Chapter 8
Wrongful Life and Procreative Decisions

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Abstract This paper defends and refines the claim that procreation can be wrongful. Procreation is wrongful first when the "nonexistence condition" is met: the person's life will be filled with suffering that cannot be ameliorated or empty of all the things that make life worth living. Recognizing that this condition is rarely met, the paper then argues that it is wrong to create a person in less extreme circumstances: when the person is likely not to have a minimally decent life, one in which certain important interests cannot be satisfied. Although we must be very cautious about concluding that any particular impairment precludes a minimally decent life, there will be circumstances in which a future life is unlikely to hold a reasonable promise of containing the things that make human lives good. In these circumstances, and if reproduction is avoidable, we are required to forego reproduction altogether.

Keywords Harm · Benefit · Interests · Rights · Minimally decent life · Non-identity problem.

8.1 Introduction

Many people would agree that if a child is going to born under very disadvantageous conditions, it would be wrong to reproduce, and indeed a wrong to that future child. However, it turns out to be surprisingly difficult to support this claim, in cases where nothing can be done to prevent the disadvantageous condition, except to prevent the child's birth altogether. To capture this unique feature, David Heyd terms these cases "genesis problems."[1] The precise nature of genesis problems is explained below in Section 8.3, The Philosophical Problem. I will start, however, by pointing out that genesis problems challenge some widely held intuitions, and raise the following question: when it is likely that the child will be born under adverse conditions, and has "no other way of getting born," can concern for the welfare of the child ground an obligation to avoid reproduction?

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By "obligation to avoid reproduction," I mean an obligation to avoid the deliberate or intentional conception of a child. I am not addressing the question of whether abortion can ever be morally required of a woman, because that is a much more complicated issue, which turns on such issues as the moral status of the unborn and the woman's right of self-determination. There is no consensus about either issue. For some, a fetus is morally equivalent to a born child. It would be no more permissible to abort the fetus, out of concern for its welfare, than to kill a born child. For those who regard the fetus as having a lesser moral status, abortion is permissible for a range of reasons, including the welfare of the future child. However, even for those who think that abortion can be *justified* in certain cases by concern for the welfare of the child, it does not follow that abortion would be morally *obligatory* in those cases, i.e., that the decision not to abort would be morally wrong. For example, a justification for abortion might be that the woman already has as many children as she can care for. Given a pro-choice perspective, the decision to abort would be permissible, but the opposite decision not to abort would not be immoral. These are decisions that are, for the most part, up to the women who have to make them. The right to bodily self-determination certainly includes a right not to be forced to have an abortion, but, I would argue, it also includes a right to make one's own moral decision about abortion. This is not to say that every abortion decision is morally correct. It is possible to imagine ill-considered abortions, or abortions done for morally bad reasons, although such cases are most likely rare in real life.[2] It may be possible to imagine a morally bad decision to continue a pregnancy, but for the most part, such decisions are not considered immoral, and it would be unusual, to say the least, to claim that a pregnant woman has an obligation to kill the fetus, out of concern for its future well-being. By contrast, it is not at all odd or unusual to suggest that starting a pregnancy in disadvantageous circumstances would be irresponsible and indeed unfair to the future child. It is this judgment about conceiving a child that I examine in this paper, where the decision to procreate is clearly intentional and voluntary. This will have implications for the scope and limits of procreative liberty, and for ethical judgments about risk in assisted reproduction.

For example, the main objection to reproductive cloning in the National Advisory Bioethics Commission's report was an unacceptable level of risk of serious defects in offspring.[3] The question of risk to offspring also comes up in the President's Council on Bioethics' White Paper on alternative sources of stem cells. One proposal is based on an analogy with pre-implantation genetic diagnosis (PGD). It suggests that one or two stem cells could be removed from an embryo without damaging the embryo. The embryo then could be implanted to start a pregnancy. Although PGD is widely regarded as safe, the President's Council rejected the proposal, primarily on the ground that in the absence of long-term safety studies, it is not possible to determine conclusively that embryo biopsy is safe for the future child.[4]

Objections to reproduction under adverse conditions can be based on emotional as well as physical harm. For example, critics of postmenopausal motherhood have argued that a woman who has a child in her fifties or even sixties might not be able to be an adequate parent. How, they ask, will she handle a rambunctious two-year-old

or a rebellious teen? Moreover, women who have babies in their sixties may not live to see their children grow up. Art Caplan has suggested imposing age limits for infertility treatment,[5] to avoid creating children who will be orphaned at a young age. In addition, he argues that even if these children are not orphaned before adulthood, they are likely to be prematurely burdened with the care of an elderly parent. Is it fair to the children, he asks, to have such old mothers?

8.2 How Bad Is It?

Much of the debate centers on empirical questions that relate to the badness of the harmful condition, including how severe the harm is, and how likely is it to occur. But these are not the only questions, since we should also ask whether the harm can be lessened, even if not prevented entirely. Having an older mother is not ideal for children, perhaps, but surely it is not a tragedy either. Today, it is not uncommon for women in their forties to have babies. Perhaps in ten years, motherhood in one's fifties will not be a rarity. As women live (and are healthy) into their eighties and even nineties, the "orphan objection" may no longer be an objection to postmenopausal motherhood. In addition, many older women have had to take on the job of raising their grandchildren, and have done a pretty good job. If they can be good child rearers, it would seem that postmenopausal women can be good (or good enough) mothers as well.

8.3 The Philosophical Problem

The truth is, we often do not have very reliable evidence about the impact of these various technologies and arrangements on offspring. Sometimes objections are based on "gut reactions" and a fear of what's unusual, rather than solid empirical evidence. Sometimes they are based on stereotypical thinking and prejudice: gay and lesbian couples have been prevented from using infertility services and adoption, because of an unfounded belief that they cannot be good parents.[6] We should be very careful in attempting to assess the empirical questions regarding the impact on offspring, to avoid unnecessarily depriving individuals of the right to have children.

However, there is a deeper philosophical issue raised by all of these examples because the technology or arrangement that results in the child's being born in a harmful or disadvantageous condition is at the same time the condition of the child's being born at all. Thus, the examples under discussion differ importantly from other examples of prenatal harming, where something can be done to prevent the harm to the child. For example, a pregnant woman can reduce the risk of prematurity or low birth weight (which are associated with various health risks) in her baby by not smoking or drinking alcohol. She can lessen the risk her child will have a neural tube disorder by getting enough folic acid in her diet. In fact, she can do this even before she gets pregnant. The fact that the child does not yet exist is not

the relevant factor. What is important is that the harm can be prevented. The child who is harmed when the harm could have been prevented has, in most cases, a legitimate grievance against the individual or individuals who could have prevented the harm. By contrast, in genesis cases, nothing can be done to prevent the harm to this child. It's life with the disadvantage or no life at all. And that makes the question of whether bringing the child into existence in a harmful condition is "unfair to the child" a much more difficult one.

