Adoption Matters: Philosophical and Feminist Essays*, eds. Sally Haslanger and Charlotte Witt, (Ithaca: Cornell University Press, 2005): 265-289.

³⁶¹ Haslanger, "You Mixed?"

to develop deeper understandings of race. In all of these ways, reparative justice as informed by an integrationist perspective lends support for adopting children whose race is different than one's own.

Integrationism is not without its critics, however. Some philosophers emphasize the value of racial *separation* in order for members of oppressed groups to develop together as critical masses of empowered individuals, who can then use their *collective* power to influence the polity.³⁶² Segregation has two classic forms: state-imposed and self-imposed (i.e., self-segregation). State-imposed segregation consists in measures enacted and enforced by the state that are designed to regulate inter-group relations by keeping different groups apart and restricting access to goods, services, spaces, and political representation. Self-segregation, however, occurs when particular groups – rather than the state – segregate themselves within communities. Expressing skepticism about the positive effects of interracial contact, Tommie Shelby comments that “blacks would have little assurance that sacrificing their bonding capital would lead to more valuable bridging capital”.³⁶³ Likewise, Denise James voices suspicion that proximity breeds empathy and genuine concern for differently-raced others.³⁶⁴ For these scholars, the risks of benefiting in some way from racial integration is not worth sacrificing close bonds with members of one's own racial group. They both maintain anti-integrationist positions, affirming the value of self-segregation for members of racially oppressed groups.

While I agree with these scholars that efforts to self-segregate and resist integration are effective in certain contexts, I think that integration within the realm of family life takes on a character of its own. What makes racial integration

³⁶² See Shelby, “Integration, Inequality, and Imperatives of Justice”; Du Bois, 1996; Taylor, *Race: A Philosophical Introduction*; Jeffers, “The Cultural Theory of Race.”

³⁶³ Shelby, “Integration,” 275.

³⁶⁴ Denise James, “The Burdens of Integration,” *Symposia on Gender, Race, and Philosophy*, 9, no. 2 (2013): 1-5.

in the realm of family life particularly powerful is that relationships between members of one's family are some of the most personal bonds one can have. In loving parent-child relationships, children can have powerful transformative effects on their parents, and *vice versa*. As Fogg-Davis puts the point, "Because emotional identification affects racial navigation, and our strongest emotional ties are usually to family members of our immediate families, we should expect the most intense exchange of ideas about racial self-awareness to occur within immediate families".³⁶⁵ In my view, familial relations have a strong potential to challenge existing racial structures in society at large by first challenging immediate family members' conceptions of race and political hierarchies that attach to society's treatment of racial difference. These new ways of conceiving of oneself and the value of racial difference absent racial hierarchies will have effects beyond familial relationships, influencing society at large.

In any case, anti-integrationist challenges to transracial adoptions do not undermine a duty to adopt; rather, they seem to provide even stronger reasons for members of racially oppressed groups to adopt children within their racial group. Statistically, there are far more children of colour than there are white children, and the pool of adoptable children is much higher amongst those who are racialized within particular communities. If anything, anti-integrationism brings out the value of caring for children within one's racial group as a way to resist the widespread adoption of children of colour by (typically) white adoptive parents. I will expand on this point in the next section. In summary, reparations for familial racial injustices would take the form of prospective parents of racially oppressed groups providing parental care to children in need of it, that is, through adoptions

³⁶⁵ Fogg Davis, H. G. *The Ethics of Transracial Adoption*. (London: Cornell University Press, 2002): 20.

4.2. Racial Solidarity

Recall that, in Chapter 2, I developed a group-based reason from racial solidarity in favour of procreation premised on the idea that members of oppressed racial groups have a moral right to procreate as a way of expressing social or political solidarity with one's racial group. The primary motivation for one to procreate would be to strive for social change by way of honouring one's group through bonds of solidarity. Prospective parents who are members of these groups and who are motivated to have biological children for reasons of racial solidarity would be expressing a sense of solidarity toward the group in which they identify as belonging. Through nurturing bonds of solidarity, they seek social change and liberation from historical and ongoing injustice. Procreation is valuable and non-substitutable by adoption, on this view, because having biological children allows for the expression of solidarity bonds between members of racialized groups whose value as persons is challenged within an oppressive racial order. The implication for a duty to adopt is that adopting a child constitutes a special burden for some prospective parents, namely, that of foregoing the opportunity to foster bonds of solidarity with members of one's racial group (i.e., by having biological children).

However, members of oppressed racial groups may also seek social change and liberation from racial injustice by adopting children who share one's race. Consider this second group-based reason in favour of adoption: members of oppressed racial groups can express solidarity with their group and its constituent members by adopting children within their own racial group. Given that children in racially disadvantaged groups are overrepresented in child welfare and adoption systems, one way for members of oppressed racial groups to express solidarity is to care for these children who are in need of adoption. This argument, like the one from reparative justice, is founded on an ethic of resistance to historical and contemporary familial injustices that undermine the value of racialized and indigenous communities, parents, and children. However, whereas reparative justice was about members of certain racial groups seeking

reparations for past and ongoing racial injustices against families, the idea would be that members of certain racial groups could honour their group through bonds of solidarity by adopting children of the same race.

Critics of transracial adoptions claim that children's identity formation, sense of self, and sense of belonging is negatively affected when children are raised in families whose members do not share the child's race. Assuming this is true, one way to ensure that children are given the opportunities to develop healthy personal, racial, and community identities is to provide them with parental care within same-race families. This position is supported by self-segregationism, as articulated by Tommie Shelby, who argues that living in racially self-segregated settings – even if they are located within larger integrated spaces – can provide members of oppressed groups with comfort of living and a sense of community. Living in close proximity and close contact with people who have “similar life experiences,” he says, can be both comforting and empowering in itself.³⁶⁶ Having access to regular contact with people who share one's styles of communication, values of caring, political consciousness and values, sense of humour, and so on, can provide a sense of security and reassurance, especially if those experiences are unique from dominant culture. Such networks of support and community bonds may not be as easy to foster in more integrated settings, where dominant culture can overpower efforts for members of oppressed groups to establish a sense of community belonging.

Moreover, proponents of self-segregation (or, more generally, anti-integration) argue that the merits of striving for racial equality and justice lie in protecting members of oppressed groups, cultivating and raising consciousness about the value of one's culture, and facilitating groups' political solidarity. Shelby argues that self-segregation can serve as protection for blacks against the likely harms of integration within a society “where they are deeply disadvantaged

³⁶⁶ Shelby, “Integration, Inequality, and Imperatives of Justice,” 272.

and vulnerable to mistreatment and political marginalization”.³⁶⁷ In these sorts of cases, having a “critical mass” of similarly-situated individuals can provide group protection for its members.³⁶⁸ Relatedly, members of oppressed racial groups may self-segregate as a way of expressing political solidarity by interacting with “politically like-minded individuals”.³⁶⁹ The consciousness-raising and awareness that often accompanies meaningful interactions amongst racially oppressed groups, Shelby argues, is “an important source of political empowerment” and, crucially, a “component of an ethic of resistance to injustice”.³⁷⁰ Crucially, for members of racially oppressed groups, liberation from injustice may require (as some contend) the very sort of political and social solidarity that Shelby and others have in mind. In the context of child welfare, caring for children within the same racial group can help them form healthy racial identities, and cultivate a source of political empowerment that can be instrumental in achieving social change for the betterment of racially oppressed groups and its constituent members.

Let us now turn to the third group-based reason to favour adoption over procreation.

4.3. Cultural Preservation

Recall that, in Chapter 2, I presented three ways in which one could appeal to cultural preservation as a reason to procreate. The first way involved procreating as a form of cultural expression; the second involved creating biological progeny through whom to pass along one’s cultural traditions; and the third involved procreating to continue on a lineage threatened with foreseeable extinction.

