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Choosing Our Children:  
Role Obligations and the Morality of  
Reproductive Selection

A dissertation submitted in partial satisfaction of the  
requirements for the degree Doctor of Philosophy  
in Philosophy

by

Katherine Lindsey Chambers

2016



ABSTRACT OF THE DISSERTATION

Choosing Our Children:  
Role Obligations and the Morality of  
Reproductive Selection

by

Katherine Lindsey Chambers

Doctor of Philosophy in Philosophy

University of California, Los Angeles, 2016

Professor Barbara Herman, Chair

Advancements in reproductive technology have expanded the influence that parents can have on their children. Pre-implantation screening and selection, prenatal screening and selective abortion, and fetal gene therapy now make it possible for parents to determine features of their children, even before those children are born. Reproductive selection has most frequently been used to select against disabilities. However, procreators have now begun to use reproductive selection to select *for* disabilities, such as deafness and dwarfism. Though parents are often afforded a special moral permission to determine many aspects of their children's lives, that permission does not obviously include a permission to select for

disabilities in their future children.

I argue for a role-based framework to address the morality of using reproductive selection to select for disabilities. Procreators are not unrelated to their offspring; they are often the prospective parents of their offspring. Insofar as procreators procreate in order to become parents, they assume the role of parent and its subsequent obligations. The parental role has a moral end, namely, the facilitation of the child's future autonomy. Parental obligations are keyed to this end. As prospective parents, procreators are also obligated to facilitate the autonomy of their future children. Procreators are prohibited, then, from selecting traits for their children that would impose obstacles to their children's autonomy. When a disability is an impediment to autonomy, it is not a trait that procreators have a permission to choose on behalf of their offspring.

The dissertation of Katherine Lindsey Chambers is approved.

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2016

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## VITA

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## Chapter 1: The Morality of Reproductive Selection

As reproductive technology progresses, procreators have increasing control over when and how they bring a new person into existence. What was once a decision about *whether* to create a person or not is now becoming a question about what *kind* of person to create. The use of in vitro fertilization, in particular, has expanded procreators' control over the traits of the persons they create. Through the use of preimplantation genetic diagnosis (PGD), procreators can test fertilized embryos for genetic conditions ranging from Tays-Sachs disease to Cystic Fibrosis.<sup>1</sup>

The use of reproductive selection is most commonly used to screen *against* genetic disorders. However, in 2002, a deaf couple made the news for using PGD to select for a deaf child.<sup>2</sup> Couples with dwarfism have since followed suit.<sup>3</sup> In principle, PGD can be used in conjunction with IVF to select for embryos with any trait that has a genetic marker. So, as our knowledge of the human genome increases, so too does the potential for procreator selectiveness.

The practice of selecting *for* a disability—particularly deafness—has polarized procreative ethicists. Advocates for disability selection appeal to the value of diversity, the

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1 Procreators also use PGD to select for the sex of their offspring.

2 Julian Savulescu, "Deaf Lesbians, 'Designer Disability,' and the Future of Medicine," *British Medical Journal* 325, no. 7367 (2002): 771–73.

3 Susannah Baruch, "Preimplantation Genetic Diagnosis and Parental Preferences: Beyond Deadly Disease," *Houston Journal of Health Law and Policy* 8, (2007): 255–58.

importance of a shared culture between parents and their children, and the quality of life that persons with disabilities are able to have.<sup>4</sup> Opponents of the practice, on the other hand, argue that the child is harmed or made badly off by the selection, or that the procreator has failed in her duty to bring about some optimal state of affairs.<sup>5</sup>

Amidst the debate surrounding the selection of disability, the potential badness or burden of the disability has been the focus—largely because the dominant framework for addressing procreative ethics has revolved around the notion of harm. Derek Parfit famously argues that procreators cannot harm the persons they create, so long as those persons have lives that are better than non-existence. Parfit starts with a comparative notion of harm: an action can only harm someone if that action’s being performed makes another person *worse off*, either temporally or counterfactually. In the case of the deaf couple, the child they create is not made worse off in either sense. He isn’t worse off than he was before they acted.<sup>6</sup> Before the procreators selected for his embryo, he didn’t exist at all. He is also not worse off than he would have been had the procreators acted differently. Had they not selected for deafness, then they likely wouldn’t have picked his embryo to implant, and again, he wouldn’t

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4 Adrienne Asch, “Prenatal Diagnosis and Selective Abortion: A Challenge to Practice and Policy,” *American Journal of Public Health* 89, no. 11 (1999): 1649–57; Elizabeth Barnes, “Valuing Disability, Causing Disability,” *Ethics* 125, no. 1: 88–113.

5 Dan Brock, “The Non-Identity Problem and Genetic Harms: The Case of Wrongful Handicaps,” *Bioethics* 9, no. 3 (1995): 269–75; Dena Davis, “Genetic Dilemmas and the Child’s Right to an Open Future,” *The Hastings Center Report* 27, no. 2 (1997): 7–15; Allen Buchanan et al., *From Chance to Choice: Genetics and Justice* (Cambridge: Cambridge University Press, 2000); Jeff McMahan, “Causing Disabled People to Exist and Causing People to Be Disabled,” *Ethics* 116, no. 1 (2005): 77–99; Julian Savulescu and Guy Kahane, “The Moral Obligation to Create Children with the Best Chance of the Best Life,” *Bioethics* 23, no. 5 (2009): 274–90; Derek Parfit, *Reasons and Persons* (Oxford: Clarendon Press, 1987).

6 To keep the distinction clear between the procreator and the person created, I will use the female pronoun for the procreator and the male pronoun for the person created—though of course men are also procreators and women are also created persons.

have come into existence at all.<sup>7</sup>

This is the heart of what Parfit calls the non-identity problem. Selecting for deafness is not the same as making a hearing child deaf. When you cause a hearing child to become deaf, you make him worse off than he was before you acted; he loses a capacity he already had.<sup>8</sup> In the selection case, the person selected would not have existed *apart* from his deafness. Selecting for deafness seems to make the person created as well off as he could be. It seems, then, that no matter what the procreator selects, she doesn't make her offspring worse off. If she acts wrongly, then, it is not because she has harmed her offspring.

Parfit instead argues for a utilitarian account of wrongful procreation: procreators act wrongly when they fail to bring about some optimal state of affairs.<sup>9</sup> The deaf couple, then, would act wrongly if it is worse that one additional person exists who is deaf than it would be for one additional person to exist who is not deaf. If it would be worse for them to create a deaf child rather than a hearing child, then it is wrong because they fail to bring about the better state of affairs in the world. That wrong is not a wrong *to* the child; it's an impersonal wrong.

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7 Parfit's view depends on a notion of genetic essentialism: the person who develops from a different embryo is a different person, both numerically and qualitatively. For the purposes of my project, I will accept Parfit's view on this count. See *Reasons and Persons*, 351–55.

8 Matthew Hanser, "Harming Future People," *Philosophy and Public Affairs* 19, no. 1 (1990): 47–70. Hanser sides with Parfit on this point. For Hanser, a person cannot be harmed unless she loses something she already had.

9 What is strange about the utilitarian strategy is that the procreator maximizes the wellbeing of the person she creates—she just fails to make the world a place where more wellbeing exists (in an impersonal sense). Because what counts as the optimal state of affairs depends on whether the procreators' choice is a *same numbers case* or not, his strategy leads to what Parfit calls the repugnant conclusion, namely, that we are obligated to create more happy people just to increase the overall happiness that exists in the world. I am considering only those cases where the decision of the procreators will result in just one child, so there is no difference in how many persons will be created. See Parfit's *Reasons and Persons*, 385–90.

## Procreative Wronging

Working out the possibility of procreative harm is important, to be sure, but it's not the *only* question we can raise about the morality of procreation. Parfit arrives at his conclusion by assuming that personal wrongs, or wrongs *to* persons, require harm.<sup>10</sup> However, harm doesn't exhaust the moral space between persons. We can wrong someone just by choosing for them or determining aspects of their lives when we lack the moral authority to do so. Persons are autonomous: they have both the capacity to and responsibility for determining their own lives. Other persons typically *lack* the authority to determine the lives of others persons, not because they would make those persons worse off, but because each person is responsible for determining for herself what to believe, what to care about, and what to do. When we try to determine a person's life for her, we fail to treat her as what she is: an autonomous person who ought to determine her life for herself.

Whether or not the deaf couple's selection *harms* their child, their selecting for deafness seems to determine an important aspect of their child's life. In choosing a permanent physical trait, the deaf couple shapes the kind of life that their child can lead.<sup>11</sup> The child will not be able to pursue activities, vocations, or projects that require the capacity to hear. there is much deaf persons can do, especially within the Deaf community.<sup>12</sup> Deaf

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10 At an earlier stage of this project, Harry Frankfurt remarked that procreators cannot wrong their offspring because there is no such thing as personally directed wrongs. My project begins with an assumption that there can be such wrongs.

11 Deafness isn't necessarily permanent. The couple could decide to give the child a cochlear implant, or he may choose to get a cochlear implant when he's older. I will use permanent to indicate traits that are either impossible or difficult and costly to change.

12 I will return to the culture of the Deaf community in Chapter 5.

persons can and do live rich, flourishing lives. However, there seems to be an important moral difference between a person's being deaf as a result of luck and a person's being deaf because his deafness was chosen for him by another person. In both cases, deafness will shape the kind of life the person is able to live; it may even become an integral part of his self-conception or practical identity. But in the latter case, this life-shaping feature is determined by another person.

The deaf child might come to strongly identify with and value his deafness, or he may be largely frustrated with it. Whatever his attitude, his deafness is not a trait that he can easily change. If he no longer wishes to be deaf, he might opt to receive a cochlear implant, but the process he faces will be difficult and costly—and it's not guaranteed to be successful.<sup>13</sup> The person who is deaf as a result of luck would face the same difficulty and cost if she decided to get a cochlear implant. The difference, though, is that she would face that cost as the result of the natural lottery, whereas in the selection case, the deaf person faces that cost as the result of a choice made for him by someone else. It's not obvious that anyone is permitted to make such a choice on his behalf, not because it's bad to be deaf, but because being deaf will profoundly shape his life in ways that cannot easily be unchosen. That the procreators' action results in the creation of a deaf person isn't the problem. You can think that it's not bad to be deaf, or that deafness isn't a harm, and still think there is something objectionable about the

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<sup>13</sup> Su Wooi Teoh, David B. Pisoni, and Richard T. Miyamoto, "Cochlear Implantation in Adults with Prelingual Deafness. Part I. Clinical Results," *The Laryngoscope* 114, no. 9 (2004): 1536–40. The procreators' decision to select for deafness isn't easily reversible. They could decide to give their child a cochlear implant. However, because the success of cochlear implants depends on the age of the person who gets the implant and how long that person has been unable to hear, it will be difficult for the deaf child to later reverse his procreators' decision. If he decides to get a cochlear implant when he becomes an adult, it will be more difficult for him to understand and use a spoken language than it would have been had he been given the implant at an early age.

nature of the procreators' choice to *select* for deafness. It's not clear that anyone, including procreators, have the authority to make such a choice. At the very least, such decisions seem to require some further justification.

If we separate the procreators' choice from the question of harm, the wrongfulness of overstepping their authority to shape another person's life becomes more clear. Consider, for example, the following case proposed by Elizabeth Barnes in "Valuing Disability, Causing Disability." Suppose there is a radical new gene therapy procedure that can alter an infant's sexual orientation.<sup>14</sup> The infant will not experience pain from the procedure, and he will not remember it. The procedure only works on infants, so the child will not be able to reverse the procedure when he is an adult if he decides he no longer wishes to be straight. Would it be permissible for the couple to also *alter* their child's sexual orientation by opting for the procedure?<sup>15</sup>

The infant may grow up to become a happy, thriving straight person, and he may never wish to reverse his parents' choice. Nonetheless, it seems to me that it would be impermissible for them to alter the sexual orientation of their infant, not because it would harm him, but because they cannot irreversibly shape his life without some further justification. A person's sexual orientation is central to who they are, what they care about, and how they live their life. Whether the person embraces or rejects his sexual orientation, he

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14 Elizabeth Barnes, "Valuing Disability, Causing Disability," *Ethics* 125, no. 1 (2014): 88–113. Barnes considers the case of making a non-disabled infant disabled and vice versa.