Genesis problems are particularly vexing because our intuitions often go one way, while the arguments seem to go another. Another motive for examining genesis problems is that they have profound implications for ethical theory, in particular, the explanation of why wrong acts are wrong. On one plausible ethical view, acts that are wrong must be wrong for someone. Moral principles, on this view, must concern the interests of individuals; they must be "person-affecting."[7] Genesis problems pose a challenge to this assumption because they seem to provide examples of wrong acts that are not a wrong or a harm *to* anyone.

8.4 Preventing Births to Protect Children

8.4.1 Robertson's Analysis

John Robertson, perhaps the best-known advocate for procreative liberty, has argued that banning risky procreative technologies or arrangements *out of concern for the welfare of offspring* makes no sense.[8] As Robertson puts it, "But for the technique in question, the child never would have been born. *Whatever psychological or social problems arise, they hardly rise to the level of severe handicap or disability that would make the child's very existence a net burden, and hence a wrongful life.*"[9] However well-meaning, the attempt to protect children by preventing their births is illogical.

The extent to which this view differs from conventional thinking cannot be overstated. Virtually every professional society or national commission or oversight group that has considered the matter takes for granted that expected impact on offspring must be taken into consideration in determining the permissibility of a reproductive treatment or arrangement. The British Human Fertilization & Embryology Act of 1990 explicitly provides that a "woman shall not be provided with treatment services unless *account has been taken of the welfare of any child who may be born as a result of the treatment* (including the need of that child for a father), and of any other child who may be affected by the birth."[10] It is not clear precisely what is meant by "taking account of the welfare of the child": for example, how severe or likely the harm would have to be to deny treatment services. However, the mention of "the need of that child for a father" suggests that all sorts of social factors should be considered, and could justify denial of treatment. By contrast, on Robertson's account, the procreative liberty of individuals can be limited only when the predicted harm would constitute a "wrongful life." If the child has a life

that is, on balance, worth living, from the child's own perspective, despite whatever disadvantages it has, then, Robertson maintains, its life logically cannot be regarded as a harm or wrong to the child.

I am not concerned with the tort of wrongful life here, or the question of whether such cases can fit under traditional understandings of tort law.[11] The primary issue in wrongful life cases is whether the infant plaintiff deserves *compensation*,[12] whereas my concern in this paper is procreative responsibility, and whether there is an obligation not to have a child in the first place. Still, wrongful life cases are useful for understanding how birth in very disadvantageous conditions can plausibly be seen as a harm or a wrong to the child.

8.4.2 Feinberg's Counterfactual Analysis of Harming

The idea that children can be harmed by being born may seem incoherent. For to say that the child has been harmed by being born is to say that the child has been made worse off. But how can someone be made *worse* off by coming to exist? Nonexistence is not a better condition to be in; it is no condition at all. This suggests that it is impossible to harm someone by causing him to exist.

Joel Feinberg suggests that this conclusion comes from failing to distinguish between two interpretations of what it is to make someone worse off. On one interpretation, which Feinberg calls the "worsening condition," to make someone "worse off" is to make him worse off than he *was*. Clearly, the worsening condition cannot be satisfied in the wrongful life situation. No one can be worse off *than he was* before he existed, since this suggests comparing the existing individual with himself before he existed, which is absurd. However, to make him worse off can also be interpreted counterfactually where it means "worse off than he would have been." The counterfactual claim is that the child would have been better off not coming into existence, or "better off unborn." Before explaining what this might mean, let us consider an objection to the counterfactual analysis of harming.

8.4.3 Harris's Objection

John Harris rejects the counterfactual analysis as unnecessarily complicated. To be harmed, according to Harris, is simply to be put in a condition that is harmful. He writes, "I would want to claim that a harmed condition obtains wherever someone is in a disabling or hurtful condition, even though that condition is only marginally disabling and even though it is not possible for that particular individual to avoid the condition in question."[13] To harm someone, on Harris's account, is just to be responsible, causally and morally, for the person's being in that harmed condition.

Harris's account seems counterintuitive, as is revealed in the following pair of examples. In the first example, a woman who is a smoker continues to smoke during her pregnancy, despite knowing the risk of causing asthma in her child. If the child is born asthmatic, she has harmed her child, in a straightforward sense of

"harm"; the child has been made worse off by the woman's behavior. He or she could have been born without asthma, if the woman had stopped smoking during pregnancy.[14] Contrast this case with a woman who has asthma because of a genetic predisposition.[15] She decides to have a child, hoping that her child will not inherit her genetic predisposition, but well aware that any child she has might be asthmatic. On Harris's analysis, if she has a child who has asthma, she too has *harmed* her child, and just as much as the woman who continues to smoke during pregnancy. She is causally responsible for the child's being born with asthma, as well as morally responsible, in the sense that she knew of the risk and (let us assume) chose to keep smoking when she could have stopped.

Harris's analysis, which equates the two cases, seems quite wrong. The difference is that the smoker could have prevented her baby being born with asthma, while the non-smoking asthmatic could not. The only way she could prevent the birth of a child with asthma would be to avoid having a child at all. Not only does Harris's analysis fail to distinguish between the two examples, but it has the counterintuitive implication that virtually all of us harm our children, because all of us pass on genes associated with disadvantageous, though not disastrous, conditions, such as nearsightedness, acne, or allergies. To have a child, on this view, is to harm him or her.[16]

Responding to this objection, Harris agrees that his account makes all parents *causally* responsible for the harms they genetically transmit, but maintains that this sense of "responsible" is trivial. Parents are not *morally* responsible for the harms they cause "unless they were, first, aware that they were likely to transmit those harms and, second, aware of a better alternative child, or a better possible alternative child, and could, realistically, have produced that child instead."[17]

I do not dispute Harris's claim about moral responsibility for harm. However, while I agree that one may be morally responsible for having a child in a harmful condition if one could have substituted a different child (see below Section 8.7.2), it is hard to see how the possibility of substitution can be a condition of causal responsibility for harm. How does the fact that one could have avoided the harmful condition, by bringing a *different* child into existence make it the case that if one fails to make the substitution, one has harmed *this* child? How does the existence of a better option affect whether this child is harmed by being born? The existence of a better option, and the failure to adopt it, may be part of an argument that one has behaved irresponsibly or wrongly, but it is hard to see what role it plays in an argument that the child born with a disadvantageous condition, who could not have been born in a better condition, has been harmed.

To show that the child has been harmed, we need a counterfactual analysis like Feinberg's, which aims at explaining how it is possible for someone to be "better off unborn."[18] The first step is to ask what this means. Many people find the expression "better off unborn" baffling. They maintain that since we cannot compare the child's impaired condition with non-existence, it makes no sense to say of any individual that he or she would be better off never having come into existence. To address this conundrum, Feinberg suggests that we think about a comparable claim, "better off dead." The phrase "better off dead" does not express the absurd idea that

non-existence is a better condition for someone to be in than life; non-existence is not a condition of a person at all. Rather, the phrase expresses the idea that sometimes the burdens of life outweigh the benefits—that from the individual's own perspective, life is not worth living.