³⁶⁷ Shelby, “Integration, Inequality, and Imperatives of Justice,” 270.

³⁶⁸ Shelby, “Integration, Inequality, and Imperatives of Justice,” 272.

³⁶⁹ Shelby, “Integration, Inequality, and Imperatives of Justice,” 271.

³⁷⁰ Shelby, “Integration, Inequality, and Imperatives of Justice,” p. 271.

However, as I will argue here, cultural preservation also seems to provide a strong group-based reason to adopt children within and outside one's racial group.

Adopting Children Within One's Racial Group

Consider this proposal: as a way of resisting assimilationist pressures from dominant cultures, members of oppressed racial groups can pass on one's culture to members of the same racial group who would – through transracial adoptive placement – not have direct access to cultural goods as one would if one were raised in a same-race family. This would avoid the observed downfalls of transracial adoption that we discussed earlier. This proposal depends on a cultural theory of race, whereby members of the same race share a culture. Efforts to adopt children of the same race would conform to Chike Jeffers' conception of cultural preservation as “efforts by individuals or groups to maintain the distinctness and distinctiveness of a cultural group to which they belong.”³⁷¹ To the extent that cultural goods are worth preserving, one may go so far as to argue that members of racially oppressed groups have *an obligation* (i.e., a moral duty) to adopt children within one's racial group, as a way of resisting pressures to assimilate into dominant culture. This third group-based reason provides a compelling case for same-race adoptions. The disproportionately large pool of children of colour in child welfare and adoption systems who are available for adoption could be met with concerted efforts by prospective parents who are members of these same racial group to adopt them.

Adopting Children Outside One's Racial Group

³⁷¹ Jeffers, “The Ethics and Politics of Cultural Preservation,” 206. For Jeffers, cultural preservation is valuable for members of *all* races, for the value in one's culture persists beyond a world with racial hierarchies, but in the context of a group-based claim to procreation, I would argue that, on the basis of race, members of minority racial groups have a far more plausible claim to procreative rights than do members of dominant racial groups.

Consider this proposal in favour of adopting children outside one's racial group for reasons of cultural preservation: as a way of resisting assimilationist pressures from dominant cultures, members of oppressed racial groups can pass on their culture to those who are outside one's racial group, thereby expanding one's cultural community by passing on the goods of one's culture to adopted members of the community (i.e., adopted children). Adopting outside one's racial group as a way of preserving one's culture may be especially compelling in cases where one's cultural community faces foreseeable extinction or would otherwise benefit from an expansion in population. Traditions, languages, and other cultural goods can be shared with those who become members of one's community not through birth but rather through adoption. Thus, this third group-based reason provides a compelling case for transracial adoptions.

5. Conclusion

In this chapter, I presented three group-based reasons in support of adopting children within or outside one's racial group. I first provided a demographic overview of child welfare and adoption systems, highlighting the disproportionate overrepresentation of children of colour in need of adoption, globally; and racial disparities in localized child welfare systems. I traced some of the causes of these racial disparities historically and identified both structural and attitudinal racism in child welfare and adoption systems. I then elucidated a few key concerns about domestic and intercountry transracial adoptions. Next, I argued that each of the three group-based reasons in favour of procreate that we considered in Chapter 2 do not definitely support procreation over adoption but, rather, seems to support adoption in many cases. I showed how reparative justice supports the adoption of children within and outside one's racial group; and how racial solidarity and cultural preservation supports adopting children within one's racial group. Thus, I conclude that, as challenges to a duty to adopt, they are unsuccessful in most cases – namely, in cases where there are available children to adopt within one's racial group. However, further philosophical arguments are needed to dislodge remaining challenges from racial solidarity and cultural

preservation with respect to adopting children outside one's racial group. Moreover, for those who remain unconvinced about any of the reasons I have provided in this chapter in favour of members of racially oppressed groups having a moral duty to adopt, I will offer a final defense of the duty in the upcoming chapter.

Chapter 4: The Politics of Children's Belonging

1. Introduction

Thus far in this dissertation, I hope to have demonstrated the persuasiveness of a duty to adopt, despite strong objections. In Chapter 1, I introduced the duty and showed its resilience against proposed defeating conditions and foundational challenges. In chapter 2, I developed three group-based reasons – reparative justice, racial solidarity, and cultural preservation – in favour of procreation that challenged a duty to adopt. In Chapter 3, I argued that these reasons do not definitively support procreation and, instead, provide persuasive reasons for prospective parents who are members of racially oppressed groups to adopt children, either within or outside their racial group. I showed how striving for reparative justice and cultural preservation provides strong reasons for members of oppressed racial groups to adopt children within and outside their racial group; and how racial solidarity can be achieved through adopting children within one's racial group. Still, as I noted, a few group-based challenges to the duty remain, and so in this chapter, I present a closing defense of my position that all prospective parents, including those who are members of racially oppressed groups, have a duty to adopt children instead of procreating.

In this final chapter, I evaluate whether group-based interests in favour of procreation or in determining children's familial placements (to the exclusion of adopting children outside one's racial group) can override the needs of individual children for parental care, *simpliciter*. I will argue that the needs of individual children to receive parental care take priority over groups' interests in both procreation and decisions about particular adoptive placements in cases where same-race or intra-communal placements prove difficult. I will make the case that steadfastness about children's belonging that manifests in moral prohibitions on transracial adoptions of racialized or indigenous children has

detrimental compound effects on these children, who are already socially disadvantaged.³⁷² Moreover, debates that centrally engage this topic tend to be inert and counterproductive in addressing the plight of children who need parental care.

In my view, it is a mistake to conceive of parents and communities as proprietary owners of children, and of children as deterministically bound to their communities of origin; it is also mistaken to view children as wholly disconnected from their communities of origin. Rather, we should think of adoptions as existing within larger networks of relationships, in which meaningful collaborations between communities with which the adopted child is connected (through birth or adoption) play a role in helping children develop healthy identities and take pride in their identities. Racialized and indigenous communities that lack the resources to provide adequate and timely parental care for children should offer support to adoptive families who do adopt children from within their communities, so that adopted children can have access to interpersonal supports as they grow up and can, on their own terms, maintain connections with their birth community. In turn, adoptive families should reciprocate respect for their children's birth communities, helping the child maintain connections, if the child wishes to do so. Needless to say, structural inequalities that are responsible for the disproportionate rates of children in need of adoption within racialized and indigenous communities need to be addressed in parallel but not at the expense of children's well-being and opportunities to receive parental care from willing and loving adoptive parents.

³⁷² Raven Sinclair emphasizes the importance of being attentive to the unique circumstances of indigenous children when collating data on transracial adoptions. Literature on transracial adoptions usually concludes that adoptees and adoptive families experience positive outcomes. However, indigenous transracial adoptions are an exception to this trend, resulting in consistently negative outcomes for adoptees and families. See Raven Sinclair, "Identity Lost and Found: Lessons from the Sixties Scoop," *First Peoples Child and Family Review*, 3, no. 1 (2007): 65-82.

In §2, I will motivate the importance of thinking carefully about issues of children's belonging, pointing out the high stakes of such debates. I will reference international human rights and adoption legislation, where appropriate, to illustrate how ideas about children's rights to certain identities are protected or eschewed. In §3, I will articulate and critique two views about children's belonging, one that views children as deterministically bound to their communities of origin and another that views children as wholly unbounded by them. In §4, I will offer my view about how to think about children's relationships to their communities of origin. My positive view conceives of adoptions as child-centered, and as involving mutual respect and collaboration between birth and adoptive families, in children's best interests, as guided by children's own voices. In §5, I will discuss the implications of this discussion for a duty to adopt, ultimately reinforcing that the duty applies to all prospective parents but also specifying that the duty supports subsidiary duties to extend support for racialized children who are adopted outside their communities of origin.