15 The allusion to "aversion therapy" programs is intentional. Parents wanting to control the sexual orientation of their children is not a new phenomenon, though the available means may change. For the purpose of this case, we needn't attribute homophobic motives to the couple. Let them merely wish to have a future daughter-in-law or a greater chance at having biologically related grandchildren.



must figure out what to do with it. To have his sexual orientation chosen for him seems like an inappropriate intrusion on his sexuality that the couple is not permitted to do.

Suppose, however, that we reverse the position of the initial couple who wanted to select for a deaf embryo. Now, instead of selecting for a deaf child, they want to make their deaf child hearing. They can do so by giving their child a cochlear implant. Is the couple permitted to *remove* their child's disability?<sup>16</sup> Most people think that, though persons cannot permissibly alter their child's sexual orientation, they can permissibly cause their deaf child to become hearing. A person's sexual orientation, it's thought, is a mere-difference, but a person's disability is a bad-difference.<sup>17</sup> The underlying assumption is that it is impermissible to interfere with the infant's life and body to alter a mere-difference, but it is not impermissible to do so to alter a bad-difference.

However, disability, like a person's sexual orientation, can also be central to a person's practical identity—what he believes, cares about, and does. This is the heart of the disability advocates' argument that it's wrong to select *against* disability.<sup>18</sup> Gay or straight, disabled or non-disabled, these are features of persons that affect who a person is, and so they are features of persons that, at least potentially, should not be chosen for them by someone else. On Barnes' view of disability, disabilities are like a person's sexual orientation or race—they are mere-differences, not bad-differences. So, even if it would be permissible to

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16 Elizabeth Harman, "I'll Be Glad I Did It' and the Significance of Future Desires," *Philosophical Perspectives* 23, (2009): 179. Harman discusses the opposition of some deaf persons to giving deaf children cochlear implants.

17 Barnes uses these locutions in "Valuing Disability, Causing Disability."

18 Steven Edwards, "Disability, Identity, and the 'Expressivist' Objection," *The Journal of Medical Ethics* 30, (2004): 418–20.

permanently alter a life-shaping bad-difference, that will not apply to disability. Both a child's sexual orientation and a child's disability are, on her view, equally impermissible to alter, because both features affect who the child is, not just what he's like.

The couples in these cases are not strangers to the child; they are the child's parents (or prospective parents). Parents constantly act in ways that profoundly, and sometimes irreversibly, shape their children's lives, and much of the time we think they *should* be doing so. Parents control their children's bodies, they make their children eat and go to school or to the doctor's office, etc. If persons are never permitted to permanently shape the lives of other persons, then parents either routinely violate that requirement or that requirement has some kind of exception for parents. If there is an exception for parents, then what principled difference is there between the ordinary parental shaping that parents inevitably do to their children's lives and the objectionable shaping that they do when they alter their child's sexual orientation?

Barnes suggests that the difference depends on how the choice affects the child. Some choices affect how the child grows up, while others affect *who the child becomes*.<sup>19</sup> She thinks that it is choices of the latter kind that are objectionable. However, I am skeptical that there is a sharp distinction between choices about how a child grows up and choices that affect who a child becomes. For example, Barnes suggests that choosing where a child goes to school is a choice about how a child grows up. Yet, where a child goes to school can profoundly shape his life, and it is not clear that parents have (or should have) complete

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<sup>19</sup> Barnes, "Valuing Disability, Causing Disability," 98. I am not convinced that decisions about how a child grows up are in principle distinguishable from decisions about who the child will become. I will return to this worry in Chapter 3.

discretion over their children's education. If a child receives no education or an inadequate education, then the opportunities available to him will be drastically curtailed. Or, if the child is sent to a school that indoctrinates him into some belief or value system, then his practical identity may well be as deeply and irreversibly shaped as the infant whose sexual orientation has been altered.

Just being created, whatever one's traits, also profoundly shapes a person's life in ways that are either difficult or impossible to change. Every person is born with particular traits and in particular circumstances—at a time in history, within a culture, to specific parents—all of which influences the persons they become. This is true even when procreators don't explicitly choose the particular circumstances of their children's creation. Does that entail that persons are not permitted to procreate? If persons are never permitted to determine the lives of others, especially in ways that are life-shaping and not easily reversible, then it doesn't look like procreation, or much of what constitutes parenting, could ever be permissible.<sup>20</sup>

Like Barnes, I take it that we can wrong someone by making a choice that we lack the authority to make—whether or not we also harm them. We wrong them because persons are autonomous. They are capable of determining their own lives, and we should allow them to do so. However, sometimes a person needs another person to determine some aspect of her life in order to be capable of determining her own life. It's for this reason that, contra Barnes, I think the couple *is* permitted to remove their child's disability but not permitted to alter their

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20 David Benatar, *Better Never to Have Been: The Harm of Coming Into Existence* (Oxford: Oxford University Press, 2006). David Benatar famously advocates for this strong antinatalist position.

child's sexual orientation. The difference isn't in the badness of the disability, per se, but in the connection between the trait in question and the child's future autonomy. Removing a disability can remove an obstacle to the child's future autonomy; altering the child's sexual orientation does not.

What we need, then, is a framework that can capture the scope of a procreator's authority to shape the life of the person she creates. This is the project of my dissertation. I will argue that procreators do not have a blanket moral permission to select for the traits of their progeny. The scope of their permission depends on their obligations qua prospective parents. When procreators overstep their authority to shape the lives of the persons they create, they wrong those persons. This wrong doesn't depend on a harm or a bad for the person created—though a harm or bad may also be present. The wrong lies in the fact the prospective parent fails to constrain her procreative actions in accordance with the moral end of her role as parent, a role that is aimed at the child's future autonomy.

The idea that we could wrong someone by making a choice that we lack the authority to make depends on a moral theory that makes autonomy central to our moral obligations. In the following section, I will motivate the connection between our autonomy and our duty to refrain from shaping the lives of other persons. Persons are autonomous: they are capable of deciding for themselves what to think, care about, and do. Not only are persons capable of doing so, but they are each responsible for doing so well. We typically are not permitted to determine the lives of other persons, not because we would do a bad job or cause them to be worse off, but because we lack the right to do so. We each have the moral right to determine

our own lives, and we lack the right to determine the lives of anyone else. If there are exceptions, those exceptions must be justified.

Parents, as noted above, seem to pose an exception to this general rule. In the final part of this chapter, I will outline the strategy of this dissertation. Parents are not exempt from the requirement to respect their children's autonomy; rather, they occupy a role which requires them to respect their children's autonomy by actively facilitating it. Autonomy doesn't just constrain interactions between individuals, it shapes the very institutions within which we act. And while much attention has been given to the *political* institutions that shape our moral lives, the social institutions we participate in are equally important.<sup>21</sup> Being a parent, for example, has political elements, such as the legal rights and duties that we assign persons in the parental role. However, the parental role is also partly constituted by social norms and practices which are not themselves under direct political control. There isn't always a sharp distinction between the social and political; the social can be largely shaped by the political. Importantly, though, social roles are not *wholly* political. Social institutions, like political ones, can shape the moral duties we have to other persons.

It is in this space that I will develop a framework for evaluating the morality of procreative decisions. We can't just appeal to our natural duties, or the duties we have to one

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21 John Rawls, *A Theory of Justice* (Boston: Harvard University Press, 1972); Susan Moller Okin, *Justice, Gender and the Family* (New York: Basic Books Inc., 1989), 21–22, 93–101. John Rawls might group social institutions into the basic structure that ought to be governed by principles of justice. And you might think that many of the social roles I have in mind are just that, part of the basic structure of society that ought to be subsumed under the political, as Rawls did. Though importantly, as Susan Moller Okin points out in *Justice, Gender, and the Family*, Rawls initially leaves out the internal structure of the family. The family as a social institution whose social norms constitute genuine moral obligations will play a significant role in what follows, but not all of those norms will be or should be legally, or coercively, enforceable.

another *qua* persons, to determine the appropriateness of a procreator's action.<sup>22</sup> Many procreators are prospective parents. As prospective parents, procreators have duties to their future children that are shaped by the parental role, and the appropriateness of their procreative choices will depend on the requirements of that role. We can look to their role obligations, then, to evaluate the morality of difficult cases, like selecting for a disability. Setting aside whether the disability is bad for the person who has it (or worse than not existing at all), it may still be impermissible for procreators to choose it on behalf of their future children if doing so would violate their parental obligations.

### The Autonomy Principle

In this section, I will elucidate the moral foundation on which my role-based framework will sit. I am assuming a roughly Kantian view about what we are like as persons and what we owe to one another. My aim in this section is not to defend an autonomy-based account of morality. Rather, I hope to show that an autonomy-based account of morality can do moral work in an area where consequentialist frameworks have typically dominated. Though I assume an autonomy-based account of morality, the role obligations framework does not wholly depend on it. The wrong I am after is ultimately a role violation, not an autonomy violation (though on my view, it will turn out to be both). You can reject the autonomy-based account of role obligations without rejecting the role framework itself.

Whatever grounds the parental role, procreators can still be under parental obligations, and

<sup>22</sup> Barbara Herman, "Being Helped and Being Grateful: Imperfect Duties, the Ethics of Possession, and the Unity of Morality," *Journal of Philosophy* 109, no. 5-6 (2012): 391–411. Barbara Herman nicely points to the important but overlooked connection between public and private morality. She focuses her attention on possessions and benefitting others.

they can still fail to meet those obligations with respect to their offspring. The content of those obligations will likely change if the ground of the role changes, but once we're talking about roles, we're already in a different moral space from the procreative harm framework.

On an autonomy-based account of morality, persons are characterized by their ability to step back from their environment, their desires and impulses, and rationally consider what they ought to think or do. They can decide whether a belief is to be believed, a desire to be acted on, a value to be held, etc. A person on a religious fast can decide against eating the food in front of her despite her hunger pains, because her hunger alone doesn't determine her actions. She can instead act on her spiritual beliefs. This process of rationally considering one's beliefs, desires and values forms a person's perspective on the world and her place in it. This perspective is not necessarily comprehensive, well-thought out, or thought about explicitly at all. Nonetheless, the mark of a person is that she has some conception of what the world is like, what matters and what is worth doing—and that conception orients what she believes, what she cares about, and what she does.<sup>23</sup>

A mature human being typically has this rational capacity.<sup>24</sup> She not only has beliefs, desires, and values, she can think about them, evaluate them, and act on them. That we have such a capacity doesn't entail that our actions are always determined by it. Just as a religious person can choose to fast despite her bodily inclination to eat, so too a person can mindlessly

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23 John Rawls uses "comprehensive doctrine" to designate a person's "conceptions of what is of value in human life, and ideals of personal character, as well as ideals of friendship and of familial and associational relationships, and much else that is to inform our conduct, and in the limit to our life as a whole." See John Rawls, *Political Liberalism*. (New York: Columbia University Press, 1993), 13. A person's understanding of the world and what matters might involve a comprehensive doctrine, but it doesn't have to.

24 By rational, I don't mean to exclude the place of emotions and other psychological factors that make up who a person is and what she cares about. Rational signals the part of our agential capacity that enables us to *reflect* on that input, whether it's from the world or from oneself.

eat the food in front of her, indulging her desire to eat without further thought. Both persons have the capacity to step back from their desire to eat and think about whether eating is the thing to do. The mindless eater doesn't do that; she just eats. Nevertheless, that she *could* do so is sufficient to count her as a person.

Morality is primarily for persons, so understood. It guides and constrains how beings with such a capacity *ought* to use it, or how they count as using it successfully. Only a being with the capacity to think about what she ought to do, as distinct (though not always different) from what she wants to do, or feels compelled to do, could be the subject of such obligations. Morality, in turn, provides the rules of engagement for how we ought to treat beings who have this capacity—ourselves and others.