While it is fairly easy to understand what this means in the case of a competent adult, it is trickier to be able to claim, with any certainty, that a never-competent infant would be "better off dead." Infants lack the cognitive ability to have complex preferences, such as "I prefer death to life under such-and-such conditions," making it extremely difficult to say, on behalf of an infant, that he is better off dead or that it is better *for him* to die. John Robertson provides the provocative example of a child who is profoundly retarded, nonambulatory, blind, deaf, and who will spend a brief life in a crib on the back wards of a state institution. (This last is a social factor which could be ameliorated and so is not really relevant, but I leave it in as it is part of his example.) Robertson says that although you and I might find such a life horrible to contemplate, and might prefer death, the child, who has known no other existence, might disagree. "Life and life alone, whatever its limitations, might be of sufficient worth to him."[19]

It appears that two conditions are necessary for us to be able to assert with any confidence that an infant is better off dead: excruciating physical pain and such a brief life span that the child is unable to develop any compensating abilities. Such conditions are very unusual. Most newborns who have serious disabling conditions do not have lives that will be pure torture. Nevertheless, there are some cases in which it is possible accurately to predict that they will. Given a choice between a brief life filled with nothing but severe and unrelievable pain, we can say, sadly, that the baby would be better off dead. If the baby would be better off dead, it seems that the baby would be better off unborn. We should, however, examine the notion of what it is to be "better off unborn" a bit more closely.

8.5 The Nonexistence Condition

8.5.1 A Test for Harm

As noted above, the claim "better off unborn" does not refer to any preference the impaired infant actually has. Instead, this claim is one that would be made on behalf of the infant plaintiffs by proxy choosers who act as advocates for the infants, concerned to promote their overall welfare. The proxy choosers are not to substitute their *own* views of what makes life worth living. They are not to think about the conditions under which *they* would prefer nonexistence. Rather, they are to view things, as much as possible, from the children's perspective.[20] The judgment that these children would be "better off unborn" is warranted if all the children's interests (whatever they might be) are inexorably doomed to defeat by their incurable condition. "Thus," Feinberg says, "it would be irrational—contrary to what reason decrees—for a representative and protector of those interests to prefer the continuance of that condition to nonexistence."[21] Let us call this standard *the nonexistence*

condition. If the nonexistence condition is fulfilled, the child has been harmed, and therefore wronged, by birth.

The question I want to consider now is whether a child can be said to be harmed or wronged by birth only if the nonexistence condition is satisfied. Consider the following example. After years of trying to have a child, an infertile couple resorts to IVF and is able to have a much-loved child, Junior. Unfortunately, Junior turns out to have an inherited disorder that causes a massive failure of bone marrow cell production, and can lead to leukemia. Junior is healthy at present, but he probably will need a bone marrow transplant in the future, and possibly a kidney transplant as well. As it happens, the couple has several leftover embryos in storage and one is both disease-free and a perfect tissue match. The couple hires a surrogate to bring the embryo to term, with the idea that the child will be a source of bone marrow for Junior. They do not neglect or abuse "Donor" (as they name him). They just do not feel about him as they do about Junior. Indeed, they consciously suppress any tender feelings toward Donor since that might inhibit them in using him as a source of organs for Junior, should the need arise. Unlike real-life cases,[22] where children have been conceived as "savior siblings," but also loved for themselves as members of the family, this couple never intended to love Donor. If the couple did not want Donor as anything but a source of spare parts, they should not have had him in the first place. What they did was wrong, and moreover, a wrong *to* poor Donor.

On Robertson's analysis, however, it seems that Donor has not been harmed or wronged. If Donor were to complain of his lonely, loveless existence, his parents could point out that, had they not needed the bone marrow for Junior, Donor would not be here today. He'd still be a frozen embryo. Admittedly, Donor's life is pretty bad, but he does not want to die, nor would he prefer never to have been born. Since the nonexistence condition is not met, Donor has not been harmed or wronged by birth. That, I would argue, is completely implausible. The fact that Donor does not long for death or regret having been born surely does not get his parents off the moral hook. But is this example a counter-example to Robertson? Not necessarily. For it may be possible to treat these examples so that they fall under the sorts of ordinary person-affecting principles that Robertson himself seems to rely on. This approach is taken by Melinda Roberts.[23]

8.5.2 A Person-Affecting Solution: The Third Option Approach

Like Robertson, Melinda Roberts believes that the nonexistence condition must be fulfilled for existence to be a harm or wrong to a child who has no other way of being born. However, she thinks that Robertson mistakenly assumes that if the progenitors *would not have reproduced* except under the conditions as presented, the child's only alternatives are life with the disadvantage or no life at all. His mistake is to focus exclusively on what the couple *would have done*, instead of on what they *could have done*. If they could have brought the child to birth in a better condition, then they *have* harmed and wronged him. Perhaps this strategy can be used with the example

of Donor. It could be argued that Donor's options are not only either (1) life as an unloved child or (2) nonexistence. There's a third alternative: life as a loved and wanted child. The couple's failure to choose this third option makes Donor worse off than he *could have been* and explains why he has been harmed and wronged.

Roberts' analysis is consistent with the robust moral intuition that Donor's parents acted in an appalling fashion. It is not clear, however, that her strategy for deriving this conclusion is successful. It depends on whether a third option was in fact available to the Donor's parents. Certainly they could have *treated* Donor better. They could have treated him the same as Junior. But could they have *loved* Donor? Saying "they should have had him and loved him" sounds a little like the parental admonition to "eat it *and* like it," which has at least the ring of paradox. However, in my example, this third option is not realistically available, since the whole point of having Donor is as a source of spare parts for Junior. His parents deliberately avoid developing tender feelings for Donor so that such feelings will not get in the way if Junior needs his organs. Thus, it seems that a "third option" is not available to Donor's parents—they could not have had him and loved him in the circumstances—and therefore, on Roberts' analysis, they did nothing wrong. This, however, is morally outrageous. Having Donor as a source of spare parts for Junior is wrong, even if the resulting child does not want to die, even if he regards his life as on balance, worth living.

8.5.3 The Decent Minimum Standard

A more plausible criterion for "rightful" birth than the nonexistence condition is one in which life is actually a benefit to the child, as opposed to a life that is wretched, although still worth living. For life to be a positive benefit, certain minimal conditions must be satisfied, and therefore we can call this criterion for responsible procreation the "decent minimum standard." A decent minimum is reached only if life holds a reasonable promise of containing the things that make human lives good: an ability to experience pleasure, to learn, to have relationships with others. If someone's life will be inevitably and irremediably bereft of many of these goods, then we do that person no favor by bringing him or her into existence; indeed, knowingly and voluntarily to conceive a child under such conditions is a harm and a wrong to the person. This aspect of the decent minimum standard focuses on the child's capacities for a good human life. In addition, the ability to be a good enough parent is also part of the decent minimum. I maintain that it is wrong, irresponsible procreation, to have a child if one knows that one lacks either the ability to love the child or the capacity to care properly for him or her.[24]