2. Children, Law, and the Politics of Belonging

Throughout history, one of the key tools of oppression has been the disintegration of families. Dominant groups in societies have sought to fragment and diminish power within families, the fundamental units of political life, as means of achieving larger political projects, such as colonization. As Alice Hearst explains, "As dominant groups inevitably universalized their cultures, they configured their own members as 'normal' while marking others as different, rendering the latter therefore invisible and effectively excluded from full participation in political life. ... that erasure was often accomplished by design or circumstance via the removal of children from families".³⁷³ Because children connect previous familial generations to current and future ones, communities are vulnerable to grand political manipulation via removals of children from their birth families by dominant groups.

³⁷³ Hearst, *Children and the Politics of Cultural Belonging*, 43.

Debates about children's belonging are deeply contentious, rich with meaning and political ramifications. In particular, adoptions are saturated microcosmic contexts for political debates about racial justice, indigenous sovereignty, international relations, and more. Child welfare and adoption systems are complex, and they present ethical and political challenges regarding how best to provide care to children in need. Adoptive parents, birth parents, children, racialized and indigenous communities, nations, and governments all have interests in the policies and practices that shape and regulate the formation of families. As Hearst comments, "The fact that adoption entails gains and losses for individuals, families, and communities means that adoption is a volatile political issue, particularly when adoption and foster care placements cross racial, cultural, and national boundaries".³⁷⁴ Because children who are members of racially disadvantaged communities are typically adopted into racially privileged families, there is a serious risk of "intrusion of the privileged into the intimate spaces of poor and marginalized communities".³⁷⁵ Consequently, we need to pay careful attention to power relations when thinking about children's placements within families in the context of adoptions.

Within different forms of adoption, a number of key issues regarding children's belonging are at stake. In the case of domestic transracial adoptions of both indigenous and non-indigenous children, children's belonging is set against a background of historical and ongoing racial inequalities. Recall from Chapter 2 how racialized and indigenous groups were (and still are) subject to anti-natalist and reproductive injustices that thwarted their abilities to have biological children. And recall from Chapter 3 the countless ways in which some communities were subject to familial injustices at the hands of the state and dominant social groups, to the detriment of racialized children, families, parents, and communities, making it difficult for birth families to maintain relationships with their children. Being able to keep children within these communities is of

³⁷⁴ Hearst, *Children and the Politics of Cultural Belonging*, 2.

³⁷⁵ Hearst, *Children and the Politics of Cultural Belonging*, 3.

serious importance for these groups. Whereas these groups have been deprived of autonomy in maintaining familial ties or deciding on the placement of their children, attempts to keep children in same-race or intracommunal families has significant value for group sovereignty and political power.

Several few pieces of adoption legislation support groups' interests in keeping children within their communities of origin or in same-race familial placements. One is the Indian Child Welfare Act (ICWA) in the United States, which grants tribal indigenous groups (i.e., "American Indian tribal courts") jurisdictional authority over the care of children who are eligible members of the tribe.³⁷⁶ ICWA is praised by critics and opponents of transracial adoptions for protecting the rights of marginalized groups to exercise sovereign power over its members – in this case, children in need of parental care – but it is heavily criticized by those who regard the policy as hindering the prospects of indigenous children to gain timely placements in stable, permanent homes. In Canada, some provinces have policies that affirm the autonomy of indigenous groups in deciding on their children's placement. For example, Alberta's Policy Directive in the Adoption of First Nations Children – and a similar policy in Saskatchewan – requires the consent of an indigenous child's First Nation for adoption placements.³⁷⁷ Once again, critics of these policies argue that it delays the process of finding parental placements of children.

Other pieces of adoption legislation directly oppose group interests in placing children within communities of origin. In the United States, for example, as stipulated in the Multi-Ethnic Placement Act of 1994 ('MEPA I'), amended by the Interethnic Placement Provisions of 1996 ('MEPA II'), race-matching is prohibited in cases involving non-indigenous children, unless there are

³⁷⁶ Hearst, *Children and the Politics of Cultural Belonging*, 7.

³⁷⁷ Jeannine Carriere and Sandra Scarth, "Aboriginal Children: Maintaining Connections in Adoption," in *Putting a Human Face on Child Welfare: Voices from the Prairies*, eds. . Brown, F. Chaze, D. Fuchs, J. Lafrance, S. McKay, & S. Thomas Prokop (Prairie Child Welfare Consortium, 2007), 203-221.

compelling circumstances in favour of race-matching.³⁷⁸ ³⁷⁹ MEPA II is applauded by supporters of transracial adoption for encouraging timely placements for children and for lessening delays that may result from waiting for available parents who share the child's race. But critics of this policy argue that it is a form of continued erasure of racialized people and an attack on racialized communities.

A few pieces of international policy lend support for preferring same-race or intracommunal placements³⁸⁰ in the context of intercountry adoptions. For instance, Article 20.3 of the UN Convention on the Rights of the Child states that, in cases where children need alternative childcare placements (e.g., adoption, foster care), “due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.”³⁸¹ Similarly, Article 16.1.b of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption stipulates that the sending country of the adoptable child “give due consideration to the child's upbringing and to his or her ethnic, religious and cultural background.”³⁸²

Furthermore, several clauses in the Declaration on the Rights of Indigenous Peoples lend support for the recognition of indigenous groups' sovereignty over matters of child welfare, including their determination of same-race placements of indigenous children. One notable section in the document

³⁷⁸ Hearst, *Children and the Politics of Cultural Belonging*, 7.

³⁷⁹ A key difference between MEPA (1994) and its 1996 amendment to MEPA-IEP is that the first formulation permitted considerations of culture, race, and ethnicity in decisions about childcare placements, whereas the updated legislation prohibits considerations of race-matching and also “no longer expressly allows agencies to consider the race, color, or national origin of the adoptive parents or child as a factor in the placement decision” (Solangel Maldonado, “Discouraging Racial Preferences in Adoptions,” *U.C. Davis Law Review* 39, no. 4 (2006): 1457).

³⁸⁰ By this, I mean placements of children within their birth communities.

³⁸¹ UNICEF, “The Convention,” <https://www.unicef-irc.org/portfolios/crc.html>.

³⁸² “Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption,” <https://www.hcch.net/en/instruments/conventions/full-text/?cid=69>.

acknowledges the importance of “Recognizing in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child”.³⁸³ In terms of rights to culture, though not directly tied to adoption or child welfare, Article 31.1 states: “Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions”.³⁸⁴ Whereas this article does not address whether this clause pertains to children’s rights, Article 30 of the UN Declaration on the Rights of the Child clearly states:

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

The strong preference for keeping children within their communities of origin has resulted in many countries closing their doors to adoption over the last few years.³⁸⁵ Unfortunately, these decisions affect children who need parental care by shrinking the pool of adoptive families who can care for them. When the stakes are high for children to receive parental care and for communities to have a voice in matters involving members of their community, it is clear why adoptions – both domestic and international – are contentious.

In sum, concerns about children’s belonging are that adoptions across racial, cultural, and national boundaries “stigmatize whole communities as unfit to care for children and thwart efforts to create community-based care systems

³⁸³ United Nations Declaration on the Rights of Indigenous Peoples: http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf: 3.

³⁸⁴ United Nations Declaration on the Rights of Indigenous Peoples: http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf: p. 11.