We are obligated, among other things, to treat other persons *as* persons, or as beings who can and ought to reason well about what to do for themselves. Kant famously describes this fundamental obligation as our duty to treat persons as ends in themselves, never merely as a means.<sup>25</sup> His principle highlights the value of persons. Persons are each obligated to decide well about what to think and do—others can't do that for them. Because each person must decide well about what to do, other persons shouldn't prevent her from doing so by controlling her, manipulating her, or in other ways substituting their judgement for hers. Doing so treats her as if her life is not hers to live. At the very least, such actions typically require further justification.

Persons, then, have a moral right against their lives being determined by the choices

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<sup>25</sup> Immanuel Kant, *Groundwork of the Metaphysics of Morals*, trans. Mary Gregor (Cambridge: Cambridge University Press, 1998), 38.



of others, a right which stems from their capacity to make such choices for themselves. A person has this moral right against others even if she would be happier as a result of someone else's taking charge of her life and making decisions for her. I might be happier, in the long run, if I put the time into studying Shakespeare rather than reading trendy young adult fiction, but that I would be happier reading Shakespeare does not itself justify your making me read it. It is still my prerogative and responsibility to make that decision myself.

Persons can still enlist the advice of other persons—experts, moral authorities, spiritual leaders—without thereby ceding control of their lives to those persons, because the person who solicits the advice or expertise of others must decide whose advice to seek and whether or not to follow the advice she's given. Either way, her life is still the product of her own choices, albeit indirectly.<sup>26</sup>

That it's each of our job to work out what to do with our lives does not entail that we all care about doing so or that we care about the capacity that makes us able to do so. Even if no one ever *cared* about the capacities in virtue of which she's a person, she is still a person with those capacities. Whether she uses them well or poorly, it is her moral right against others to determine her own life—to decide for herself what the world is like and what her place is in it. Consider, then, the following autonomy principle:

*If for some X, P should determine X for herself, (i) and if Q's phi-ing would make it the case that P did not or cannot determine X for herself, (ii) but Q's not phi-ing would make it the case that P can, at some point, determine X for herself, then Q has a strong (prime facie) reason not to phi.*

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<sup>26</sup> John-Paul Sartre, *Being and Nothingness*, trans. Hazel Barnes (New York: Washington Square Press, 1992). Sartre famously claims that external moral guides can only be that, guides. Their authority, if they have any, comes from a person's choosing to follow them—whether it be an ethical theory, a sacred text, or the voice of God.

Let the choices that should be determined by P for herself (out of respect for her autonomy) be the X's. Q fails to respect P's autonomy when Q acts in a way that makes P unable to determine X for herself. Q's mistake isn't captured just by the *content* of X—though the content of X is relevant to whether it's in the scope of the X's that should be settled by P. Q's mistake is that her action moves the decision making about X from P to Q. Unless Q has some special moral authority to do so, Q wrongs P just by settling X for P.

Q doesn't have a strong reason not to phi, on the basis of this principle, if X is not something that should be up to P. Suppose, for example, that Q is selling her car. What happens to Q's car is not a matter that should be up to P. So, though Q's phi-ing precludes P from some choices, namely choices about what to do with Q's car, Q does not thereby act impermissibly.<sup>27</sup> Whether a person's use of an object is within her agential purview, then, will depend on our system of property, a system by which a person acquires the right to control certain objects.

Q can violate the autonomy principle even if the X in question would be (or is at least meant to be) good for P. Suppose, for instance, that Q wants to do something nice for P. Q notices that P's house could use a fresh coat of paint. Q takes it upon herself to paint P's house without first consulting P. P may or may not be pleased with Q's gift. Either way, Q isn't obviously permitted to paint P's house, even if P would like it and even if Q only intends to benefit P. The color of P's house is not up to Q—it's up to P. When Q paints P's house, then, Q wrongs P, regardless of P's reaction to Q's gift.<sup>28</sup>

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27 The principle would capture the reverse problem: if P cut Q's hair or sold Q's car, P would settle X's that should be up to Q.

28 Immanuel Kant, *The Metaphysics of Morals*, trans. Mary Gregor (Cambridge: Cambridge University Press,

On a view that takes seriously the autonomy of each person, a person's body is the primary thing or object in the world over which *she* must have final moral authority.<sup>29</sup> Persons are embodied agents, and without some moral right to control her own body (and a right against others' controlling her body), a person will be unable act in the world as an autonomous agent. Not only will she be unable to successfully bring about her ends, but she will be unable to adopt them. Adopting ends at all entails that a person has some means by which she can effect them.<sup>30</sup> So, though a person's agency is partly a matter of how she *thinks* about what to do, it is also partly a matter of what she is able to outwork in the physical world through the use of her body. If Q's settling X by phi-ing would affect P's *body*, there is a good chance that X is something that should be up to P, unless Q also has a special moral permission to settle X for P.

Procreating has a serious effect on P's body: Q's procreating makes it the case that P (and his body) exist at all. However, unlike other ways in which Q might later act on P's

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1996), 203–4. Kant worries about the debt of gratitude a gift incurs for the recipient. Herman explores Kant's duty of gratitude in "Being Helped and Being Grateful." In the sitcom *The Big Bang Theory*, Sheldon, a character who is not known for his social graces, puts the point this way: "Oh, Penny. I know you think you are being generous, but the foundation of gift giving is reciprocity. You haven't given me a gift. You've given me an obligation." *The Big Bang Theory*, "The Bath Item Gift Hypothesis," directed by Mark Cendrowski (December 2008).

29 Immanuel Kant, *Lectures on Ethics*, trans. Louis Infield (Indianapolis: Hackett Publishing Company, 1979), 148; Japa Pallikkathayil, "Deriving Morality from Politics: Rethinking the Formula of Humanity" *Ethics* 121, no. 1 (2010): 116–147. Kant makes this point about the body and our agency: "...our life is entirely conditioned by our body, so that we cannot conceive of a life not mediated by the body and we cannot make use of our freedom except through the body." Pallikkathayil puts the point this way: "control over one's body is...a precondition for engaging in self-directed action." For P to be an independent, self-directed agent, he needs moral authority over his body—whether you want to call his body his property or something else.

30 Immanuel Kant, *Groundwork of the Metaphysics of Morals*, trans. Mary Gregor (Cambridge: Cambridge University Press, 1998), 28. I am relying here on a distinction Kant makes between willing an end and wishing for it. You can wish for an end that you lack the means to achieve. You can't will that end, however, unless you at least think you have some means to bring it about. I will return to this point in Chapter 5.

body, in the matter of P's initial creation, P's existence is necessarily settled by someone other than P. Not only is P unable to decide for himself whether or not to come into existence, but there also isn't a fact of the matter about what P *would* choose that could guide Q's decision. How Q acts will affect the sort of person P eventually becomes, the things he believes and cares about, the kinds of projects he eventually pursues—all of which will inform the attitude P may later have toward his own creation.<sup>31</sup> When Q procreates, then, she's flying blind, and it's no small matter to P. P's very existence, including the surrounding conditions of his existence (his genetic makeup, the situation into which he's born, etc.), are up to Q. Such a high-stakes decision is not obviously one that a person can permissibly make on behalf of another person, even if the other person cannot make it for himself.<sup>32</sup>

Yet, in at least many ordinary cases, people *do* think that Q can permissibly decide to create P.<sup>33</sup> What possible support could lie behind that intuition? One thought is just that P's existence isn't an X that should only be settled by P precisely because it's an X that *cannot* be settled by P. If an X is not possibly up to P, then perhaps it's not possibly in P's agential purview.

If that is the case, though, *any* procreative decision by Q would be permissible.

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31 P's perspective on his life isn't separable from his experience of that life: who his parents are, the culture he's born into, the opportunities available to him (or not). Q's creating P, in the circumstances in which she does so, will itself affect what future P might think about his own existence and whether he now thinks Q made the right call.

32 Seana V. Shiffrin, "Wrongful Life, Procreative Responsibility, and the Significance of Harm." *Legal Theory* 5, no. 2 (1999): 117–48. The harm discussion is not irrelevant to this sort of wrong. An important class of X's that P should determine for himself are those which include some harm to him. P might well determine to accept a mixed harm/benefit, but Q can't on her behalf, not without a further story. I take this to be the force of Shiffrin's point.

33 I am inclined to think it says more about philosophy than the morality of procreation that the common sense view about procreation is harder to defend than the antinatalist position.

What's more, many *non-procreative* decisions would also be fair game for Q to settle for P, just because they are not possibly up to P. Decisions made for P when P is a child, for instance, are not possibly up to P (at least not at a very young age). Yet even in those cases, P's inability to settle X for himself doesn't seem to entail that Q is free from any constraint on the basis of P's agency—even if P isn't *yet* an agent.<sup>34</sup>

Perhaps P's prospective agency constrains Q's choices just in case Q's choice of some X precludes P's settling some *other* X (or range of X's) that ought to be up to P. This would explain what goes wrong in the gene therapy example. P cannot decide for himself whether to have the procedure as an infant. Either Q decides for P, or no one does. However, a person's sexuality seems like the sort of thing that should be determined by her alone. If Q chooses to alter P's sexual orientation, then P's future sexual choices will be partly settled by Q. The problem isn't P's eventual orientation, it's Q's imposition of her own agency in an area of P's life that should be settled by P or no one at all.

Q might also be prohibited from settling some X that will foreclose or limit the range of X's that ought to be up to P. Joel Feinberg, for instance, gives an account of a child's right to an open future that captures something like this worry. Q violates P's right to an open future, and so wrongs P, when Q's phi-ing makes P's future choices or life options either less than adequately open, or not maximally open (depending on how you interpret the right).<sup>35</sup>

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34 You could think Q is constrained by some *other* constraint, but that the constraint isn't grounded in the importance of P's agency because P does not yet exist. I am inclined to think Q can be constrained by P's agency, even before P is an agent, though the story of how that constraint goes will require some additional work. I will address this worry in Chapters 3 and 4 when I turn to parents and procreators.

35 Joel Feinberg, "The Child's Right to an Open Future," in *Whose Child?* ed. W. Aiken and H. LaFollette (Totowa: Rowman & Littlefield, 1980), 124–53; Joseph Millum, "The Foundation for a Child's Right to an Open Future," *Journal of Social Philosophy* 45, no. 4 (2014): 522–38. Millum argues that Feinberg's account supports the interpretation that the child's right is to a maximally open future, which he then argues

Suppose, for instance, that Q gives P a toxin that causes blindness. Without the toxin P would've developed the capacity to see, but now, as a result of Q's phi-ing, she lacks that capacity. There is now a range of X's that *should* have been up to P and now are not, not because Q decided those for him, but because Q's action *foreclosed* P's opportunity to settle them himself.<sup>36</sup> P cannot drive cars, fly commercial airplanes, become a surgeon, etc., as a result of Q's choice, not his own.

Dena Davis invokes Feinberg's right to an open future in her argument against the use of reproductive selection to select for a disability or handicap.<sup>37</sup> Though Davis accepts Parfit's conclusion that the deaf couple who selects for a deaf child doesn't *harm* the child they create,<sup>38</sup> she does think that they act wrongly because they violate their child's right to an open future. The problem, however, is that in the selection case, unlike the gene therapy case, the procreator's action doesn't foreclose the opportunities that would have been up to *this child*. A version of the non-identity problem resurfaces, but instead of harm or making worse off, the problem is that Q's phi-ing doesn't rob *this P* of some life path that would've otherwise been available to him. He has, as a result of Q's phi-ing, the most open future that

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is implausible. If, however, the right is interpreted as ensuring some adequate range of life options, Millum worries both that Feinberg lacks an argument for that more moderate view *and* that it will be difficult to arrive at the contents of that right.

36 Feinberg's right to an open future is not unconnected to the notion of harm. The child may, in this way, count as being made *worse off* in virtue of having this right violated.