It might be argued that building into a decent minimum the ability to love one's children is implausible, since many people have parents who did not love them, but who still have lives well worth living. Indeed, in some cases of artists, writers, or actors, what makes their lives well worth living is a talent that derives precisely from having been deprived of parental love. If children can have lives that are well worth living, despite inadequate parenting, how is it possible to maintain that their

parents wronged them by having them? In response, I would argue that, while it is possible that a child may flourish, even without parental love, the foreseeable result is that the child will have a very diminished life. Most children need a secure basis of (at least) mother-love to be psychologically healthy. Without that basis, they are likely to have profound feelings of unworthiness and self-loathing, which make it difficult or impossible for them to have healthy relationships with others. No one should impose that on a child right from the start, not if it can be avoided. Where the only way to avoid giving a child that kind of diminished life is to avoid his or her birth, that is the responsible choice to make.[25]

The intuition behind the decent minimum standard is that children have a right to something more than lives that are barely worth living, and individuals have a corresponding obligation not to have children under sufficiently awful conditions. Granted, no one can guarantee that one's child will be happy, and the mere possibility of hardship and burden does not make procreation wrong. At the same time, if individuals know, or should know, that they cannot provide their children with minimally good lives, then they should refrain from procreation, where this is possible.[26]

The idea motivating this principle is that becoming a parent is not solely, or even primarily, a right. It is also, and primarily, an awesome responsibility. Prospective parents must think not simply of their own reproductive interests, but also of the welfare of their offspring, and this means thinking about the kinds of lives their children are likely to have. To bring a child into the world knowing that a decent minimum cannot be achieved is wrong; indeed, it is a wrong to the child.

To say that birth is a wrong to, or unfair to, the child suggests that the child has an interest in not being born. But how should we understand this interest? We certainly can ascribe to individuals an interest in not having lives that it would be contrary to reason to prefer, i.e., lives that meet the nonexistence condition. What I am suggesting here is that we can also say that people have an interest in not having lives that fall above the nonexistence condition, if they fall below the decent minimum standard. That is, it is not only lives that amount to pure torture that it is reasonable to reject, from the perspective of preconception existence, but also lives that are not minimally decent. If this is right, then it is possible to ascribe to individuals an interest in minimally decent lives, and to say that if they are knowingly brought into the world when this interest cannot be met, they have been wronged.

The question remains, how bad is too bad? At what point would it be wrong, unfair to the child, to bring him or her into the world? This is an issue on which reasonable people can disagree, at least about cases in the middle. We can expect considerable (though probably not unanimous) consensus about lives that fall well below a decent minimum (e.g., Robertson's deaf, blind, paralyzed, and profoundly retarded child), as well as consensus about lives that, despite certain disadvantages, fall well above (e.g., having asthma or being very nearsighted). However, we can expect disagreement about cases in-between, conditions such as Down syndrome, cystic fibrosis (CF), spina bifida, achondroplasia. On the one hand, prospective parents should be realistic about the burdens and limits such conditions may impose. Their desire to have a biological child is not the only relevant factor. On the other

hand, there are many individuals with serious disabilities who have lives that are well worth living. *Having a disability, even a serious one, does not entail life below a decent minimum.* Prospective parents who can provide their child with a life well worth living, despite a disease or disability, are not morally required to abstain from procreation. What they cannot do is claim that, on the grounds that the nonexistence condition will not be met, the prospect of a harmful condition is *morally irrelevant* to their decision.

Someone might ask why we should not raise the standard and say that prospective parents have an obligation to give their children lives that are, not just at the decent minimum level, but something much better than that? After all, we think that parents ought to make sacrifices for their children's health, education, and general welfare. They are poor excuses for parents if they settle for a decent minimum once the children are born; why not say that procreation is wrong unless offspring can be reasonably expected to have very good lives, lives considerably above a decent minimum?

It would be morally *permissible* to avoid having children under adverse conditions, on my view, since there is no moral obligation to have children at all. Refraining from having children is not something that needs justification. The question is whether individuals have an obligation to forego reproduction altogether, if the child is likely to experience physical or psychological harm. It seems to me that the higher one sets the bar, the less plausible it is that there is such an obligation. Why are individuals morally required to give up their dream of becoming parents, especially if they can be wonderful parents, simply because the child is likely to have more than the usual set of problems?

The nonexistence condition is arguably the right standard for ending someone's life, precisely because it is so restrictive.[27] Euthanasia—for example, killing an infant with serious defects—would only be justified if we had very good reason to think that the child's life would be unbearable. However, the nonexistence condition does not seem to be a reasonable standard for *bringing someone into existence*. That is, there seems to be an asymmetry between ending and starting a person's existence that is relevant to the morality of procreative decisions.

8.5.4 The Asymmetry Between Ending and Starting Lives

Existence makes a difference. We need not concern ourselves here with the thorny question of *when* a human being comes into existence, whether at conception or sometime during pregnancy, at birth, or sometime after birth. *Whenever* an individual comes into existence, the point I am making here is that ceasing-to-exist and never-coming-to-exist are not the same thing. Cynthia Cohen explains the difference this way:

> Death is terrible, in part, because it prevents us from having future goods that we would have had if we had remained alive. The awfulness of death is also grounded in the fact that it robs us of those goods that we already have. Preconception nonexistence, on the other hand, does not involve the loss of life's goods, nor does it deprive us of goods that we

> already possess. There is no loss incurred by possible children who are not brought into the world, for there is no actual "we" who could suffer such a loss at this point.[28]

There is a natural and widespread reluctance to relinquish life, even under the worst conditions. There is a tendency to "cling to life" even when its burdens are great and its benefits marginal. Because we know that people generally prefer to go on living, even when life is filled with suffering, the standard for saying that a person's life is not worth living, or that he or she would be better off dead, should be set quite high. The question we must ask is, "Is life better than death for this individual?" From a pre-conception standpoint, however, the standard is different, because we need not consider the tendency to cling to life, and to want to go on existing, even under the most miserable of conditions. Death is bad for people who want to go on living, but never-existing is not bad for anyone. We do not grieve for the limitless numbers of people who never were born, and this is not callousness on our part. There literally is no one to be sorry for! Of course, an infertile couple can be anguished about not having a child, but this sorrow, as real and intense as it may be, is not the same as grieving for a child who died. In grieving for a child who dies, there is the thought of *the child's* loss of life, as well as one's own grief in losing the child.

What is the implication of this asymmetry for procreative decision-making? It is this: If we are going to bring people into existence, we should be reasonably sure that existence will *benefit* them, and this is not the case if their lives are barely worth living. Harmful conditions which would never justify terminating the life of an infant can be excellent reasons for not having a child in the first place. The standard, then, for bringing people into the world should be higher than the standard for ushering them out. People have a right not to be brought into the world, where their births can be avoided, unless they can be reasonably assured of a decent minimum of the goods that life has to offer.