³⁸⁵ Peter Selman, “The Global Decline of Intercountry Adoption: What Lies Ahead?” *Adoption & Fostering* 36, no. 3 (2012): 141.

that would ultimately redound to the benefit of both children and the communities themselves”.³⁸⁶ Importantly, my assessment of a duty to adopt goes beyond the existing literature on this topic by attending to these intricate political features of adoption and the implications they have for racially oppressed populations, whose children are – as a result of historical and ongoing racial injustices – disproportionately represented in child welfare and adoption systems. Grasping this complex debate about children’s belonging is critical to our examination of a duty to adopt because it helps us adjudicate whether group-based reasons to favour procreation over adoption, or to forgo adoption of children outside one’s racial group in favour of procreation, can successfully defeat one’s *pro tanto* duty to adopt.

Now that we have an understanding of the stakes involved in issues that concern children’s belonging, let us examine two opposing views within these debates.

3. Two Views on Children’s Belonging

As I have presented them in previous chapters, at the heart of group-based challenges to a duty to adopt is a tension between the interests of racialized and indigenous communities, and the needs of individual children for parental care. Embedded in philosophical discussions of adoptions, especially those that cross racial and national boundaries, are competing views about children’s belonging. On the one hand, some racialized and indigenous communities claim authority and jurisdiction over children who are born within them. These communities regard decisions about their children’s placement as falling within their domain of sovereign decision-making and political governance. On this view, children are bound to their birth communities as integral members; they safeguard the groups’ interests; and they fare best when cared for within their birth communities or with parents who share their race. On the other hand, a

³⁸⁶ Hearst, *Children and the Politics of Cultural Belonging*, 6.

competing view is that children are not deterministically bound to their communities of origin and should be placed in adoptive care with willing adoptive parents, regardless of racial, cultural, or community-based affiliations. On this view, children do not have inherent birthright attachments to their communities of origin, or to any particular racial or cultural groups; they should be granted freedom to shape their own identities; and they fare best in loving, stable, permanent homes, regardless of whether their familial placements are extra-communal or transracial.

In this section, I detail and critique these two opposing views on children's belonging that embody the tension between the interests of oppressed racial groups and the needs of individual children to have parental care. Let us begin with the view that children are intimately connected to their communities of birth and critically represent these groups' interests. Call this the 'community representative' view of children's belonging.

3.1. Children as Community Representatives

Given a long-standing history in Western countries of racialized and indigenous children being systematically removed from their birth families and placed in foster or adoptive care, children born within these endangered communities are often viewed as political markers for them.³⁸⁷ Children are seen as holding promises of a better future for groups who have experienced oppression and whose interests continue to be subject to the interests of more powerful groups. Disadvantaged communities seek to have their voices heard amidst "forces that threaten the very existence of groups who seek recognition to integrate on their own terms".³⁸⁸

Those who hold a view of children as community representatives make three main claims. First, they argue, children are integral and interdependent

³⁸⁷ Hearst, *Children and the Politics of Cultural Belonging*, 13.

³⁸⁸ Hearst, *Children and the Politics of Cultural Belonging*, 51.

members of their communities of origin. For instance, Kenn Richard (2004) explains that a “tribal world view”, as espoused by many First Nations³⁸⁹ communities in Canada and elsewhere, conceives of the relationship between child and community as “symbiotic”.³⁹⁰ Individuals, including children, are “contextualized with families, communities and cultures. Here[,] the best interests of a child are inexorably linked to the best interests of the community and vice versa. As the child is seen as the embodiment of her culture she is as a result required to be nurtured within it”.³⁹¹ In turn, well-adjusted adults who are raised within their tribal communities “strengthen the collective through the generations”.³⁹² The communitarian view of individual flourishing that underlies tribal world views favours culturally-sensitive (i.e., same-race) familial placements of indigenous children.

Likewise, for other racialized groups, some believe that children have inherent birthrights to their racial and cultural groups, such that children depend on these groups in order to form their identities. In this vein, two members of the US-based adoption organization Pact, express strong consternation about transracial adoptions, framing the issue as one of cultural deprivation for children. They write:

Who is hurt by the myth that race is not an issue for Latino or Asian children placed in White families? Children who lose the history, traditions, and comforts of connection to others who share their racial background are the victims of this myth. Parents who take away their child’s opportunity to feel a true member of *their own* racial or ethnic groups

³⁸⁹ ‘First Nations’ is the terminology used by author Kenn Richard.

³⁹⁰ Kenn Richard, “A Commentary Against Aboriginal to non-Aboriginal Adoption,” *First Nations Child and Family Review* 1, no. 1. (2004): 102.

³⁹¹ Richard, “Against Aboriginal to non-Aboriginal Adoption,” 102.

³⁹² Richard, “Against Aboriginal to non-Aboriginal Adoption,” 102.

are *depriving their child of a birthright* and diminishing the rich contributions of *the child's intrinsic culture*".³⁹³

References to children's "own" identities and cultures reveal the strong belief that children are entitled not just to community connection but, more specifically, to being raised by parents who share their social identities and who, presumably, are immersed in the same culture into which the child was born.

Second, on this view, children are representatives of their groups' interests and well-being. Critics and opponents of transracial adoption draw attention to the harms to marginalized communities, parents (especially mothers), and children when children are removed from their birth communities and placed in the care of 'outsiders'. For instance, according to what Anita Allen calls the "cultural genocide" argument, racialized groups will lose their cultures if children are placed in the care of families outside the group. The worry is that children who are raised in families who do not share their race will not be able to learn about their culture and pass it on to future generations. For example, a representative of the national tribal association in the United States offered the following testimony during congressional hearings on the Indian Child Welfare Act (ICWA):

the chances of Indian survival are significantly reduced if our children, the only real means for the transmission of the travel heritage, are to be raised in non-Indian homes and denied exposure to the way of their People... probably in no area is it more important that tribal sovereignty be respected than in an area as socially and culturally determinative as family relationships".³⁹⁴

³⁹³ Beth Hall and Gail Steinberg, "Latino and Asian Children in White Homes." (December 14, 2006). <http://www.adoptedthemovie.com/latino-and-asian-children-in-white-homes/>, emphases added.

³⁹⁴ Cited in Hearst, *Children and the Politics of Cultural Belonging*, 123-124.

As this sentiment brings to light, “community self-determination” is a cornerstone in arguments against indigenous transracial adoptions;³⁹⁵ tribal sovereignty is tested in the politics of children’s belonging. Sovereignty over one’s community and members within it depend on having the power to make decisions that affect one’s group and having others respect that decision. As Hearst puts it, “Determining which children are subject to the provisions of ICWA then raises questions ... of sovereignty: how is an Indian child defined by it and will that definition find outsiders to respect that determination?”³⁹⁶

Third, those who espouse this view of children argue that they fare best within their communities of origin or within same-race adoptive placements. According to what Allen terms the “transmission of survival skills” argument, critics of transracial adoption believe that children need to be raised in families in which parents share their race in order for the children to develop skills necessary to forming a healthy, appropriate racial identity. According to this argument, children need parents who can model the same racial identity and teach them to understand and live appropriately in a society which is embedded in historic and contemporary systems of racism. A same-race family upbringing would allow children to have appropriate and factual self-awareness of themselves – the “*internal or private* aspect” of their racial identity – as well as exhibit appropriate behaviour to others – the “*internal or public* aspect” of their racial identity.³⁹⁷ These two aspects of children’s identities are seen as operating together, for a lack of outwardly expressed pride in one’s racial identity is a telling sign of internal rejection of one’s identity. On the flipside, lacking an understanding of one’s socially constructed (i.e., group-based) identity places one at risk for experiencing “social dislocation and psychological malaise”.^{398 399}

³⁹⁵ Anita Allen, “Does a Child Have a Right to a Certain Identity?” *Rechtstheorie (Supplement)* 15 (1993).

³⁹⁶ Hearst, *Children and the Politics of Cultural Belonging*, 121.

³⁹⁷ Allen, “Does a Child Have a Right to a Certain Identity?” 99.

³⁹⁸ Richard, “Against Aboriginal to non-Aboriginal Adoption,” 99.