37 Dena Davis, "Genetic Dilemmas and the Child's Right to an Open Future," *Rutgers Law Journal* 28, (1997): 569. Davis adds, however, that when foreclosing some path forces the child permanently into the parent's "conception of the good life," the parent fails to treat the person as an end in herself. On this score, I agree. What I hope to do in this dissertation is spell out just why the parent's mistake is a moral failure, even if the child that's created is as well off as he could be.

38 Davis quotes Dan Brock, "A wrong action must be bad for someone, but [a] choice to create [a] child with its handicap is bad for no one." Like Parfit and Brock, Davis doesn't think you can capture a harm *to* the person created, though you can still capture a moral failure on the part of the procreators. See Davis "Genetic Dilemmas," 569.

was possibly available to him.

By selecting P's embryo, Q brings this P into existence, but Q couldn't have brought this P into existence apart from his deafness. If Q had selected for a hearing child, then she would've created someone else. Selecting for P's embryo, then, doesn't obviously foreclose any future X's that would've been up to *that P*.<sup>39</sup> So, even if P has a right to an open future, it's not clear that his right is to a future *more* open than whatever future is available to *him*. Q doesn't seem to have a personal duty to this P not to select for a trait, because selecting for an embryo on the basis of some trait—whatever it is—will not foreclose this P's future opportunities. If that's true, then the autonomy principle will only regulate our treatment of actual persons, like the infant in the gene therapy case, but it can't be meaningfully applied to Q's phi-ing where Q's phi-ing brings some possible P into existence.

If appealing to the appropriateness of Q's choice on behalf of P is going to be relevant to Q's reproductive selection decisions, then there must be a way to capture that appropriateness that doesn't just depend on the outcome of Q's choice for the particular P that Q creates. Moreover, we still need an account of what sorts of X's Q *can* appropriately choose for P and which she can't. Why, for instance, are procreators ever permitted to procreate, when procreating both profoundly and permanently shapes P's life? It's at this juncture that an appeal to social roles will prove useful.

### Social Roles

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<sup>39</sup> This is why Feinberg's right to an open future account is not itself an adequate response to the non-identity problem.

Social roles track the special authority that persons have to act on behalf of others. For example, though it's usually inappropriate for one person to control another person's body, it might be permissible for an agent of the state or a parent to do so. When Q is a stranger to P, Q's restriction of P's movement is kidnapping. When Q is an agent of the state, such as a police officer, Q's restriction of P's movement is lawful imprisonment.<sup>40</sup> When Q is P's parent, Q's restriction of P's movement is parenting. In all three cases, Q controls the whereabouts of another person's body, and in all three cases P may be quite upset about it. But it's only in the first case that Q lacks the moral authority to restrict P's movement against his will, whereas the police officer and parent, presumably, do not.

Social roles don't thereby flout the autonomy principle. Rather, our autonomy requires more than other persons' refraining from impeding our choices. Human beings are finite, vulnerable creatures who can't get much done on their own. We need to organize ourselves in ways that collectively ensure the conditions of our agency. Social roles enable us to work together to our mutual agential benefit. If a social role tracks some way in which we need to be organized in order to collectively protect our autonomy, then the permission that a role actor has to act on behalf of another person will not be a violation of her duty to respect P's autonomy, it will be a different way in which she fulfills her duty to respect P's (and others') autonomy.

In Chapter 2, I will elucidate an account of role obligations that coheres with an autonomy-based moral framework. I will argue that role obligations are derived from the

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<sup>40</sup> Of course, you might think the state isn't permitted to imprison its citizens. That is to take a stance on the moral purpose of the state's law enforcement agency.



role's moral purpose, if it has one. For roles that enable us to divide our moral labor, the standards for those roles are more than social expectations for our behavior—they are genuine moral requirements. Role actors are permitted to act on behalf of others when doing so is part of their fulfilling their role obligations. Those role obligations constrain both the actions and ends that are permissible for role actors. The role's end can also be used to filter out proposed justifications for actions that don't clearly meet the standards for the role. If the proposed justifications for such actions don't at least *appeal* to the end of the role, then, those justifications can be ruled out as possible justifications for those actions' being consistent with the standards for the role.

Understanding whether Q's procreative decision is appropriate to make on behalf of P, then, will depend on Q's relationship to P. Does Q occupy a role in which she has a moral permission to sometimes determine aspects of P's life? If she does, we can determine the boundaries of that permission by looking at the end of her role and its subsequent obligations. The obvious candidate for a procreator's role is the role of parent. Procreators often procreate in order to parent the persons they create. If procreators occupy the role of parent, then they will be bound by parental obligations, and they will owe those obligations *to* their future children.

In Chapter 3, I will propose an account of parental obligations that grounds the moral end of parenting in the duty we have to facilitate children's agential development—both for the child's sake and for the sake of the rest of us. I begin by looking at the kind of case that seems like a clear parental failure: that of a parent indoctrinating her child in her religious

beliefs. The limits of a parent's permission to shape the beliefs of her child tells us something about the moral end of the parental role, namely the importance of facilitating the child's future autonomy. Importantly, the parental role is shaped by the autonomy of the person her child will become, not the child's current autonomy (he isn't yet autonomous). The parental role connects a parent to another person over an extended period of time, at the end of which the recipient of the role is (or, at least in normal circumstances, will be) a full moral agent. When parents act for their children, they act for *those* persons—the persons their children will become.

Procreators assume the parental role by intentionally procreating in order to parent. In Chapter 4, I will argue that prospective parents, like actual parents, occupy a role that connects them (eventually) to an adult person, and it is *that* person to whom they owe their parental duties. The duties themselves, however, are not shaped by the particular circumstances of the persons they do create. Parental obligations are shaped by the moral end of parenting, an end which captures the *kinds* of actions that tend to facilitate children's (or future children's) agency. Those obligations stand even before a parent is parenting a particular child. Nonetheless, parental obligations are not impersonal. Those obligations are owed to someone, namely, the persons the parents eventually parent. Prospective parents who fail to meet their parental obligations, even before their children exist, will count as having wronged *whichever* children result from their wrongful actions. Role obligations avoid the non-identity problem, then, because they don't depend on the outcome of Q's action for *this* P. Q is obligated to act well with respect to her role, and she can do so—or fail to do so—

whatever the outcome for P. Q is constrained by P's autonomy, not in virtue of P's existence, but in virtue of occupying a role which is grounded in the value of the autonomy of its role recipients, of which P is one.

In Chapter 5, I will consider how the parental role shapes the actions which are appropriate for procreators who are themselves prospective parents. The obligations that bind prospective parents, like parental obligations, will be grounded in the end of the parental role, the facilitation of the (future) child's agential independence. The particular shape of those obligations may differ for prospective parents, because the kinds of actions that are possible means to that end before conception are not always the same as they are post-conception. We still look to the end of the parental role, however, to determine which procreative actions are permissible, which procreative ends are permissible, and, in difficult cases, which justifications for potentially permissible actions appeal to that end.

## Chapter 2: Role Obligations

If procreators sometimes act in the role of parent when procreating, then we need to know more about the way in which the parental role guides and constrains their actions. If, for instance, we want to know whether it would be appropriate for them to select for their future children's eye color or sex, we must know what their obligations are as prospective parents and whether selecting for those traits is consistent with those parental obligations. Before we evaluate the morality of procreator's decisions *qua* parents, however, we must first have an account of how roles shape the moral obligations of the persons who occupy them. In this chapter, I will elucidate a picture of role obligations that can serve as a framework for evaluating the procreative decisions of prospective parents.

Social roles that contribute to our moral division of labor seem to generate genuine moral obligations, not merely social conventions or expectations.<sup>1</sup> I will offer something close to the standard view of role obligations: role obligations are grounded in the end or purpose of the role, and they obligate the persons who occupy those roles.<sup>2</sup> Social roles that

1 John Horton, *Political Obligation* (Basingstoke: Macmillan, 1992), 55–58; A. John Simmons “External Justifications and Institutional Roles,” *Journal of Philosophy* 93, no. 1 (1996): 30. Horton and Simmons call this the ‘external justification’ of institutional obligations. The moral force of institutional obligations depends on there being some external—not from the institution itself—moral rule or duty that requires its performance. Such roles enable our cooperation in discharging natural, or general, moral duties.

2 The standard view is typically *voluntaristic*—we have such obligations only insofar as we have voluntarily assumed them. For my purposes, it doesn't matter if we must always voluntarily assume a role to be bound by its obligations (though, like Simmons, I doubt that's true). The procreators I have in mind *do* voluntarily step into the parental role by procreating in order to become parents. For the worry about voluntaristic view, see Michael Hardimon, “Role Obligations,” *Journal of Philosophy* 91, no. 7 (1994): 333–63. For Simmons' response, see “External Justifications and Institutional Roles.”

have a moral end or purpose generate *moral* obligations for persons in those roles—whether or not those obligations are special or distinct from our general moral obligations, or the obligations that persons have *qua* persons.<sup>3</sup> I am interested in role obligations insofar as they *do* contribute to some general moral obligation or natural duty, whatever that entails for their specialness or distinctness. What I hope to show is that our understanding of what those role obligations consist in can be illuminated by locating the moral end or purpose of a given role.

### Roles and Wrongs

Social roles capture the obligations that persons have in virtue of the kinds of relationships they occupy with respect to other persons or groups of persons.<sup>4</sup> Some of these roles align with occupations (doctor, teacher, police officer), others primarily with relationships between persons (friend, spouse, parent), or between persons and organizations (citizen, PTA president, Rabbi). These social roles are constituted by norms or standards of behavior for those who occupy them. Doctors are expected to give assistance to persons in

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3 John Simmons, *Moral Principles and Political Obligations* (Princeton, NJ: Princeton University Press, 1979), 13. Simmons calls these general obligations natural duties, where natural duties are “moral requirements which apply to all [persons] irrespective of status or of acts performed...owed by all persons to all others.” The role obligations I have in mind are ultimately grounded, I think, in our natural duties. However, role obligations are not merely natural duties because they also depend on the nature of the relationship between the role actor and the role recipient(s). Whether or not those obligations become “special” or distinct from one’s natural duties doesn’t change the content of the role obligations themselves and so will not be discussed here.

4 For support that such special obligations are genuine, see Erin Taylor, “All Together Now: Conventionalism and Everyday Moral Life,” <<http://philpapers.org/rec/TAYATN>>. For a discussion of what qualifies as a socially recognized role, see G.A. Cohen, “Beliefs and Roles.” *Proceedings of the Aristotelian Society* 66, (1966): 17–34. Cohen identifies social roles as those categories which correspond to special rights or duties for the person who occupies the role. Cohen’s definition may be narrow, but for my purposes, the roles I am interested in are just those that do genuinely have corresponding rights and obligations, because those roles contribute to some moral end. Doctors and teachers will be examples of such roles, as will parents. Gang leaders and drug dealers are less likely to qualify. They may in some sense count as social roles, but they will not be morally justified social roles, or roles with a moral rationale.

medical need, teachers are expected to instruct students in various subjects, parents are expected to meet the needs of their children, etc.

The norms for a given role depend on the end or purpose of the role. A teacher's end is (roughly) to educate persons in a particular field or subject, and the norms associated with being a teacher will capture the training, skills, and practices that are necessary to do so, such as getting an adequate education or having the right disposition. A spouse's end is less clear. Perhaps the end of being a spouse depends on the end of marriage, if there is one, or the end of the relationship itself, whatever that is for the persons in it. The end of a citizen might be the maintenance of the state or, perhaps, to make the state more just.