8.6 The Human Rights Approach

Like Feinberg and me, David Archard argues that children have a birthright to a life that is above a certain threshold.[29] However, instead of talking about basic interests which are doomed to defeat, Archard sets "the threshold of a minimally acceptable life as one in which the child has the reasonable prospect of enjoying a good number of those rights possessed by all children," as outlined by the United Nations Convention on the Rights of the Child.[30] Archard does not specify what those rights are, which is perhaps not surprising, since there are dozens, including the right to know and be cared for by his or her parents, the right to education, the right to rest and leisure, the right to be protected from economic exploitation, and the right to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

Some have taken the position that it is meaningless to claim something as a right when there is little or no prospect of the duty logically implied by the right

being fulfilled. However, I reject this Benthamite approach.[31] The claim is not that children are already protected by these rights, but that they should be. They are, in Feinberg's term, "manifesto rights." Manifesto rights express moral ideals and aspirations. When we say that hungry children have a right to be fed, we are not necessarily pointing to anyone in particular and saying, "You have the obligation to feed these children." Certainly if a country is too poor to provide its citizens the basic necessities of life, its officials cannot be said to have an obligation to do so. Rather, we use manifesto rights to express the moral claim that a world in which children starve is morally unacceptable and should be changed.

Archard thinks that children who cannot enjoy a good number of the Rights of the Child should not get born, and that those who deliberately conceive them under these conditions wrong them.[32] However, this suggests that the very poor have a moral obligation not to procreate at all, a claim John Harris calls "astonishing."[33] I agree. The very poor are already victims of injustice because of their economic situation. To maintain that they have no right to "marry and found a family"—which, I might point out, is also a fundamental human right[34]—is doubly unjust. Instead of seeing the Rights of the Child as a minimal condition for morally permissible procreation, we should see it for what it is: an ideal. To say that all children ought to have these rights is not to say that those who are less fortunate should not be born at all. It is to say that all of us have an obligation to work toward improving the conditions under which too many children live.

So far, we have been considering situations in which the harm or disadvantage can be avoided only by foregoing reproduction altogether. The moral situation is quite different if it is possible to avoid the harmful condition and still become a parent, for example, by delaying conception. In such a case, the harm is avoided by having a different child. For this reason, it is referred to by Derek Parfit and others as "the non-identity problem."

8.7 The Non-Identity Problem

8.7.1 The Fourteen-Year-Old Girl[35]

Suppose a fourteen-year-old girl decides to get pregnant. Of course, most pregnancies of fourteen-year-old girls are not planned. They happen because very young girls often do not have access to or take responsibility for birth control, or are in denial about the possibility of becoming pregnant. Often pregnancies occur as the result of relationships with men who are considerably older, where even the sexual relationship itself may have been imposed. In such circumstances, it is far from clear that the girl is fully responsible for becoming pregnant. Calling her responsible for the pregnancy, or blaming her for having a child, may seem harsh or misplaced. So let us imagine the unlikely scenario where the pregnancy is deliberate. She has not been pressured to have sex, and she has access to contraception. She decides not to use contraception, in order to have a baby, because of the prestige this would

confer in her middle school. Let us imagine (even more unlikely!) that she attempts to justify her plan to her mother. She says, "What's wrong with wanting a baby? Why are you so opposed?"

Some mothers might respond that it is just wrong to have sex outside marriage. But suppose this mother is not especially conservative about matters of sex. She would like her daughter to wait until she is older to have sex, but even if she cannot persuade her to wait to have sex, she certainly will try to persuade her to delay having a baby. One reason focuses on the hardships her daughter will likely experience. Pregnancy imposes severe health strains on, and is more likely to have complications in, girls who are not yet full-grown themselves. Moreover, she may have to drop out of school to care for the baby, thus limiting her opportunities. In any event, having a baby will deprive her of her adolescence, of spending time with friends, going out at night, etc. If these self-regarding reasons do not persuade her daughter she ought to wait, she should think about the effect on her parents who will probably end up shouldering a great deal of the burden of child care long before they are ready to be grandparents.

Finally, her mother will undoubtedly talk about the impact on the child of being born to such a young mother. Babies born to very young girls are more likely to be very low birth weight, and to be at greater risk of complications such as infection, respiratory distress syndrome, neurological problems, gastrointestinal problems, and sudden infant death syndrome.[36] The child is more likely to grow up in poverty, without a father, and may suffer the associated disadvantages, such as truancy, trouble with the law, and increased risk of drug and alcohol abuse. In addition, few girls of fourteen have the experience and maturity to be good mothers. Her mother might say, "How can you have a baby? For heaven's sake, you couldn't take proper care of your cat, remember? You never remembered to feed it or change the kitty litter. If you don't care about your own future or our feelings, think of your baby. Having a baby at your age is just not fair to the baby."

The girl might respond by refuting the charges of irresponsibility and inability to care for the child. "That was two years ago!" she might say. "You never give me credit for being responsible." Perhaps she has a point. At least in other cultures and other times, fourteen-year-old girls can be good mothers. Shakespeare's Juliet was deemed quite old enough to become a mother, and the same is true in many developing countries, where five-year-olds are entrusted with the care of their younger siblings.[37]

But suppose that the girl does not defend her decision by claiming greater responsibility and maturity than her mother supposes she has. Instead she denies that this is morally relevant. For while she is emotionally immature, she is very bright, and has read Parfit, Harris, and Robertson. She says, "You're undoubtedly right. Given my youth and immaturity, I probably will not be the ideal mother. I might even be neglectful. I agree that I'd be a better mother to a child I'd have when I'm older and more mature. But *so what*? I can't do better by *that* baby. If I wait until I'm twenty and a better mother, I'll have a *different* baby. How can you say that my having a baby now would be unfair to the child?" She has a point. It is extremely unlikely that the nonexistence condition would be met, or even that the child's life would fall

below a decent minimum. How, then, can we justify the strong intuition that almost everyone has that it would be wrong deliberately to conceive a child at such a tender age, and not just wrong, but a wrong to the child?

James Woodward explains the unfairness in terms of failing to live up to the parental obligations the girl will have to her child.

> Alma [the name he gives the 14-year-old girl] will—perhaps unavoidably—fail to give the child the love and affection it requires, or will fail to appreciate the importance of giving it certain kinds of training and education, or will be impatient with the child's demands and physically or emotionally abuse it, or will neglect her child's nutritional or medical needs. I claim that, when this is the case, Alma is roughly in the position of someone who is considering making a promise about an extremely serious matter which she has good reason to expect she will be unable fully to keep. . . . If Alma has her child and fails to meet the duties and obligations she owes to her child, the child has a complaint against her, based on a wrong done to the child.[38]

Woodward's claim that Alma wrongs her child is based on her failure to live up to certain duties and obligations she has to her child, and not on the claim that the child, once born, will be miserable or prefer nonexistence. This expresses the idea that it is possible to wrong someone, or treat that person unfairly, even if he or she is, on balance, better off as a result. His approach has considerable appeal, but it raises the question just what one's obligations and duties toward a future child are. To put it another way, how good a parent would one have to be, or predict that one would be, to avoid failing in one's obligations?