Many opponents of transracial adoption believe that children can gain necessary survival skills as members of racialized group *only if* raised by parents who share their race; thus, in their view, transracial adoption placements are problematic for children.

From the perspective of many indigenous communities, part of what ought to constitute determinations about the 'best interests' of the child is an attentiveness to the cultural context in which the child is an integral member. As Richard points out, however, this tribal world view is in contention with Anglo-European conceptions of children's best interests in child welfare. Canadian courts often cite "bonding" and "continuity of care" as principal considerations in adoption proceedings, often assigning little weight to the cultural context into which the child is born.⁴⁰⁰ Thus, whereas many indigenous communities hold a firm position on adopting indigenous children within their communities of birth and resisting transracial adoptions, the tendency for courts is to place a heavy emphasis on non-cultural or individualistic assessments of children's best interests.⁴⁰¹ These are some of the main aspects of the view that children are representatives of their communities of origin. Now, on to my critique.

The view of children as community representatives is problematic because, in my view, it misattributes to children a right to a particular culture; and it essentializes, determines, and instrumentalizes them. Moreover, firm moral prohibitions on transracial adoptions of racialized or indigenous children has detrimental effects on them, compounding the negative effects that follow from their positions of social disadvantage.

³⁹⁹ Miranda Davies, "Intercountry Adoption, Children's Rights and the Politics of Rescue," *Adoption & Fostering* 35, no. 4 (2011).

⁴⁰⁰ Richard, "Against Aboriginal to non-Aboriginal Adoption."

⁴⁰¹ Richard, "Against Aboriginal to non-Aboriginal Adoption"; Scarth and Carriere, "Aboriginal Children: Maintaining Connections," 212-213.

Treating children as having inherent ‘rights’ to a racial or cultural identity from birth mistakenly attributes meaning to children’s identities that they, themselves, likely do not understand or possess.⁴⁰² First of all, children lack fully formed identities when they are young; rather, they acquire their sense of identity over time, as they mature. Children acquire culture through experiential learning. They observe traditions, participate in events, and become acculturated to certain ways of life as members of a community. The presumption that children, upon birth, are deserving of cultural entitlements is misguided. Anita Allen argues that race-matching commitments that affirm children’s belonging in same-race adoption placements reflect *adults’* interests in having their own identities protected rather than children’s interests in receiving parental care. As she puts it, ideas about children’s rights to a certain identity are “a surrogate for another idea, ... that adults have a right to respect for their identities.⁴⁰³ Enshrined in international human rights documents, she notes, is the idea that children have a moral or political right to a certain identity. For example, the UN Declaration on the Rights of the Child references children’s rights to “his or her own culture” (UN Dec); “*their* parents, *their* nationalities, *their* religions”.⁴⁰⁴ The presumption is that children possess entitlements to certain identities that compel recognition and respect amongst nations and as a matter of international relations.⁴⁰⁵ However, she reasons, arguments in favour of race-matching in adoption stand in proxy for “concerns about adult identity, and how law and social practice can be

⁴⁰² This is not to say that having a right to something requires that I understand the content of the right (e.g., a right *to freedom*) or the significance of bearing a right to that thing (e.g., the value or importance of *having* a right to freedom). Likewise, as it concerns children’s rights, children need not have an understanding of the content of their rights or the significance of bearing rights. However, the claim that children have rights to a certain identity (e.g., the culture shared by members of their birth community or, more specifically, the culture of their parents) is a different sort of case than, for instance, a right to freedom.

⁴⁰³ Allen, “Does a Child Have a Right to a Certain Identity?” 105.

⁴⁰⁴ Allen, “Does a Child Have a Right to a Certain Identity?” 100, *emphases original*.

⁴⁰⁵ Allen, “Does a Child Have a Right to a Certain Identity?” 98.

better molded to accommodate it”.⁴⁰⁶ In this way, attributing meaning to children’s identities when, in reality, they do not possess the requisite understanding of these identities is a mistake. Rather, these claims about children’s rights say more about adult’s interests. This leads into my next three criticisms.

A second problem with regarding children as representatives of their communities with birth-inherited rights to racial and cultural identities, is that it essentializes children’s identities as members of racialized groups. By casting all children in the same light – namely, as in need of same-race parents or intracommunal familial placements – one falsely assumes that all children have the same needs. By imposing an identity politics on young children, many of whom will not have an adequate understanding of racial identity politics at their young age, one assigns children’s identities from birth based on arbitrary attributes, namely, those associated with the luck of birth.

A third problem is that, by assigning certain identities to children at birth, it fixes their identities and restricts opportunities for authentic identity formation. Placing expectations on children to be a member of a certain social group or, as they grow, to adhere to cultural markers of social identity set by that group restricts children in profound ways. As Hearst explains, there are “distinctive reasons to be concerned about the expectations placed on adopted children to carry forward a set of cultural or communal values with which they are not familiar. Even if children are imagined as carriers of culture, they become such carriers only through enculturation: they do not carry culture in their bones”.⁴⁰⁷

Likewise, Heath Fogg Davis argues against the racial rigidity with which some communities lock children. A “static notion of racial understanding”

⁴⁰⁶ Allen, “Does a Child Have a Right to a Certain Identity?” 106.

⁴⁰⁷ Hearst, *Children and the Politics of Cultural Belonging*, 33.

assumes that children are not able to navigate their identities.⁴⁰⁸ Rather, he argues, children become adept at crossing cultural boundaries and often become acculturated in more than one group, plotting their own belonging along several axes.⁴⁰⁹ In sum, committing children to a certain identity-based group from birth locks them into identity categories from which they cannot easily escape at their will. This racial fixity has dangerous consequences in the context of child welfare, for children who are embraced too tightly by their communities of origin may miss out on opportunities to be placed in adoptive homes that would, counterfactually, be better suited to their individual needs.

Lastly, treating children as community representatives instrumentalizes them by subjecting their needs (i.e., to parental care) to that of the social groups that claim them. Feminists have been very critical of the treatment of certain individuals (e.g., women, children) within cultural groups. Some groups tend to subject its more vulnerable members to the group's will, creating cultural boundaries that place some individuals at risk. Some argue that, in empowering groups, states should safeguard individuals' human rights that "allow those individuals to exercise the power to craft their membership on their own terms".⁴¹⁰ The dire risk of subsuming children into a group and subjecting them to the groups' interests is that, in the midst of debates about their belonging, their need for parental care becomes overshadowed.

In addition, policies against transracial and intercountry adoptions negatively impact children who need parental care, not (or perhaps, to a much lesser extent) the communities who claim them. For instance, some of the most vocal critics of transracial adoption are based in the United States, and the impact of their views have had noticeable effects on adoption rates of black children. In Chapter 3, we looked at the National Association of Black Social

⁴⁰⁸ Fogg Davis, *The Ethics of Transracial Adoption*.

⁴⁰⁹ Fogg Davis, *The Ethics of Transracial Adoption*, 33.

⁴¹⁰ Shachar and Sunder, cited in Hearst, *Children and the Politics of Cultural Belonging*, 53.

Workers' 1972 firm stance against transracial adoption.⁴¹¹ As Maldonado reports, following NABSW's statement, the rates of domestic transracial adoptions of African American children – which were relatively high in the 1960s and 1970s – drastically decreased.⁴¹² In the case of intercountry adoptions, rates of adoptions of children in developing countries drastically decreased over the past few years, as a result of countries closing their borders to international adoptive parents.⁴¹³ For all these reasons, I am critical of firm positions in favour of upholding groups' interests in determining children's welfare.