Where a social role contributes to our satisfying some collective moral duty, that social role can be seen as conferring genuine moral obligations on the persons who occupy it. Take the duty of beneficence: we are all under an obligation to help those in need. Some people, however, will be better able to help particular persons because they are near them, in relationships with them, or have the appropriate resources or skill sets to help them. Social roles can track these differences and enable us to divide our moral labor in a way that helps us to collectively meet our obligation to help one another.<sup>5</sup>

Suppose two people come upon an injured person on the side of the road. One person is a trained first responder and the other is a layperson. Both persons have a duty, *qua* person, to help the injured party, but the shape that duty takes is different for the first responder than it is for the layperson. The first responder occupies a role in which she is both trained for and

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5 Stefan Sciaraffa, "Identification, Meaning, and the Normativity of Social Roles," *European Journal of Philosophy* 19, no.1 (2011): 107–28. Unlike Sciaraffa, I take it that the moral purpose of the role, or the moral work the role does, is sufficient to generate genuine normative requirements. We don't need, in addition, to *identify* with the role for it to be binding once we're in it.

expected to help persons in emergency situations (on and off the clock). Both she and the layperson ought to help the injured party, but the first responder's duty is more stringent and more specific. While it might be permissible for the layperson merely to call 911, the first responder ought to administer first aid as well.<sup>6</sup> Both persons are obligated to help, but the first responder's particular obligations are further specified by the role she occupies, not just the fact that she has encountered another person in distress.

The first responder's failure is of a different kind than the failure would be for the layperson who fails to stop and help. The first responder's role puts her in a relationship to the injured person just in virtue of the role she occupies. If she ignores the person on the road, she doesn't just fail to bring about the most good, or even just to help a fellow person, she fails to help the now recipient of her role: a person in an emergency situation. Her failure is a personal wrong to the injured party, because her role gives the injured person a special claim on her help that the first responder has ignored. Just being in distress gives the injured person some claim on anyone who walks by (like the layperson), but the extent and strength of that claim is hard to pin down. To what degree are other people required to help one another? Is it enough for someone to call for help? If the injured person is also in a dangerous situation (e.g., trapped in a car that could explode), does the layperson have a requirement to risk her own life to help? She may have such a duty, but it's harder to see where the requirement to help ends and supererogatory territory begins.<sup>7</sup>

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6 In some instances, untrained persons should refrain from trying to administer first aid, because they can do more damage than good (e.g., if the injured person has suffered a head or spinal cord injury). In such cases, the layperson may actually be limited to calling 911.

7 Barbara Herman, "The Scope of Moral Requirement," *Philosophy and Public Affairs* 30, no. 3 (2001): 227–56; Andrew S. Schroeder, "Imperfect Duties, Group Obligations, and Beneficence," *Journal of Moral*

Someone who occupies the role of first responder, however, has a clear obligation to help in particular ways. No one is obligated to become a first responder, but if you do become a first responder, you assume additional responsibility for assisting other persons in certain situations, like that of the injured person on the road.<sup>8</sup> For the first responder to fail to help, then, is not only a failure to act well *qua* person, it's a failure to act well *qua* first responder.

The first responder's role obligations are genuine moral obligations because the role of first responder serves a moral end or purpose. We are vulnerable beings, prone to accidents, injury, and other misfortunes. We will, from time to time, require the assistance of other agents.<sup>9</sup> Having some agents designated and equipped to help in particularly dire situations is not only to our mutual advantage, it's a way of effectively discharging our collective duty to help one another. For a person who occupies that role, her failure to act in accordance with the standards for the role will be a particular kind of failure to meet our duty of beneficence. She doesn't just fail to help. She occupies a role in which she is responsible for helping in particular ways, and she fails to fulfill that duty. Role actors, then, can act wrongly when their actions fail to conform to the standards of the roles they occupy, even if those standards

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*Philosophy* 11, no. 5 (2014): 557–84. This problem is not new. Imperfect duties are notoriously hard to pin down. In a similar spirit to my appeal to social roles, Schroeder ties imperfect duties, like the duty of beneficence, to groups. The duty is imperfect for the individual because the duty is for a group of persons, and what individual persons do to meet the group obligation can vary. Herman discusses how a Kantian account of the duty of beneficence situates that duty within the everyday moral life of an agent, including the relationships that agent is in with other persons.

8 There may be a requirement on all of us that *some* persons become first responders, but that requirement isn't a requirement on *specific* persons—nor would the requirement be well served if it were.

9 On one interpretation of Kant's beneficence example, this fact is what lies behind the strong man's mistake. He wills a maxim that doesn't account for his vulnerability as a human being (however strong he is compared to the rest of us). See Kant's *Groundwork*, 33.



require more from them than their natural duties to others would otherwise require.

Importantly, the standards for a given role track the kinds of actions that tend to promote or hinder the purpose of that role. Role actors are required to meet the standards of their role, but they are not obligated to ensure that their actions in fact satisfy the end or purpose of their role (by, say, leading to some optimal state of affairs in the world, or even by meeting the end of their role for some particular role recipient). Suppose, for instance, that the first responder arrives at the scene and does all the things she is trained to do. She counts as acting well not because the injured person is made better off—though that may happen. She has acted well because she has met her role obligations, but her meeting those role obligations doesn't depend on the object or recipient of her role's being made (all things considered) better off.

Likewise, if the injured person is made better off, that alone doesn't guarantee that the role actor has met her obligations. The first responder might, for example, forget to call 911 before beginning to administer first aid.<sup>10</sup> If another passerby calls 911 anyway and additional help arrives, the injured person may be no worse off. The mere fact that the injured person is better off, however, doesn't absolve the first responder of her failure to act in accordance with the standards for her role.

You might think, however, that the explanation for the wrong in that case isn't the first responder's role failure but the fact that the first responder's failure to call for help *risks* harming someone, even if it didn't in fact harm them. While it's true that the first responder's

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<sup>10</sup> One of the most important rules of a first responder is to call for help—either by designating someone nearby to do so or by doing so oneself. Even if first aid is required, first responders are trained *first* to call for help, because their aid alone is unlikely to be sufficient to help the person in an emergency situation.

failure to conform to the standards for her role has put the injured person at risk of harm, it's important to notice that the risk itself is made morally salient *because* the first responder occupies a particular role. If the layperson happens upon the injured person and, in a panic, forgets to call 911, we may think it's unfortunate, but I don't think it's obvious that the layperson is guilty of wrongdoing just because she didn't react calmly and rationally in an emergency situation. One of the reasons we train people to respond to emergencies is that regular people are not good at responding adequately to them. The mere fact, then, that the first responder's failure put the injured person at additional risk of harm isn't doing all the work. The first responder's obligations as a first responder are part of what makes her morally accountable for that risk.

Role obligations operate a level up: they constrain and guide the kinds of actions that tend to help or hinder the moral purpose of the role the actor occupies. Those standards are informed by facts about what effects certain actions typically have on other persons, but they do not cease to apply even when happenstance intervenes in an unforeseeable way for a particular person (for better or for worse). We can evaluate a role actor's actions, then, independently from facts about the actual outcome of her actions. Instead, we ask whether she has met the standards for her role. If she has, then at least in that respect, she will have acted well. If she hasn't, then she will have acted wrongly.

Roles don't just shape what a role actor must do, they also connect role actors to other persons or groups of persons such that those role actors have obligations *to some role recipients*. Role actors are not only obligated to act in line with the standards for their roles,

but they also owe that obligation to the recipients of their roles. The first responder's wrong, if she fails to meet her role obligations, will constitute a kind of personal wrong, or a failure to meet a duty she has *to another person*. The first responder's duty is to the injured person, and she fulfills that duty by meeting the standards for her role. If she fails to meet those standards, her failure isn't just a general moral failure, or a failure to herself, or even to all of us—it's a failure to the object of her role: the injured person.<sup>11</sup>

### Role Failures

Role actors can fail to meet the standards for their role in two ways. They can either: (1) perform actions that are not possible means to meeting the end of their role, or (2) they can act for an end other than the end of their role. That role actors are obligated to refrain from acting in ways that are not possible means to the end of their role represents the minimum standard that accompanies a role. The role's end is regulative: it limits the actions that are appropriate for the role actor to perform to those that are (possible) means to the role's end. It's not enough for a role actor to refrain from acting in ways that hinder the role's end—those actions will definitely be impermissible. If an action is not possibly a means for meeting the end of the role, then it's not the kind of action that's appropriate to perform within that role.

Consider the role of a doctor. The doctor role has as its end helping persons in

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<sup>11</sup> The role recipient can also be a group of persons, like teacher to a class, or pastor to congregants, in which case a role failure will constitute a personal wrong to each person in the group. In Chapter 4, I will argue that a role failure can constitute a personal wrong to a role recipient even in cases where the wrongful action determines *which* role recipient is connected to that role actor.

medical need.<sup>12</sup> A doctor, then, ought to act only in ways that could serve as a means to that end. The kinds of actions that hinder the role's end are prohibited, as are actions that just aren't relevant to the end. Torturing patients by inflicting pain, either for its own sake or for one's own pleasure, is one such action. Even when torturing a patient doesn't hinder the doctor's ability to meet the patient's medical needs, it's also not the kind of action that is a possible means to meeting the patient's medical needs. Doctors may sometimes need to cause their patients pain, but causing pain in those cases is a byproduct of some other action that *does* meet the patient's needs. Causing pain just for its own sake, or for the pleasure one gets out of it, serves no medical purpose and so isn't permitted by the doctor's role.

Of course, it's likely impermissible for anyone to inflict pain intentionally on another for its own sake or for their own pleasure. The difference, though, is that the doctor's doing so is more than a failure to act morally *qua* person. It's a failure to act well in a moral role. Like the first responder who fails to call 911 and so acts badly *qua* first responder, the doctor who tortures her patient acts badly *qua* doctor. Her failure is more than a general moral failure—it's a failure to act for the particular moral end which guides and constrains the role she occupies.

It's not enough, though, for a doctor to act in ways that are possible means to the end of helping those in medical need; the doctor must also act *for* that end. Suppose, medically, an Ob-gyn ought to perform a Caesarean section on her patient. She might perform the C-section because that's what's best for the mother and fetus, but she also might decide to

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<sup>12</sup> This end is purposefully vague. You might describe it instead as being aimed at the patient's wellbeing or health. The point isn't to take a stance on what the end of the doctor's role is. Rather, I want to show how the end, as stipulated, shapes the corresponding obligations of the role.

perform a C-section in order to avoid being sued.<sup>13</sup> If the Ob-Gyn acts in her role as a doctor with the end of avoiding litigation, she will fail to act well in her role. Though her action isn't ruled out by the end of her role, she fails to act *for* the end of her role. The role of doctor is aimed at meeting the medical needs of patients, and that end both constrains the kinds of actions she ought to do *and* the ends she may act on or for while acting in her role.

Again, you might think that the Ob-Gyn's failure is not about the end she acts on but the risk of harm that her action puts her patient under (like in the first responder case). It's true that the Ob-gyn's failure to have the right end in mind puts her patient's health at risk—if she is not acting for her *patient's* needs, she may well fail to meet them. However, there is a failure in this case that doesn't just consist in the doctor's end risking harm to her patient. The doctor fails to determine her own actions well (or think well about what to do). That failure is more than a general failure to think well about what to do—it's a failure to think well about what to do *as a doctor*. We miss an important part of the picture, then, if we don't notice that the doctor landed on the right action accidentally rather than as a result of good thinking about what her role requires of her.<sup>14</sup>

I am working within a framework of morality that takes our autonomy as a fundamental value. The very thing that gives rise to our obligation to refrain from acting for or on behalf of others—the other person's autonomy—is also the thing in virtue of which we

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13 Denise Grady, "Caesarean Births are at a High in the U.S.," *The New York Times*, March 23, 2010, <<http://www.nytimes.com/2010/03/24/health/24birth.html>>. Dr. George Macones notes, "The threshold for doing a Caesarean section is going down, and one of the major factors is professional liability, ending up in court."

14 You might wonder why roles are involved at all, given that the picture I am offering of our role obligations is still very much a Kantian one. Why not just work with the Categorical Imperative? One reason, which I hope this chapter will make clear, is that it's easier to get a grip on the obligations that attend specific roles than it is our general duties to others as persons.

are under moral obligations at all. We are obligated to do more than respect the autonomy or self-determination of others by our actions (though that is part of it). We are also obligated to determine our own actions well. It's not just about *what* we do, but *why* we do it. We are not just prohibited from acting for others because they have the capacity and responsibility to decide (well) for themselves. We are also on the hook for coming to act with that condition in mind.