Where the choice is between having a child and not having any child, as in the case of the postmenopausal or HIV-positive woman, we might set the bar relatively low, that is, at the decent minimum standard. Where the choice is between having *this* child and a later child to whom one would be a better parent, one might argue for setting the bar somewhat higher. That is, one is not morally required to delay procreation until one can provide the best possible care or be the best parent one could be. That seems unduly perfectionist, as well as practically unrealizable. (If I have a child at age twenty-five, I'll be physically more energetic than I would be at forty, but I might have more experience and patience at forty. When will I be "the best parent I could be?") A more plausible view is the more modest obligation not to have a child until one will be able to be a "good enough" parent.[39]

A difficulty with Woodward's explanation of the wrong to the child is that it is limited to cases where the prospective parent will be unable to fulfill her obligations and duties to the child. What if the prospective parent could be a good enough parent, but has the option of having a different child in better circumstances? Is there an obligation to have the "better-off" child, and if so, can this be explained in terms of a rights-violation, or unfairness to the child that gets born? This is very problematic, as we see in the following pair of examples, which I have adapted from Derek Parfit and Dan Brock[40]

Angela and Betty

> Angela is pregnant. Her doctor discovers that she has a condition that will result in mild retardation in her baby. The doctor prescribes a medication that will prevent the retardation. But Angela does not want to take the medication, because a side effect of the medication is

that it can cause mild acne. So she does not take it and, as predicted, her baby is born mildly retarded.

Betty wants to get pregnant. However, she is on medication that has the following side effect: if she gets pregnant while on the medication, her baby will be born mildly retarded. Going off the medication is not a feasible option, as it would adversely affect her health as well as her fertility. Fortunately, she only needs to take the medication for a few months. Her doctor advises her to wait to get pregnant until she is off the medication. But Betty does not want to wait. She plans to visit her family during her summer vacation, and so she wants to have the baby in June at the latest. She gets pregnant right away and has a baby in June who, as predicted, is born mildly retarded.

Most people would regard both Angela and Betty as having acted wrongly. I certainly do. Both give birth to a mildly retarded child, when this easily could have been prevented, and for reasons that are morally trivial. Morally, there seems to be no difference between what Angela does and what Betty does. Those who agree accept the "No-Difference View."[41]

However, as I argued earlier, there is a difference in the two cases, a difference that ordinarily would affect our judgments of wrongdoing. The difference is that Angela, but not Betty, has harmed her baby. By not taking the prescribed medication, Angela has caused her baby to be born retarded, when he could have been born with normal intelligence. She has caused him to be worse off than he otherwise would have been, which is the ordinary straightforward conception of harming. But the same is not true of Betty. She has not made her baby worse off than he would have been, or could have been. There is no way that the child she had could have been born with normal intelligence. There was nothing Betty could do to make *him* mentally normal. Admittedly, by waiting until she was off the medication, Betty could have avoided having a child who was mildly retarded. John Harris thinks this is enough to say that Betty has harmed her child, but it is hard to see why. Nothing Betty did or could have done could have prevented mental retardation in the child born in June. Waiting would have enabled her to have a child with normal intelligence, but it would have been a *different child*, one conceived from a different egg and a different sperm.

Some disability rights advocates would argue that *neither* Betty nor Angela harms her child because they reject the idea that it is possible to harm a child by causing or allowing him to be born retarded. This is because they dispute the view of disabilities generally as medical problems or as inherently disadvantageous. Instead, they believe that disabilities, including mental retardation, are largely socially constructed, and become a disadvantage, or a handicap, when the world is not organized to facilitate the abilities of the "differently abled." Mental retardation is not a harmful or disadvantageous condition unless society chooses to make it so.

This socio-political model of disability has some truth in it. It is possible to make changes in society to enable people with certain disabilities to have access to a range of opportunities from which they were previously barred. Wheelchair ramps are a good example. At the same time, not all disabilities are alike, and the claim that disability is completely, or even mostly, a social construction is surely an exaggeration. While society can do a lot to improve the opportunities of those with developmental disabilities, there will always be opportunities foreclosed to them because of their disability. This is a reason to view mental retardation as a harmful condition,

and one to be avoided, if possible. This is entirely consistent with recognizing the worth of individuals who have disabilities, including developmental ones, and their contributions to their families, friends, and the world around them.[42]

If mild mental retardation could be seen as making the child's life fall below a decent minimum, we could argue that Betty, as much as Angela, harms her child. But I deliberately chose mild mental retardation because it falls above that standard. Individuals who are mildly retarded can go to school, make friends, get jobs, and generally have lives that are well worth living, even if limited in various ways. This being the case, we cannot say that Betty has harmed her baby. Nor will Betty fail to fulfill her obligations to the child, like the 14-year-old girl would. So Betty cannot be seen as wronging the child. On what ground, then, can we say that Betty acts wrongly?

Melinda Roberts rejects the view that Betty has done anything wrong; that is, she rejects the No-Difference View. Betty, Roberts says, has not harmed her baby; in fact, given the absence of any third, better alternative for the baby, she's done the best she could by him. This enables Roberts to retain the person-affecting restriction (PAR) in her theory of morality, but at the high price of a completely implausible judgment.

Is there a way to retain the PAR while maintaining that Betty acts wrongly, indeed, just as wrongly as Angela? David Wasserman thinks this is possible. He writes:

> For me, the intuitive difference between choosing to have a child with a given impairment rather than 1) no child or 2) a child without that impairment is best explained by the fact that the parent has a good reason for the choice in 1)—it's the only child she can have—but no obvious reason in 2)—why not wait? Once a reason is supplied in 2), e.g., the mother wants to let her ailing parents get acquainted with their first grandchild, which they will not be able to do if she waits the year necessary to avoid an impairment—the question is whether that is a good enough reason, which may be debatable. But if it is, it justifies rather than excuses her decision to have a child sooner—neither the child she has nor anyone else is wronged, nor does the mother act wrongly in any sense, by acting on a decision made for reasons that are respectful of the future child and compatible with the kind of relationship she seeks to establish with it.[43]

Does this explanation accord with the view that Betty acts wrongly? First, note that in this example, the waiting period is one month, not one year. That is important because while it might impose a significant burden to wait a whole year before having a child, it is hard to see how waiting one month could impose a significant burden, thus giving the prospective mother a good (or good enough) reason not to wait. But second, and more important, the appeal to "good enough reasons" demonstrates the need for impersonal reasons in the morality of beneficence. To Wasserman's question, "Why not wait?" Betty has an answer. She plans to visit her family during her summer vacation, and so she wants to have the baby in June at the latest. Ordinarily, that would be a good enough reason for not wishing to delay conception. No one would blame Betty or think the worse of her for timing her birth to fit into her summer plans. So the question is, why isn't this a "good enough" reason here? Once we acknowledge that Betty hasn't harmed or wronged anyone by having the child with mild mental retardation, the demand for a better reason cannot

be justified in person-affecting terms. It seems that either we have to give up the judgment that Betty's act is wrong—or give up the PAR.

In giving up the PAR, we acknowledge that not all wrong acts are bad for someone. We give up the requirement that there must always be a victim of a wrongful act. We could instead adopt the following principle: other things being equal, it is wrong to have a child in a harmful condition if it is possible to have a different child without the harmful condition. Philip Peters calls this the principle of avoiding harm by substitution, or the substitution principle, for short.