3.2. Children as Liberated Beings

In contrast to the view of children as community representatives is the view that children are liberated beings, with no birth-inherited rights or obligations to their communities of origin. Call this the 'liberationist view' of children's belonging. Those who hold this view make three main claims. First, children do not have birth-inherited obligations to their communities of origin or to any racial or cultural group into which they are born.⁴¹⁴ On this view, children's luck of birth (i.e., being born into one family rather than any other) is arbitrary. The fact that a child is born into a certain cultural community or within one country rather than another has no binding effects for the child, in the sense that they do not bear birth-inherited rights or obligations to their communities of origin.

Second, children should be free to shape their identities at their own will. Children should be encouraged to embrace identities with which they identify

⁴¹¹ This was echoed in 1983 by the British Association of Black Social Workers and Allied Professionals (ABSWAP): Shruti Johansson and Judith Lind, "Preservation of the Child's Background in In- and Intercountry Adoption," *The International Journal of Children's Rights* 17, no. 2 (2009): 237.

⁴¹² Maldonado, "Discouraging Racial Preferences in Adoptions," 1455.

⁴¹³ Peter Selman, "The Global Decline of Intercountry Adoption: What Lies Ahead?" *Adoption & Fostering* 36, no. 3 (2012): 141.

⁴¹⁴ Allen, "Does a Child Have a Right to a Certain Identity?"; Davis, "*The Ethics of Transracial Adoption*."

and to take pride in creating an authentic self. For example, Josiah Wilson is someone who embodies this ideal in his own life. As an infant, Josiah was adopted from Haiti by his Heiltsuk Nation father and white Francophone mother. He says confidently, “I identify myself as Haitian, Canadian, First Nations, francophone and black. ... I am proud to embrace these multiple identities at the same time.”⁴¹⁵ Exposure to a multiplicity of identities and the opportunity to embrace them would likely not have been possible had Josiah not been raised in such a multicultural family.

Third, on this view of children’s belonging, children fare best when they have *good* parents, regardless of whether or not those parents share the child’s race or culture. Elizabeth Bartholet, a vocal advocate of adoptions, maintains this stance on international adoption, comparing it to the “horrors of institutional and street life, and the limited options for any kind of adequate home care in their countries of birth” and arguing that opposition “cannot be justified based on any best interest of the child principle”.⁴¹⁶ Elsewhere, she states that “children’s needs for permanent family placement should trump all other concerns”⁴¹⁷. On this view of children’s belonging, children primarily need parental care from loving parents. Children’s needs for stable, permanent families come first and foremost, before any other concerns about their or their adoptive parents’ racial identities. The serious risks to children’s physical, cognitive, emotional, and psychological well-being of growing up without parents – whether on the streets or in foster care – necessitate expeditious adoptive placements. In sum, children belong in families that can provide them with the parental care they need.

⁴¹⁵ David Ebner, “Indigenous Basketball Player Josiah Wilson Wins Human-Rights Case.” *Globe and Mail*, March 6, 2017; updated May 17, 2018. <https://www.theglobeandmail.com/news/british-columbia/indigenous-basketball-player-josiah-wilson-wins-human-rights-case/article34227744/>.

⁴¹⁶ Elizabeth Bartholet, “International Adoption: The Child’s Story,” *Georgia State University Law Review* 24, no 2 (2007): 334.

⁴¹⁷ Elizabeth Batholet, “International Adoption: The Human Rights Position,” *Global Policy* 1, no. 1 (2010): 91.

This view of children as entirely disconnected from their communities of origin is also problematic. In addition to being removed from the realities of oppression and dismissive of historical and ongoing oppression to certain groups of people, this view also fails to match the lived experiences of some adoptees. For instance, some indigenous children who were adopted into white families during the 60s Scoop report feeling torn and in-between worlds, longing for a sense of belonging but suspended between incommensurate communities.⁴¹⁸ Recall that supporters and defenders of transracial adoption argue that children's needs for stable, permanent parental care trump group-based interests in family preservation or adoptive placements designed to keep children in their communities of origin. In doing so, they tend to downplay the injury to groups when children are removed from birth communities and view group-based petitions to retain children within them as instrumentalizing – “using children as pawns”.⁴¹⁹ This dismissal of the severity and systematicity of oppression is harmful to groups and to children within them. Just as one example of the pervasiveness of racism in child welfare systems is that, historically, indigenous groups have rarely been granted any authority over decisions involving indigenous children. Based on assumptions formed during previous decades, even today, indigenous people experience discrimination in child welfare cases from courts.⁴²⁰

Hearst captures the importance of respecting histories of colonialism that make it such that certain groups in society strive for sovereignty over their children. She writes,

claims for protecting the links between children and tribes are compelling precisely because those connections are fragile– and they're fragile because they were deliberately attenuated by a series of federal and state policies that openly undermined Indian families and communities. As a

⁴¹⁸ Carriere, *Aski Awasis*.

⁴¹⁹ Hearst, *Children and the Politics of Cultural Belonging*, 5.

⁴²⁰ Hearst, *Children and the Politics of Cultural Belonging*, 127

result, distrust of the motives of state child welfare workers in dealing with Indian children is a constant theme when considering the placement of Indian children, and overcoming that distrust is critical to promoting cooperation and understanding between tribes and white society.⁴²¹

Likewise, long histories of racial oppression that carry on today provide good reason for groups to be skeptical, vigilant, and protective over their children. In turn, children who are ascribed certain social identities need to live in a society in which those groups are afforded respect and equitable participation, including that of having a say in children's welfare.

In my view, neither of the two respective views about children's belonging accurately capture the individual needs of children or the importance of group-based claims to children's belonging. Thus, in the next section, I construct a middle way for thinking about relationships between children and their communities of origin, one that complements children's needs for parental care with group-based interests in maintaining children's community connections

4. Adoptions as Child-Centered and Collaborative

In §3, I presented and critiqued two views about children's belonging. I argued that the first view wrongly ascribes a particular identity to children upon birth; and essentializes, determines, and instrumentalizes children; and the second view was insufficiently attentive to and dismissive of the positions of indigenous and racialized groups, and the value of children's social identities. In this section, I articulate a view of children's belonging that strikes a middle way between these two extremes. Rather than being a compromise position, I understand this view of children's belonging as harmonizing conflicting views about children's relationships to their communities of birth.

⁴²¹ Hearst, *Children and the Politics of Cultural Belonging*, 105.

In what follows, I develop a view of adoptions as child-centered and collaborative. On this view, children's interests in shaping their identities are respected and nurtured, and they are given opportunities to form and maintain meaningful connections with their communities of origin, on their own terms. Moreover, communities of origin and adoptive families collaborate with one another where appropriate to help the child to develop healthy, secure attachments and to have pride in their identities.

4.1. Children's Voices

Debates about children's belonging often neglect to include children's voices. Decisions are often made for or about children, seldom in consultation with them. In my view, safeguarding children's interests in decisions about their welfare requires listening to them and incorporating their perspectives into the process of determining the best familial placements for their particular situation, assuming they are old, capable, and mature enough to participate in at least some of the process.