Role obligations reflect this double condition: the role actor's action may meet condition (1), and yet if she fails to recognize that her action is called for *because* it meets condition (1), then she fails to meet condition (2). If the fact that each person is responsible for determining her own life is the source of an obligation to her, even an obligation couched in a role relationship, then it shouldn't be surprising that the obligation is one the role actor is obligated to meet by way of good reasoning about what to do. If the role actor is *not* on the hook for the actual ends for which she acts, then, if autonomy is still in the picture, it would only be in a consequentialist way. We would be obligated to promote autonomy in the world,<sup>15</sup> perhaps, but we wouldn't be obligated to *exercise* our own autonomy well.

Acting for the end of one's role, then, is as much a part of the role's requirements as the actions the role actor in fact performs.<sup>16</sup> Part of occupying a role is acting with that role in mind: a role actor must act toward or for the end of the role. That end might not be the role

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15 A.J. Julius has coined this version of consequentialism 'Kant-sequentialism'.

16 I am aligning myself with Kant's view of moral worth. Like the sympathetic man example suggests, acting in accordance with duty is not the same as acting *from* duty. Morality is concerned both with what we do and why we do it. Moral success, then, requires that an agent both recognize her duty and act from that recognition. The accidental moral saint is no moral saint at all. The difference here, though, is that the duty isn't what we owe *qua* persons, it is what a role actor owes *qua* role actor. See Kant's *Groundwork*, 11.

actor's only end, but it has to show up as a condition of her action. The doctor who gives no thought to her patient's medical needs fails to act well as a doctor even if, as it happens, she performs only actions that in fact meet her patient's medical needs.

Condition (1) can, in turn, be supported by condition (2). One reason why a role actor shouldn't act in ways that aren't possible means to the end of her role is that she cannot both take those actions *and* be acting on good reasoning about what to do in her role. The role actor may mistakenly believe that her actions are a means to her role's end, so her failure to reason well about what to do needn't be malicious or even unthoughtful. Nevertheless, she will have failed to reason well about what to do in her role. In this way, (1) allows us to criticize even the well-intentioned role actor who nevertheless doesn't arrive at permissible actions. If a role actor's action isn't even a possible means to the end of her role, then whatever she thought she was doing, she wasn't acting for the end of her role.<sup>17</sup>

That the doctor should be guided by the end of her role doesn't mean we will know what end she in fact acts for, nor does it mean we should stop her from acting if her action is a means to meeting her patient's medical needs, though we suspect the doctor isn't acting for that reason. There will, however, be a fact of the matter about whether she does act for the end of her role, and her failing to do so will constitute a wrongful action—whether or not anyone is ever aware of it.

And though we can't directly evaluate whether a role actor has acted for the end of her role, we can use the end of her role as a tool for evaluating proposed justifications for a role

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<sup>17</sup> Acting from duty isn't merely a sense of duty or a belief that an action is one's duty. There must be a genuine duty, the recognition of which leads to the action.

actor's action. Suppose it's not clear whether a particular action is the kind of action that could be a means to the role's end. If a role actor gives a justification for the action that fails to connect her action to the end of her role (or fails at least to attempt to do so), then that justification will be inadequate. The action may well be a possible means to the role's end, but if that is not why the actor would do it, then that justification will fail to justify her action. The role actor might have some other justification available to her, and so the action itself might yet be permissible. However, if her rationale for the action doesn't square up with the end of her role, then there is already a problem because she did not, is not, or will not be acting for the sake of the end of her role.

Suppose that, instead of torturing her patient physically, the doctor does so by constantly singing show tunes loudly in the patient's room. A medical study may reveal that singing show tunes to patients actually helps patients get better faster (it could). But even if it does, the doctor will still act wrongly if she sings because she secretly wishes she was a Broadway star instead of a physician, and she wants her patients to praise her talents. If her justification for singing doesn't appeal to the patient's needs, we can reject her justification as inadequate with respect to her role obligations. The end of her role gives us a way to elucidate *why* her justification is insufficient, even if we can't show that the action is itself ruled out.

The end of the role gives us traction, then, for evaluating justifications for actions in cases where it's unclear what the standard for the role should be. We disagree, for example, about whether physician-assisted suicide is consistent with the end of the physician's role.



When we give arguments for the permissibility (or not) of physician-assisted suicide, the role framework would have us ask: does the means (PAS) meet the end of the role? That is a different question than whether PAS harms the patient, or whether it benefits third-parties (by, say, conserving resources). Those other questions are not unimportant, and their answers may even be relevant to working out the role requirement. But they are not themselves squarely about the particular moral obligations that attend the physician's role.

A role couches the permissibility question in the kind of relationship a doctor has with her patient, a relationship which is regulated by the moral purpose of that relationship. The general obligation that grounds the doctor's role, for instance, might just be the duty of beneficence. The doctor's role, however, is not just to be beneficent; it is to help persons in certain kinds of situations and in certain ways. So, it could turn out that the general duty of beneficence supports assisted suicide, and yet the physician's role does not. There will be a further question, then, about whether the physician's obligations qua physician trump a permission she might have to act qua person.

Difficult cases like physician-assisted suicide can, in turn, put pressure on our understanding of a role's end. In the doctor's case, the Hippocratic oath understanding of a doctor's role as 'doing no harm' may need revision. It may be that meeting a patient's needs sometimes requires a harm, if, say, harm makes it possible to alleviate a patient's unbearable suffering, and if relieving suffering is relevant to meeting a patient's medical needs or wellbeing. What is important is that the moral obligations for a role actor are keyed to the role's end, whatever that end turns out to be. So it's important to figure out what end she

ought to be acting toward, not just what she should do.

### Role Authority to Act for Others

In the previous chapter, I suggested that one way we can evaluate wrongful procreation cases is by asking whether procreators have the authority to act on behalf of the future persons their actions help create. That question depends on a prior assumption about the moral relationship between persons: that we are obligated to respect the independent moral status of other persons, in part by refraining from acting on their behalf. Each person has both the prerogative and responsibility to determine what to believe, care about, and do, and we treat them as such by refraining from acting for them.

However, a person's *capacity* to determine her own life—either its development,<sup>18</sup> maintenance, or restoration—requires more than non-interference from other persons. We can't act without the cooperation and assistance of others. Not only do our projects require cooperation from others—the director needs actors, the contractor needs builders—but our agency itself does. Human beings are embodied agents. Our bodies are vulnerable, so we need doctors, nutritionists, trainers, etc. Our bodies need fuel, so we need reliable sources of food, which requires farmers, food processors, and markets. Human beings also require a perspective on the world and what it's like, so we need teachers, researchers, and journalists.

The habitat for moral agents has many moving parts, and each requires the cooperation of

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<sup>18</sup> You might think that our respecting the moral status of other persons sometimes requires us to tend to the continuance or restoration of a person's agential capacities, but not their initial development. In Chapter 3, I argue that the parental role already has as its end the development of a child's agential capacities. Persons are not required to bring about autonomy wherever they can (e.g., by making lots of persons, or even developing (strong) artificial intelligence). However, for beings whose typical development ends in agency, we will have both an interest in and an obligation to help that being reach that point.

other persons.

Social roles can serve as a kind of insurance program to help us meet our agential needs.<sup>19</sup> We organize ourselves socially and politically in ways that help secure the assistance we need to go on acting as autonomous agents.<sup>20</sup> Sometimes this requires that we authorize some persons to act on our behalf in service of our autonomy. Doctors need to be permitted to control or act on our bodies in order to keep our bodies going. Likewise, we sit in classrooms and follow the instructions of teachers in order to learn the information and skills we need to pursue our ends and projects as independent agents.<sup>21</sup> We allow parents to control much of their children's lives, because that is what children need in order to develop into independent persons, etc.<sup>22</sup> These roles have as their end the development, maintenance, or restoration of another person's agential capacities.

Role actors, then, may be permitted to deviate from general moral obligations. Take

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19 John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1999), 12; Matthew Clayton, "Childrearing Rights and their Distribution," chap. 2 in *Justice and Legitimacy in Upbringing* (Oxford: Oxford University Press, 2006). Compare to Rawls' original position. Our basic structure is just if it's organized in accordance with the principle of justice that would be chosen by persons behind the veil of ignorance (who are both self-interested and mutually disinterested). The resulting basic structure is a kind of insurance program for agents. Clayton borrows Rawls' strategy for thinking about parents and children. We should understand parental rights as they would be chosen by persons behind a veil of ignorance—a veil which precludes their knowing particular facts about their situation as children with parents of their own and as, potentially, parents with children of their own. Parental rights should reflect a kind of insurance program for children and parents alike.

20 Barbara Herman, *Moral Literacy* (Cambridge, MA: Harvard University Press, 2007), 371. Herman writes: "Autonomous agency is an achievement: it is possessed in degrees, acquired not only through personal, but also cultural effort, and so doubly contingent." Our ability to take in new moral facts depends both on agents and social institutions because our agency is situated in a social context. Moral literacy is found in the intersection between the agent and her social world.

21 I don't mean to suggest that people have these thoughts while at the doctor's office or sitting in a lecture. Rather, we can make sense of why we allow some persons to have authority to act for others in certain areas of life by noticing the way in which that division of labor allows us all to develop and maintain our agency.

22 Again, this will be the subject of Chapter 3.

the prohibition against inflicting pain and injury on others. It is usually impermissible for a stranger to slice open your throat in an attempt to perform a tracheotomy, but it is not impermissible for a surgeon. The surgeon's permission to deviate from the general prohibition against inflicting pain and injury doesn't arise just because she has the patient's needs in mind. The stranger who is *not* a surgeon may have the same person's needs in mind when she attempts the tracheotomy, but her well-meaning intention doesn't excuse her action. Having your throat sliced open is a big deal, in both cases, but only the surgeon occupies a role in which that action has appropriate moral context. The surgeon is trained, equipped, and works in a system wherein she has sufficient support and supervision to make it the case that performing a tracheotomy is likely to be beneficial to you. The context of the role as part of our social institutions is part of what makes it possible for the surgeon to meet the medical needs of her patients.

Role obligations aren't thereby independent from our general obligations. The surgeon isn't exempt from the prohibition against causing pain. Rather, the surgeon occupies a role in which she is sometimes authorized to inflict pain in order to serve the very end that pain usually inhibits: namely, the patient's health or, on the autonomy view, her agency.<sup>23</sup> Inflicting pain is impermissible because it's usually *bad* for a person's agency, but sometimes pain is necessary to preserve or protect it. The same moral ground is in play, but in a different way. The fact that slicing open a person's throat will be painful and hard to recover from gives both the stranger and the surgeon a strong reason not to do it. If, for example, the surgeon could fix the problem in a less invasive way, then the fact that the operation will

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<sup>23</sup> Shiffrin has a nice discussion of the way in which pain undermines agency. See "Wrongful Life," 124.

result in a painful recovery is a reason for her to do a less invasive procedure. However, if there isn't a less invasive procedure, then the surgeon may be permitted to operate on you where a non-surgeon would not. That permission is generated by the end of the surgeon's role, which in some cases can only be met by departing from what would otherwise be a moral prohibition.

Doctors are not thereby exempt from the principle of autonomy with respect to their patients. The patient's medical needs are connected to the patient's wellbeing, insofar as medical aid can contribute to it. The patient's overall wellbeing, however, is more than the physical health of her body. The patient's wellbeing as a person, at least on the autonomy-based picture, importantly includes her control over her life and body.<sup>24</sup> The role of doctor is keyed to tending to the patient's *physical* wellbeing,<sup>25</sup> but because the patient's physical wellbeing is only part of his whole wellbeing, the doctor will not be permitted to act for the patient's physical wellbeing at any cost. For example, where the patient's wellbeing as an autonomous person conflicts with the patient's medical needs, the doctor is not permitted to flout her patient's autonomy. If it comes to light that the patient has a living will with a DNR order, then, though a doctor would otherwise be permitted to revive the coding patient, the doctor will not be permitted to act against the wishes of her patient.<sup>26</sup> She can't act against the

24 As noted in Chapter 1, I am assuming a view that morality is connected to autonomy. For all I have said, the consequentialist picture might be the right one. My goal instead is to show what sort of moral work can be done from *within* a view of morality as grounded in a respect for the autonomy of other persons, and the fruitfulness of working in this framework will, I hope, support the underlying view of morality that I am beginning with.