8.7.2 The Substitution Principle

The substitution principle says that when individuals have a choice, they "should choose to bear the child who is likely to suffer the least."[44] While I accept the intuition that the moral requirement is to avoid "gratuitous suffering," that is, suffering that could have been avoided, to insist that individuals must choose the child who will "suffer the least" appears unduly perfectionist. It appears to require individuals to have the healthiest, happiest children they possibly could have, and to make procreation, which falls short of this ideal, morally wrong. I suggest instead this modification of the substitution principle:

> Individuals who face reproductive decisions are morally required not to bring into the world children who will experience serious suffering or limited opportunity or serious loss of happiness, if this outcome can be avoided, without imposing substantial burdens or costs or loss of benefits on themselves or others, by bringing into the world different individuals who will be spared these disadvantages.[45]

This principle is an impersonal principle. It is not person-affecting in that the failure to substitute does not harm any individual, or make anyone worse off, even in the appropriate counterfactual sense. There is no victim of a failure to substitute. And yet, as Peters reminds us, there is a sense in which the substitution principle is person-affecting: namely, that it is based on the badness of avoidable human suffering and limited opportunity. Concern to prevent human suffering can be seen as person-affecting, in a sense, because, as Dan Brock notes, "suffering and limited opportunity must be experienced by some person—they cannot exist in disembodied form. . . ."[46] Jonathan Glover makes a similar point when he says that comparative impersonal principles, that is, those that compare amounts of suffering in the world, are "rooted in people and their lives, rather than derived from mere abstract rules."[47] This makes the incorporation of comparative impersonal principles into our morality more palatable than it otherwise might be.

8.7.3 Avoiding Harm by Substitution in the Real World

The examples of Angela and Betty are philosophically interesting, but highly artificial. Most people faced with a risk of disability in their offspring cannot avoid it simply by delaying conception for a few months. The details matter in determining whether one would be violating the substitution principle.

Consider prenatal testing and selective abortion. This can be viewed as a substitution method, since if the fetus is found to have a genetic or chromosomal disorder, an abortion gives the couple the chance to "try again" in a future pregnancy to have another child who will not have the disease. This is, of course, unacceptable to those who oppose abortion and regard fetuses as the moral equivalent of born children. Even those who are generally pro-choice are likely to find abortion of a wanted child, especially if this is done in the second or third trimester, psychologically and morally troubling. Because abortion can impose emotional burdens on the procreating woman or the couple, it is not required by the substitution principle, which only requires substitution if it can be accomplished without the imposition of substantial burdens. Moreover, undergoing amniocentesis increases the risk of miscarriage, which is another perfectly good reason for being unwilling to undergo it.

Another method of substitution is provided by preimplantation genetic diagnosis (PGD) and embryo selection. In PGD, embryos are created in vitro. A single cell is removed from each embryo and tested for genetic disease. Affected embryos are discarded, and only those that are disease-free are selected to be implanted in the uterus. This affects the identity of who will get born. Is there an obligation to undergo PGD by individuals at high risk of transmitting a genetic disease? I do not think that there is. For those who regard preimplantation embryos as having the moral status of human persons, PGD is no more morally acceptable than prenatal testing and selective abortion. If they have no obligation to abort, it is hard to see why they would have an obligation to discard embryos. Moreover, PGD requires IVF, which is expensive, often ineffective, and imposes both burdens and physical risks on the woman. For this reason, it is not required by the substitution principle.

The substitution principle might have applicability to certain procreative decisions, for example, the number of embryos to be implanted in an IVF cycle. In the United Kingdom, it was originally proposed that the number of embryos that may be transferred in any one cycle be limited to two, in order to reduce the incidence of multiple births, which have an increased risk of disability in the offspring. However, since this was likely to reduce live birth rates for older women, the policy that was ultimately adopted was a maximum of two embryos per cycle for women under forty, and three for women over forty. The Human Embryo and Fertilization Authority characterized this as "a reasonable balance between our overriding objective of reducing multiple births with the need to maximize a women's chance of having a healthy singleton baby."[48]

In the United States, there is no central authority determining how many embryos can be transferred in any one cycle, although there are guidelines which specify that no more than two embryos should be transferred in women under the age of thirty-five, and no more than five in women over forty.[49] The American Society for Reproductive Medicine has announced that infertility treatment is moving closer to the goal of single embryo transfer, which "results in fewer multiple pregnancies, by far (although monozygotic twinning is possible) and when performed in the appropriate patient population results in cumulative pregnancy rates as good as those achieved with multiple embryo transfer."[50] However, some couples express a desire to have two or more embryos transferred because having twins enables them

to "complete" their families with one round of treatment. They may be willing to take the increased risk of disability to accomplish this goal. However, their interests and goals are not the only relevant factors. Here, the substitution principle would seem to impose on couples a moral obligation to transfer only one or two embryos, as long as this gives them a reasonable chance of having a healthy singleton.

8.8 Conclusion

Genesis problems are challenging, but not insoluble. In particular, they do not require us to discard the common-sense intuition that the welfare of offspring is always a morally relevant consideration in procreative decision-making. It is wrong to have children who cannot have minimally decent lives, although reasonable people can disagree about what constitutes a decent minimum. Furthermore, such judgments should be based on a realistic assessment of the facts, not stereotypical thinking. In particular, it is important to remember that people can have lives that are well worth living, despite disabling conditions or poverty. Nevertheless, there are times when procreation is wrong, even though no one is harmed or wronged by birth. To explain these cases, we need to supplement a morality of person-affecting reasons with a comparative impersonal principle: the principle of substitution. This will explain some of the difficult cases, although it is often not easy to say when someone has an *obligation* to substitute. The morality of procreation, and the obligation to avoid procreation, is based partly on an objective assessment of the likely quality of the future child's life, but also on the reasons, intentions and attitudes of those who would have children.

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Notes

1. Heyd (1992).
2. I create examples of morally problematic abortions in Steinbock (1999), pp. 245–267.
3. National Bioethics Advisory Commission (1997), p. ii.
4. The President's Council on Bioethics (2005), p. 57.
5. Goldberg (2005), p. 14.
6. Most studies have found that children reared by gay or lesbian parents are psychologically normal, and that their parents' homosexuality has not adversely affected their personality development, their gender identity, social interactions, or sexual preference. See Ethics Committee of the American Society for Reproductive Medicine (2006).
7. I use the term "person-affecting" because it is prevalent in the literature. I do not mean to imply that interests are limited to persons, or that morality concerns only the interests of persons. "Person-affecting" is simply more graceful than "interested-individual-affecting."
8. There might be other reasons to prohibit such technologies or arrangements, including the interests of prospective parents or society at large. The issue here is whether the interests of the child justify preventing his or her birth.
9. Robertson (1994), p.122. Emphasis added.