As Claire Fenton-Glynn argues, children's "right to be heard" in adoption proceedings should be consistently upheld across jurisdictions. She contends that this right, codified in the UN Declaration on the Rights of the Child, has substantive, procedural, and symbolic value.⁴²² By listening to children, the decision-maker is able to incorporate the child's experiences and preferences into rulings about their "best interests". The child's input allows the decision-maker to make a more fully informed determination about a suitable adoptive placement. Moreover, involving the child in the process affords the child due respect in the process. If given the opportunity to participate in decision-making about their adoptive placement, children are more likely to understand the process and be amenable to the placement. Children who are left out of the process altogether

⁴²² Claire Fenton-Glynn, "The Child's Voice in Adoption Proceedings," *The International Journal of Children's Rights* 22, no. 1 (2014): 135-163.

may respond less favourably to the decision and may have difficulty adapting to their assigned familial environment. As Fenton-Glynn suggests, including children in the decision-making process is a way of respecting them as participants, even if it turns out that their wishes are ultimately deemed to be not in their best interests. Finally, children's participation grants them respect for their burgeoning autonomy, a value recognized in the UN Convention on the Rights of the Child. Including children in the process of familial placement affords them appropriate treatment as rights-bearers, as opposed to passive recipients of rights. Rather than treating them as objects of protection, giving children a voice in adoption proceedings allows them to express themselves as individuals whose views are worthy of consideration.⁴²³

Giving children a voice also means allowing them the freedom to influence the frequency, kind, and conditions of the connections they have with their birth communities. Maintaining connections with one's birth community will be more or less desirable for different children. For some children, the expectation to be a member of a community in which they have not grown up is burdensome, while other children welcome connections with their cultural roots as a means of gaining a better sense of identity that conquers feelings of loss.⁴²⁴ Facilitating connections on the child's own terms will give them a say in the extent to which they would like to stay connected with their birth communities, and how so.

Because children may not have fully informed preferences about whether or not to maintain community connections, it is imperative that their autonomy be supported by family members who can assess and, if needed, supersede their expressed wishes. For instance, parents of a young child who wishes to not participate in cultural traditions of their birth community may nonetheless involve the family (and the child) in those traditions, until such time that the

⁴²³ For more about children's right to be heard and a discussion about assessing their capabilities to express their needs and preferences; age restrictions, etc., see Fenton-Glynn, 2014.

⁴²⁴ Hearst, *Children and the Politics of Cultural Belonging*, 165

child can better understand the significance of choosing to participate or not. It is perhaps especially important for parents to be able to assert their own authority over children's preferences if predictive assessments of the child's future well-being as a result of not having maintained community connections appear unfavourable. For instance, a child may not have the insight to gauge the long-term importance of maintaining connections with their birth communities, so parents may need to find ways to keep their children connected despite their wishes to the contrary. Parents will need to moderate their decisions according to their child's age, capabilities, and maturity. Crucially, listening to children's voices in child welfare contexts means accepting that different children will have varying levels of allegiance to their birth culture: some will embrace it, while others will dissent from it. Allowing them to have a say (though perhaps not a decisive say) is what it means to give children a voice in shaping their belonging and identity.

Given the magnitude and severity of the global orphan crisis, it is critical that children in need of parental care receive timely interventions. Research shows that children who spent prolonged periods of time in temporary care arrangements (e.g., institutions, foster care) or who are on the streets without adequate care face serious potential harms, including increased risks of disordered attachment, psychological and emotional disturbances, and vulnerability to abuse.⁴²⁵ Because the stakes for children's safety and well-being are high, child welfare (in particular, the placement of children in stable, permanent, loving homes) is a critically time-sensitive matter. While groups do have legitimate claims about their children due to having experienced histories of oppression, it is also imperative that children do not become sentimentalized and, as a result, denied timely care as needed. Hearst's views align with my own. She says, "Children should not be unduly burdened with carrying forward any particular group's identities or claims. The interests of children, rather, should be

⁴²⁵ See Chapter 1 §3.2 and Chapter 2 §2 for a recap of the serious potential harms to which children without adequate parental care are exposed.

framed in ways that understand their interests in exploring their origins as they mature”.⁴²⁶ In trying to balance group-based interests in children’s belonging, we should not forget that children have fundamental needs for parental care.

Approaching adoptions from a child-centered perspective by including children’s voices alleviates the problems associated with the ‘community representative’ view of children’s belonging. By awarding children a voice in their familial placements, children are given the freedom to understand and shape their relationship with their communities of origin as they grow. A child-centered view avoids ascribing a particular cultural right to children and placing expectations on them to adhere to certain ways of life. Rather, it allows children to identify with aspects of their culture and community on their own terms. In this way, a child-centered approach to adoptions treats each child as a unique individual with varying needs for connections to their birth communities. Instead of fixing children’s identities and assigning them a “primordial identity”, the emphasis on children’s voices acknowledges that different children require different degrees of access and attachment to their communities of origin. Recognizing the individuality of children thus also circumvents the problem of instrumentalization that arises from the ‘community representatives’ view of children.

4.2. Collaborations Between Communities

Second, in my view, adoptions should involve mutual respect and collaboration between birth and adoptive communities, assuming that information about the child’s origins are known.

The symbiotic relationship between children and tribal communities that Richard describes⁴²⁷ need not be antithetical to transracial adoption placements. In fact, children who receive parental care from non-indigenous parents need not

⁴²⁶ Hearst, *Children and the Politics of Cultural Belonging*, 192.

⁴²⁷ Richard, “Against Aboriginal to Non-Aboriginal Adoption.”

be isolated from their communities of birth upon placement. Rather, the relationship can persist post-placement, allowing the child to gain the goods of both a stable, permanent, loving home, and sustained connection with members of their birth community. Take, for example, the Walsh family in Canada, who exemplifies this continued relationality with their indigenous adopted child Rick's birth family. Although Rick's parents do not share his race, they made concerted efforts to keep him connected to his birth family and community "by encouraging telephone calls and correspondence, and by inviting the families to visit".⁴²⁸ Once Rick's birth family reciprocated the Walsh's communication and visited the Walsh's over a weekend, Rick and his adopted siblings made periodic visits up north to visit his birth family. Rick's father, Roy, describes his now-late son as "the epitome of being connected", for he maintained relationships on his own terms with members of his birth community, as well as friends, colleagues, and others with whom he connected in his daily life.⁴²⁹ This is a case of how one family effectively navigated the cultural landscape in their transracial indigenous adoption.

Hearst draws attention to the importance of approaching issues of children's belonging from a collaborative perspective. She explains:

Communities that seek to revitalize themselves by reclaiming children whose connections are highly attenuated must be willing to seek an accommodation with competing communities. Moreover, disadvantaged communities must be realistic about their own abilities to cope with large numbers of vulnerable children. Although the precarious position of many children in such communities can typically be traced to a series of historic injustices, not every injustice is easily or immediately remediable, and providing immediate care for vulnerable

⁴²⁸ Carriere and Scarth, "Aboriginal Children: Maintaining Connections in Adoption," 207.

⁴²⁹ Carriere and Scarth, "Aboriginal Children: Maintaining Connections in Adoption," 207.

children is a problem of such magnitude in many communities that it may be difficult, if not impossible, for marginalized communities to respond adequately in the moment. At the same time, privileged communities must not jump to the conclusion that the best solution is always to remove children through adoption or foster care, and make more than illusory efforts to alleviate the problems that lead to large numbers of abandoned and needy children in the first place. ...

This kind of compromise and accommodation is largely absent from the political contest over adoption currently being waged on both the domestic and international fronts.⁴³⁰

Importantly, the relationship between birth and adoptive families needs to be one of mutual respect and collaboration. Adoptive parents must be willing to facilitate connections with their child's birth communities, and birth communities should remain supportive of the child and their adoptive parents post-adoption.

My view of adoptions as involving collaborations between a child's birth and adoptive families (where possible) solves the problems associated with the 'liberationist view' of children's belonging that is dismissive of groups' claims to children in light of historical and ongoing oppression, and which is also inattentive to the needs of some adoptees for close community connections. Viewing adoptions as collaborations between communities – both birth and adoptive – highlights the importance of forming networks of care to meet children's needs, primarily for parental care but also for developing secure and healthy social (e.g., racial) identities. Instead of relying on birth parents or adoptive parents to fulfill all of a child's needs, my view of adoptions as collaborative recognizes the importance of working with others to provide children with appropriate supports throughout their lives. Roy Walsh, an adoptive father of eleven children, imparts the following wisdom: "If we are to

⁴³⁰ Hearst, *Children and the Politics of Cultural Belonging*, 4.

succeed in this dialogue, it will be with the understanding that parents are not proprietary owners of children. Whether they come to us by birth, by legal sanction, by blended families, or unanticipated circumstances, we are only entrusted with their care for a short time. We are accountable to them for this privilege”.⁴³¹ Helping children develop healthy, secure identities can be done outside the care of birth communities or same-race parents, as long as we conceive of adoptions as existing within larger networks of relationships.