25 A psychologist might aim for her patient's emotional wellbeing, a pastor a congregant's spiritual wellbeing, a teacher a student's intellectual wellbeing, etc.

26 Jonathan Will, "A Brief Historical and Theoretical Perspective on Patient Autonomy and Medical Decision Making: Part I: The Beneficence Model," *Chest* 139, no. 3 (2011): 669–73. Concern for patient autonomy is relatively new. Medical beneficence often left little room for the patient in medical decision-making. If the

patient's decision even if the patient's living will is now an impediment to the doctor's meeting her patient's very urgent physical need. The doctor's authority, then, isn't absolute: it depends on her serving the end of her patient's medical needs, up to the point at which doing so would interfere with the very thing that makes the patient's medical needs morally salient, namely, her wellbeing as an autonomous person.<sup>27</sup>

Importantly, the standards for role actors reflect the permissions and limits that apply to a group of persons with respect to another group of persons. Those standards don't depend for their content or force on facts about particular persons. The doctor's role, for instance, is constituted by norms that permit or prohibit certain *kinds* of actions. Each patient isn't a novel moral situation. There are already norms in place that govern how a doctor will treat her, not because of her situation or needs, but because of *our* needs. The patient in need of an organ doesn't generate an obligation on her doctor to get her one however she can—other people need organs, to keep the ones they have, and to sometimes get transplants from others. We organize a system to sort it out, as best we can, because it's never just about *one* patient. The doctor has personal obligations to *her* patient, but the shape of those obligations aren't themselves determined by the situation of that patient.<sup>28</sup>

Social roles that serve a moral purpose by, say, contributing to the collective

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physician has the relevant expertise to make her patient better off, then making room for patient autonomy would come at the cost of the patient's medical care. If the moral salience of patient's medical care is explained in terms of the conditions for her agency, however, it becomes clear why patient autonomy matters.

27 In the next chapter's discussion of parental ends, I will say more about the connection between wellbeing and autonomy. I understand a person's agential capacities as essential for her wellbeing, and a person's wellbeing is secured partly by securing the conditions for the development and use of her agential capacities.

28 I will return to this point in Chapter 4. We only avoid the non-identity problem because of it.

conditions of our agency, needn't have originated for that purpose, nor must they be the best suited to serve that purpose, in order to be justified by their contribution to it.<sup>29</sup> For instance, though the parental role is likely the product of some combination of evolutionary, historical and cultural influences, it can still meet an important moral need.<sup>30</sup> The role of a parent in the context of the nuclear family may not even be the best way to meet a child's needs—an intergenerational household or a cooperative living situation may do a better job. Yet, if parents can adequately meet the moral need in question, then the parental role can give rise to a genuine moral authority on behalf of parents to act in order to meet their children's needs.

On an autonomy-based moral account, role obligations track the way in which the role contributes to our agential wellbeing. However, even if we disagree about whether it is the person's agency, happiness, or something else that ultimately grounds both our general moral obligations and the moral rationale for social roles, we can still say a great deal about the content of particular roles and their ends. Suppose, for instance, that we disagree about what ultimately grounds the doctor's role. Say you think that agency isn't the ultimate value, rather it's our collective welfare, or perhaps the progress of civilization. We can still agree that the doctor ought to treat her patient's medical needs. Different top-level accounts will give different explanations for *why* the doctor's end is to treat her patients medical needs, and they may even issue different verdicts on what the doctor's obligations are in borderline cases. Nevertheless, we can still agree on much of the content of the doctor's obligations, because

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29 Some social norms don't track morality and may even oppose it. Where there is opposition, we have reason to reject the social role and its corresponding social norms.

30 Like our moral beliefs themselves, we should avoid the genetic fallacy. The actual origins of one's beliefs can have little to do with morality and yet still get something right about morality.

we already know something about the end of the doctor's role, even if we don't agree about the moral rationale for that end. The same is true for other roles. We can get traction on the requirements that govern a role even before we have an account of how that role fits into the bigger moral picture.

So, though what follows assumes an autonomy-based view of morality, the role framework can still prove fruitful for exploring the morality of procreation for other kinds of moral theories. Once we're talking about roles, we're in a different moral space than that of individual actors and the duties they have to future persons qua persons. The role may take a different shape if, say, it's in service of our collective happiness, but the obligations that bind role actors will still be personal obligations owed to role recipients, and they govern the *kinds* of actions that role actors can take in virtue of their role's end.

### Procreation and Role Obligations

In procreation cases, whatever the procreator does, she necessarily does it without consent, input from, or even knowledge about the person who she brings into existence. That has led some to think that procreators are not bound by any claim from the future person to act in one way rather than another (though the procreator may be bound by some impersonal requirement, like a utilitarian principle).

Though the person doesn't exist at the time of the action, he does exist as a *result* of the action, and he must live a life shaped by the decisions of his procreator—whether it is his existence or his particular features that were the product of *her* choice. Even so, you might



think, as Parfit does, that the created person only has standing to object to his procreator's decisions if those decisions have made him worse off than he was or otherwise would have been. As noted previously, for at least some procreative decisions, those very decisions are what make it the case that *that* person exists now rather than someone else. So it seems like, if the created person has an objection, it can't be that he is worse off than he was or would have been had his creators acted differently.

However, even if the created person isn't worse off than he was or would have been, he may yet have standing to object to decisions made for him by his procreators. Those decisions needn't result in some bad outcome for him in order to be objectionable. Sometimes a choice made on one's behalf is objectionable just because it was inappropriate for the chooser to make it, regardless of the outcome. The question, then, is what choices are *appropriate* for a procreator to make, and what choices are not?

Even if we're after a way to evaluate the appropriateness of a procreator's choice, it is still going to be difficult to see how, exactly, a person's potential existence constrains the procreator's actions now—especially where the procreator's very action is what determines whether that potential person becomes an actual person. This is precisely what makes procreation such a unique kind of action between persons. One person acts in a way that is very much *for* or *on behalf of* the other person, but that there will be another person depends on that action being done.

However, if procreators occupy a role with respect to the persons they create, then they are bound by personal obligations to those persons in virtue of occupying that role.

Rather than asking whether the procreator's action brings about (or risks bringing about) harm or some other bad state for the person created, we can instead ask whether the procreator's acting on behalf of the created person is appropriate within the context of her role. The procreator's obligation is still personal: it's directed at whoever eventually occupies the role relationship with her. Roles are moral obligations a level up: they apply to particular persons in particular role relationships, but they get their force from the larger part they play in our moral organization. When procreators occupy a role, then, their actions can meet or fail personal duties they have to their progeny, in virtue of standing in a role, the shape of which is determined well before their progeny are brought into existence.

The role recipient, whoever he is, is still the object of the role's end—all progeny are. The child who results from these procreators is just the one whose number got called, so to speak. He, as a progeny, is the one at which the role is directed, and so he is the one to whom the role actor's obligations are owed. The structure of a role allows for a kind of placeholder for a role recipient, even if his becoming the actual role recipient depends on what the role actor does.<sup>31</sup>

If procreators occupy a role with respect to their progeny, then we can get purchase on the sorts of choices that are and are not permissible for procreators to make by looking at the end of their role. Once procreators are acting in a role, then their actions ought to both be 1) possible means to the end of that role and 2) done as a means to that end. Knowing the role and the role's end may reveal that some procreative actions fail the first condition. In other

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<sup>31</sup> In Chapter 4, I will argue that this personally directed obligation constrains procreators on behalf of their future unspecified (or *de dicto*) child.

cases, procreative actions may fail just in case the procreators act for the wrong end. What is perhaps even more helpful, however, is that we will also have a way to evaluate proposed justifications for actions that are not clearly permitted or prohibited. We can ask whether those justifications cohere with the end of the role the procreators occupy. If the justification doesn't cohere with the end of the role, then it's out, and it's out even if the action doesn't fail condition (1).

The obvious role to start with is that of a parent. Intentional procreators, particularly procreators making use of reproductive selection, are typically procreating in order to parent the persons they create. Procreating with the intention of parenting may, then, counts as assuming the role of parent even before the procreator is parenting an existing child. In Chapter 4, I will argue that prospective parents assume the parental role by procreating in order to become parents, and so they are bound by parental obligations to their future children (whoever those children happen to be). Their future child, unspecified, exerts a moral constraint on his procreator's choice because their *de dicto* child is the object of their parental role. Procreators who fail to act well in their parental role wrong their progeny, and that wrong doesn't depend on the outcome for the child (whether they are better off, worse off, or neither). The wrong is the procreator's failure to act in accordance with the standards for her role, where that role binds her in personal obligations and funnels those obligations to the person she in fact creates, whoever he turns out to be.

In the following chapter I will explore the parental role by looking at the extent of a parent's authority to direct the education of her child. In particular, I will consider the extent

to which a parent can permissibly impart her religious beliefs to her child. I will show that the parental end that seems to both guide and constrain parental choice in a child's education is the child's future agential independence. Parental obligations, then, track the requirements and permissions that enable parents to facilitate their children's future autonomy.

### Chapter 3: Parental Obligations

Social roles shape the moral context of our lives. What an agent should do depends in part on the kinds of relationships she stands in to other persons. I have different kinds of claims on and obligations to my sisters, my landlord, and my pastor, because I am in different kinds of relationships with each of them and them with me. To know how we *ought* to treat each other, we must know more about what those kinds of relationships require of us, which, in turn, depends on the work those relationships do (if any) in our moral division of labor.

For many intentional procreators, procreation is a means to becoming a *parent* of the persons they create, which puts them in a special relationship to their progeny.<sup>1</sup> They are not just persons creating persons, they are prospective parents creating their future children. In doing so, procreators assume a social role that is constituted by its own permissions and obligations. Where most people would not usually be permitted to make decisions about what happens to another person's body or what another person should believe or care about, parents seem to have a special moral permission to make decisions that shape their children's bodies, beliefs and values. That authority, however, is not absolute. If procreators do occupy the parental role, then how procreators ought to act with respect to their progeny will depend in part on the permissions and obligations that attend the parental role.

Parental permissions and obligations, in turn, depend on the moral end or purpose of

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<sup>1</sup> In Chapter 4, I will argue that procreators assume the parental role just by procreating in order to become parents.

the parental role. Social roles are morally justified, and generate genuine moral permissions and obligations, when they do moral work—by meeting collective moral needs or discharging collective moral duties. When parents are permitted to act on behalf of their children, it's for the sake of this end, whatever it is. They are not permitted to act in ways that would undermine it or would not be a possible means to it.<sup>2</sup> To determine what *prospective* parents can choose for their future children, then, we first need to know what the end of the parental role is and how it constrains parental choice.

In this chapter, I will examine the moral end of parenting by looking at issues that arise when parents elect to transmit their religious beliefs to their children. We typically think that it would be wrong or inappropriate for parents to indoctrinate their children into their religious beliefs, but that it is at least sometimes permissible for parents to initiate their children in their religious practices and traditions. What moral justification for the parental role and parental authority could explain why religious indoctrination is usually wrong but religious initiation is not?

I will begin with the wrongfulness of religious indoctrination through education.<sup>3</sup> I will show that indoctrination is bad for children because of the damage that indoctrination does to the child's capacity to determine his own life.<sup>4</sup> The permission or authority parents have to determine aspect of their children's lives does not extend to actions that inhibit their children's future autonomy, even if they are ostensibly acting on behalf of their children's

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2 See Chapter 2.

3 I am using this as a moral data point, though it is not uncontested. Proponents of strong parental rights, for instance, will not accept that indoctrinating one's child is always wrong.