10. Morgan (1991), p.194. Emphasis added.
11. I have addressed this issue in Steinbock (1986), pp. 15–20; Steinbock (1992), pp. 114–125; and Steinbock and McClamrock (1994), pp. 15–21.
12. Philip G. Peters argues that wrongful life cases belong only partly with the law of torts, which is relevant only to the establishment of negligence. It is fair to require the defendant to bear some of the burden of the extra expenses occasioned by the child's impaired condition because it was his or her negligence that has resulted in the child's being born. However, the payments should be seen, not as damages for harm, but rather as child support, which belongs to family law. By taking the justification of payments out of tort law, the question of whether the child has been harmed by birth—a requirement in torts—is avoided. Rather, the justification is that the negligent defendant has a responsibility to the child to help provide the resources that will enable the child to reach his or her full potential. See Peters (1992), pp. 397–454.
13. Harris (1992), p. 88.
14. There are two caveats here. First, particular causal claims, as opposed to statistical causal claims, are notoriously difficult to establish. Studies may establish a causal link between smoking in pregnancy and asthma in offspring, but that does not entitle us to say, in any particular case, that had the mother not smoked during pregnancy, this child would have been born asthma-free. Perhaps the child would have had asthma anyway. A genetic predisposition might have caused the asthma, even in the absence of maternal smoking. Or the child might have been exposed to smoke in utero from the father, or there could have been other environmental factors that could have induced asthma. Second, even if a causal connection can be established, the ascription of moral responsibility depends on whether the woman "could have stopped smoking." Since smoking is often addictive, the woman's failure to stop may be less than fully voluntary, and her moral responsibility for the asthma might therefore be diminished. However, while the ascription of causal and moral responsibility is complex, it is possible to imagine a case in which it can be determined that the mother's smoking during pregnancy harmed her baby, and that this is a harm for which she is morally responsible.
15. I owe my colleague, Rachel Cohon, thanks for this example.
16. Although I find this conclusion to be totally counterintuitive, it is straightforwardly embraced by David Benatar in Benetar (2006).
17. Harris (2007), p. 94.
18. Actually, I prefer the expression "better off unconceived" to avoid the question of whether abortion would be in the child's best interest. However, Feinberg uses "better off unborn" so I will follow his usage here.
19. Robertson (1974–1975), p. 254.
20. This requirement is also placed on infants' surrogate decision makers in President's Commission on Ethical Problems in Medicine and Biomedical and Behavioral Research (1982).
21. Feinberg (1987), p. 164.
22. See, for example, the cover story in *Time Magazine* about Marissa and Anissa Ayala, "The Gift of Life," June 17, 1991 <http://www.time.com/time/covers/0,16641,19910617,00.html> (accessed July 17, 2008). See also Steinbock (2008).
23. Melinda Roberts calls cases in which there are three alternatives, one of which is better than existence under a disadvantageous cases, "type 3-alt" cases. See Roberts (1998), pp. 92–96
24. Individuals with severe intellectual impairments may want to have a baby, unaware that they are not capable of caring for and raising a child. The fact that they are not aware of their own limitations in this respect does not entitle them to procreate. It falls to those responsible for them to prevent them from having children, both for their sake and for the sake of the child.
25. For an excellent treatment of the right of children to be loved, see Liao (2006), pp. 420–440. Liao focuses on the right of existing children to be loved, and how this human right has policy implications. He does not proclaim a duty on the part of individuals to refrain from procreation where they cannot or will not love the child, but it seems to me consistent with his view.
26. Kamm makes a similar point: "let us suppose that we should not create persons at will unless we have good reason to believe that they can have some—just how many is deliberately left

open—number of years of life with some degree of health and welfare, and let us call these things that they should have the *minima*." Kamm (1992), p. 132.

27. This position was taken in President's Commission on Ethical Problems in Medicine and Biomedical and Behavioral Research (1982).
28. Cohen (1997), p. 33.
29. Archard (2004), pp. 403–420.
30. Archard, op. cit.
31. Steinbock (1998), pp. 13–14.
32. Steinbock (1998), pp. 13–14.
33. Harris (1992), p. 91.
34. See the Universal Declaration of Human Rights: 1948–1998 <http://www.un.org/Overview/rights.html> (accessed July 28, 2005), and the Charter of Fundamental Rights of the European Union, Article 9 <http://www.europarl.eu.int/comparl/libe/elsj/charter/art09/default_en.htm> (accessed July 28, 2005).
35. I have adapted this example from Parfit (1986), pp. 358–361.
36. See Lucile Packard Children's Hospital at Stanford, High Risk Newborn: Very Low Birthweight <http://www.lpch.org/DiseaseHealthInfo/HealthLibrary/hrnewborn/vlbw.html> (accessed August 1, 2005).
37. Another possibility is to conceive this example as a "third option" kind of case. Melinda Roberts suggests that the alternatives are not life as a neglected child or no life at all. The child could be born and not be neglected if all the other agents who might affect the child's life—his father, his parents, the young girl's parents, and the community at large—help out. And if they do not, the blame for the child's lack of well-being is not to be laid solely at her door. Should the girl refrain from having the child to prevent the others from wronging the child? Roberts thinks this question need not be resolved. She writes, "*Some agent* has wronged the child, according to personalism [her interpretation of the person-affecting restriction or PAR], and has, correspondingly, done something wrong. Someone remains, morally, on the hook for the wrong that has, by hypothesis, been done the child. To avoid the charge of an unconscionably loose moral standard—the charge that lies at the root of the fourteen-year-old girl objection—it seems that this result is all that is really required." Roberts (1998), p. 111.
38. Woodward (1986), p. 815.
39. Bettelheim (1987).
40. Parfit (1976); Brock (1995).
41. Parfit (1986), p. 367. By the No-Difference View, I mean simply the claim that there is no *moral* difference between what Angela does and what Betty does. One does not act more wrongly than the other. The more generalized version of the No-Difference View holds that the wrongness of both acts must have the *same explanation*. Thus, if person-affecting reasons cannot explain the wrongness of Betty's act, it cannot explain the wrongness of Angela's act either. This leads Parfit to reject person-affecting reasons altogether in the area of morality concerned with beneficence and human well-being. For an excellent critique of the generalized version of the No-Difference View, see Jeff McMahan (2001). I agree with McMahan that both kinds of reasons, person-affecting and impersonal, are necessary in moral discourse, and that neither can be reduced to the other.
42. I argued for this in Steinbock (2000), pp. 108–123.
43. Personal communication from David Wasserman.
44. Peters (1989), p. 515; Peters (2004), especially Chapter 4; Peters (2009).
45. This is a simplification of a principle offered in Buchanan et al. (2000), p.249.
46. Brock (1995), p. 399.
47. Glover (1992), p. 142.
48. See Human Fertilisation & Embryology Authority, Chair's Letter CH(04)01a. <http://www.hfea.gov. uk/HFEAGuidance/ChairsLettersArchive/2003–2004/CH0401a> (accessed August 2, 2005).

49. See, for example, the Practice Committee of the Society for Assisted Reproductive Technology and the American Society for Reproductive Medicine (2004), pp. 773–774.
50. See the American Society for Reproductive Medicine Press Release on Single Embryo Transfer <http://www.asrm.org/Media/Press/single_embryo.html> (accessed August 2, 2005).

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