4.3. Implications for a Duty to Adopt

In this chapter, I have argued in favour of a child-centered, collaborative approach to adoptions. My view has two main implications for a duty to adopt. Recall that, in Chapter 2, I developed three potential objections to the duty, founded on appeals to a limited right to procreate for reasons of reparative justice, racial solidarity, and cultural preservation. In Chapter 3, I made a compelling case that these group-based goals can be pursued through adopting children within or outside one’s racial group. In this chapter, I went beyond that rebuttal and addressed a more fundamental idea: that the needs of individual children to have parental care outweigh group-based interests in not adopting or in resisting adoptions by those outside one’s racial group. Children who need parental care should not be denied care as a result of group interests that compromise their chances of adoptive placement.

The two implications of a duty to adopt are as follows. First, communities who are unable to provide parental care for their children must be open to allowing their children to be adopted by people outside the community who are willing and able to provide this care. Second, prospective parents who are members of racially oppressed groups must honour a moral duty to provide parental care (i.e., a duty to adopt) for children outside their racial group.

⁴³¹ Cited in Carriere and Scarth, “Aboriginal Children: Maintaining Connections in Adoption,” 207.

My argument in this chapter was that children's needs for parental care cannot be overridden by group-based interests that privilege procreation over adoption or attempt to justify not adopting children outside one's racial group. I have articulated a view of adoptions as involving collaborations between birth and adoptive families, where possible, for the purpose of helping children develop healthy identities and for guiding – to an appropriate degree – the extent to which children would like to maintain or withdraw connections with their communities of origin.

5. Conclusion

In this final chapter, I argued against a view of children as being tightly and interdependently bound to their birth communities, and also against a view that children are liberated individuals who are entirely disconnected from their communities of origin. Crucially, where the needs of individual child for parental care come in tension with the interests of oppressed groups who claim authority and sovereignty over children, I defended a view of adoptions as being child-centered and involving collaboration between the child's birth community and adoptive family, so as to meet the child's best interests. As it pertains to a duty to adopt, I made the case that the needs of individual children take priority over group-based interests in seeking (through procreation, or against transracial adoption) reparative justice, racial solidarity, cultural preservation, sovereignty, etc. Structural inequalities that render children parentless or otherwise in need of parental care need to be addressed, but because these are massive problems that require long-term solutions, I maintained that children who need parental care should not be denied that care in the meantime. Instead of viewing children as proprietary entities of parents and birth communities, my view allows us to view adoptions as existing within larger networks of relationships, in which we all play a role in helping children develop healthy and secure identities as they grow. This chapter concludes my final defense of a duty to adopt.

Conclusion

In my dissertation, I have argued that all prospective parents have a moral duty to adopt children rather than procreating. I defended the duty from a series of objections, with a special focus on group-based claims to reparative justice, racial solidarity, and cultural preservation in favour of procreation and against transracial adoptions. I began by introducing the framework of the duty, reviewing its foundational structure of obligatory rescue and defining its scope and force. Then, I engaged with proposed defeating conditions to the duty, ranging from parental desires for a child who shares physical resemblance, to desires to experience pregnancy, to concerns about the appropriateness of obligating aid in the form of adoption. I responded to each objection in turn, demonstrating the persuasiveness of a duty to adopt.

Having established the strength of the duty and its resilience against many objections, I then evaluated a set of challenges that are overlooked in existing philosophical literature, namely, those that are group-based (i.e., deriving primarily from one's membership in a social group). I distinguished group-based reasons from self-regarding, child-centered, and other-regarding reasons. After describing two relevant theories of race, I developed three group-based reasons in favour of procreation: for reparative justice, racial solidarity, and cultural preservation. I argued that members of racially oppressed groups seem to have strong reasons for justifiably forgoing adoption in favour of procreation, thereby overriding a duty to adopt. On the reparative justice argument, the claim is that members of racial groups that have experienced historical or ongoing oppression in the form of anti-natalism or reproductive injustices are entitled to procreate as a way of reclaiming and asserting their procreative liberties. On the racial solidarity argument, members of racially oppressed groups are entitled to procreate as an act of political resistance and as an expression of self-worth and affirmation of one's group. On the cultural preservation argument, members of racially oppressed groups have a right to procreate as a means of honouring one's cultural traditions, resisting cultural assimilation, or passing on one's culture

through ancestral lineage. I argued that these three reasons pose very strong objections to the duty to adopt and, for this reason, are worth taking seriously.

With these three looming challenges to the duty to adopt, I then argued that each of them does not provide definitive support for procreation over adoption but, rather, provides compelling reasons for members of racially oppressed groups to adopt children within or outside their racial groups instead of procreating. To set the stage for these arguments, I provided demographic information about child welfare systems on a global scale and within localized contexts, drawing attention to disproportionate overrepresentation of children of colour and racialized children. On the reparative justice argument, prospective parents who are members of racially oppressed groups should adopt children of the same race as a way of reclaiming familial and community bonds that have been compromised through familial injustices enacted by the state. Moreover, reparative justice can be achieved through widespread racial integration, including adoptions that involve differently raced children and parents. On the racial solidarity argument, providing parental care for children who share one's race is a way of expressing bonds of social and political solidarity. On the cultural preservation argument, prospective parents who are members of racially oppressed groups would benefit from adopting children who share one's race by passing on culture through these familial lineages. Moreover, adopting children outside one's racial group is a way of expanding a group's cultural influence and growing one's cultural community through enculturation of one's children and future lineage. All in all, I made the case that group-based reasons to favour procreation do not successfully override one's duty to adopt but, rather, support adoption of children within or outside one's racial group. However, I noted a few outstanding group-based challenges to the duty.

Finally, I argued that group-based interests – to seek reparative justice, racial solidarity, cultural preservation, and also political goods such as sovereignty – cannot override the needs of individual children for parental care. I contrasted two views of children's belonging, one that views children as representatives of their communities of origin and another than views children as

disconnected individuals who are liberated from any attachments to their communities of origin. I critiqued each of these views and showed how neither of them adequately characterizes children's relationships to their communities of origin. I offered my own view of adoptions as child-centered and collaborative, bridging a gap in the two views in a way that harmonizes the dissonance in how children are viewed. I emphasized the importance of listening to children's voices in helping to shape their relationships with birth communities, and the importance of birth and adoptive families to collaborate so as to provide children with parental care and also supports so that they have access to community connections as they grow. Ultimately, I refuted attempts for communities to hold onto children to the detriment of children's expedient placement in adoptive families as needed, and for prospective parents who are members of racially oppressed groups to appeal to procreation or attempts to justify their stance against not adopting children outside their racial groups. Crucially, the implication for a duty to adopt is that group-based interests cannot override the needs of individual children for parental care.

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Curriculum Vitae

Name: Veromi Arsiradam

Post-secondary Education and Degrees: Western University
London, ON, Canada
2012-2018 PhD, Philosophy

Dalhousie University
Halifax, NS, Canada
2010-2012 B.A. (Hons), Philosophy

Selected Honours and Awards: SSHRC Doctoral Fellowship
Social Sciences and Humanities Research Council
2015-2016, 2016-2017

Faculty Scholarship
Faculty of Arts and Humanities, Western University
2016-2017

Doctoral Research Excellence Award
School of Graduate and Postdoctoral Studies, Western University
2016-2017

Western Graduate Research Scholarship
Department of Philosophy, Western University
2012-2017