4 Again, for clarity, I will use the female pronoun for the parent and the male pronoun for the child.

wellbeing. The parental role is morally justified insofar as it, in conjunction with other social institutions, facilitates the agential development of children. The complete end of parenting may be complex; it may include sub-ends that are not limited to facilitating the autonomy of children, such as the child's happiness or excellence. However, a child's future autonomy acts as a limiting condition on all other parental ends.

Not only are parents prohibited from acting against their children's future autonomy, they are also required to take their children's autonomy as a condition of their own ends. Parents are only permitted to transmit their own beliefs and values to their children on the condition that doing so is a possible means to their children's agential development. Indoctrination is prohibited because it is not a possible means to that end. In cases where a parent's transmitting her own beliefs and values *is* a possible means to her child's agential development, she must also take her child's autonomy as *her* end. Initiation is permitted then, only in cases where it is both a possible means to their children's agential development *and* when parents take their children's autonomy to be their end (or the limiting condition of their actions). Where it's not clear whether a parent's transmission of her beliefs and values is a possible means to her child's agential development, we can still evaluate her justification for a proposed parental action by asking whether her justification appeals to her child's future autonomy.

### Religious Indoctrination

Let's begin with religious indoctrination.<sup>5</sup> Indoctrination is the practice of instilling

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<sup>5</sup> Terence Copley, "Non-Indoctrinatory Religious Education in Secular Cultures," *Religious Education* 103,

beliefs in a person in a way that bypasses that person's reason, making those beliefs resistant to rational revision.<sup>6</sup> Those beliefs may be false, and so not possibly imparted by way of appealing to a person's reason, or those beliefs might be truth-uncertain, and so not rationally demonstrable. A child's religious education doesn't indoctrinate him just because the child eventually holds religious beliefs. A child is indoctrinated only when he "is given a view of the world such that [he] cannot see any other."<sup>7</sup> A child needn't be able to freely choose to believe or disbelieve what he's been taught (as if we could believe at will), but he must be able to turn his reflection toward those beliefs—the result of which should depend on the outcome of that reflection, not merely the stubbornness of the belief.<sup>8</sup> A child who doesn't happen to change or revise his beliefs hasn't thereby been indoctrinated, but if he is *unable* to

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no. 1 (2008): 22–31. You can be equally worried about secular indoctrination insofar as secular education imparts beliefs about the world and about what matters for which there is no decisive rational proof. A secular education might, for example, instill a strong sense of nationalism in students. Copley worries about secular education's dismissal of religious worldviews.

- 6 John Wilson, "Comment on Flew's 'What is Indoctrination?'," *Studies in Philosophy and Education* 4, no. 4 (1966): 390–95; R.M. Hare, "Adolescents into Adults" chap. 5 in his *Applications in Moral Philosophy* (Berkeley and Los Angeles: California University Press, 1973); Elmer Thiessen, "Indoctrination and Religious Education," *Interchange* 15, no. 3 (1984): 27–43; Tim McDonough, "Initiation, Not Indoctrination: Confronting the Grotesque in Cultural Education," *Educational Philosophy and Theory* 43, no. 7 (2011): 706–23. On Wilson's account, indoctrination consists in the installation of *false* beliefs. We must only teach children what is not only rationally plausible, but is more probable than not (or for which we have public evidence). Hare argues that it's the *intention* that marks indoctrination from other kinds of education. Parental intention will matter on my account, but it will show up further downstream. Thiessen thinks the concept of indoctrination is so unclear as to be unhelpful in thinking about appropriate educational methods and content. I am using McDonough's account of indoctrination: indoctrination involves a bypassing of the recipient's rational capacities—whether or not the belief is false, intentionally instilled, or harmful. Even without a fine-tuned account of indoctrination, I think we have a sense of *when* indoctrination is happening in at least some cases, and for those cases, it's worth working out *why* they're bad (if they are bad).
- 7 Terence Copley et al., *Forms of Assessment in Religious Education: The Main Report of the FARE Project* (Exeter: University of Exeter School of Education, 1991), 19. Indoctrination, by this definition, doesn't have to be as radical as *conditioning*, which happens when you override a person's will or judgment by assaulting or depriving her senses.
- 8 Peter Gardner, "Religious Upbringing and the Liberal Ideal of Religious Autonomy," *Journal of Philosophy of Education* 22, no. 1 (1988): 89–105. Gardner criticizes proponents of religious autonomy (like Rousseau and Mill) who talk as if a person should be able to believe or not at will.



do so as a result of his education, then he has been indoctrinated.<sup>9</sup>

A religious education needn't be malicious or extreme to count as indoctrination under this description. Indoctrination can occur in cases where a child is presented with just one viewpoint on the world because other viewpoints have either been excluded or subtly undermined. On this view of indoctrination, both religious and secular schools can, in principle, indoctrinate their students.<sup>10</sup> When an educational program not only leaves out but consistently undermines the possibility of alternative viewpoints on the world, where alternative viewpoints are rationally possible, then those schools can make it the case that students are unable to see the world any differently from how it's presented to them at school. It's not just that one viewpoint is privileged, it's that other viewpoints are fully excluded or are constantly undercut when they are included. Schools needn't pretend that different viewpoints have merit where there's nothing to be said for them, but, where there is something that can be said in support of a view, they shouldn't act like there isn't. A curriculum doesn't need to include *every* possible viewpoint on a topic, but they should

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9 Terence H. McLaughlin, "Parental Rights and the Religious Upbringing of Children," *Journal of Philosophy of Education* 18, no. 1 (1984): 75–83; Eamonn Callan, "McLaughlin on Parental Rights," *Journal of Philosophy of Education* 19, no. 1 (1985): 111–18; Michael Hand, "Religious Upbringing Reconsidered," *Journal of Philosophy of Education* 36, no. 4 (2002): 545–57. McLaughlin puts it this way: you only avoid indoctrination when parents impart religious beliefs that are "stable, but open to subsequent challenge and development" (80). McLaughlin assumes the possibility of non-indoctrinating religious upbringings. In response to McLaughlin, Callan concedes the logical possibility of non-indoctrinating religious upbringing, but questions the practical possibility of actually avoiding indoctrination. Hand gives an argument for the logical possibility of non-indoctrinating religious upbringing in cases where religious belief impartation happens as a result of children's natural acceptance of their parents' intellectual authority. For my purposes, so long as the religious beliefs in question cannot be shown to be false, I think there's room for non-indoctrinating religious upbringing.

10 Copley describes four subtle methods of indoctrination, two of which are the exclusion and subtle undermining of competing worldviews. He argues that a secular education can indoctrinate as much as a religious one, insofar as it excludes and undermines religious worldviews. See Copley's "Non-Indoctrinatory Religious Education," 25–26.

include *some* alternate viewpoints.<sup>11</sup>

In “The Harms of Homeschooling,” Robin West notes that the majority of the two million children being homeschooled in the United States today are from devout, fundamentalist Protestant homes. Such parents often opt to homeschool not because their children have special needs or live too far from school, but because those parents “do not approve of the public schools’ secularity, their liberalism, their humanism, their feminist modes of socialization, and in some cases, of the schools’ very existence.”<sup>12</sup> These parents might be worried that public schools will indoctrinate their children in liberal values, or they may just be worried that the schools will expose their children to such values. Either way, if fundamentalist Protestant parents homeschool their children in order to give them an education that’s exclusively religious, then those children are only being presented with one view about the world. They are at risk, then, for being unable to see the world any other way. Should parents be permitted to indoctrinate their children by controlling the content of their children’s education in this way?

The legal debate over parents’ authority to control their children’s education is sometimes cast as a conflict between the interests of the parent and the state—without direct reference to the interests of the child.<sup>13</sup> Consider, for instance, the case of *Wisconsin v. Yoder*.

11 For this reason, you might think that even public, secular schools should include a study of world religions in their curriculum. Putting aside the value there is in students having a better understanding of what other persons believe, there is intellectual merit in letting different belief systems stand or fall on the basis of their own merits, not only at the discretion of school administrators. See John Stuart Mill, *On Liberty* (London: John W. Parker & Son, 1859).

12 Robin West, “The Harms of Homeschooling,” *Philosophy and Public Policy Quarterly* 29, no. 3-4 (2009): 7–12.

13 Rob Reich, *Bridging Liberalism and Multiculturalism in American Education* (Chicago: Chicago University Press, 2002); Rob Reich, “On Regulating Homeschooling: A Reply to Glanzer,” *Educational Theory* 58, no. 1 (2008): 17–23. Reich argues for a greater inclusion of the child’s interests in education, though neither the

Amish parents objected to Wisconsin's compulsory education law which required children to attend school until the age of 16. The Amish wanted to pull their children out of public schools two years earlier in order to raise their children in the Amish lifestyle, apart from the "world and worldly influence." The courts balanced the interest the Amish parents had in the free exercise of their religion (as protected by the Free Exercise Clause) against the state's interest in the Amish children's becoming capable of discharging their duties as citizens and not becoming burdens to the state.<sup>14</sup>

The Supreme Court ultimately upheld the right of Amish parents to exercise their own religion by controlling their children's participation in their religion, even against the state's interest in the children's becoming citizens of a certain sort. As part of their ruling, the Amish children's interest in receiving a secondary education was reinterpreted as an interest in not being subject to grievous harm.<sup>15</sup> According to the Supreme Court, then, Amish parents seem permitted to indoctrinate their children, so long as they don't grievously harm them. According to the Court, because the Amish children weren't seriously harmed by being pulled from public schools at age 14, Amish parents should be permitted to exclude their children from public secondary education. In "Parents' Religion and Child's Welfare," James Dwyer described the Supreme Court's decision this way: "*Yoder* established a very peculiar interpretation of a constitutional right—one that attributes to some persons a right to engage

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interests of the state, parents, nor children should be the sole authority.

14 For an analysis of the Supreme Court's decision that criticizes the Court's failure to protect the interests of the Amish children, see James Dwyer, "Parents' Religion and Child's Welfare: Debunking the Doctrine of Parents' Rights," *California Law Review* 82, no. 6 (1994): 1371–1447.

15 *Wisconsin v. Yoder*, 406 U.S. 205 (1972). This interest is sometimes referred to as their positive or negative claim-right.

in conduct and make decisions aimed at controlling the lives of other persons.”<sup>16</sup>

The Supreme Court recognized the Amish parent’s legal authority to control their children’s education up to the point where their actions risked seriously harming their children. One might accept that limit but disagree with the court about whether the Amish children *have* been seriously harmed. A major objection to indoctrination is that indoctrination is itself a serious harm for the person indoctrinated.<sup>17</sup> What that harm consists in, however, is hard to pin down. One option is the content of the beliefs indoctrinated. For members of Jim Jones’ Jonestown cult, for instance, the content of their beliefs proved fatal. But, not all religious beliefs have harmful content, and so the harm of religious indoctrination can’t consist solely in the content of the beliefs that indoctrinated children come to hold. If indoctrination into the Amish belief system is bad for the Amish children, it doesn’t seem to be because it’s bad to be Amish. The mere holding of religious beliefs, even radical ones, doesn’t have to be bad for the person who has them—in fact, it can sometimes be an integral part of her life’s going well.

You might think that indoctrination is harmful, not because of the content of the beliefs, but because it is emotionally costly for the child to later abandon those beliefs. The Amish child might be happy enough if he continues to live the Amish lifestyle, but he faces serious emotional obstacles should he choose to adopt a secular lifestyle instead.<sup>18</sup> The

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16 Dwyer, “Parents’ Religion and Child’s Welfare,” 1388.

17 Hugh LaFollette, “Freedom of Religion and Children,” *Public Affairs Quarterly* 3, no. 1 (1989): 75–87. This is the central objection that LaFollette makes to parents indoctrinating their children. LaFollette argues that the Supreme Court has overlooked the non-physical harm done to children when their life alternatives are closed off.

18 Steven Mazie, “Consenting Adults? Amish Rumspringa and the Quandary of Exit in Liberalism,” *Perspectives on Politics* 3, no. 4 (2005): 745–59. The Amish rite of passage, Rumspringa, where Amish

problem with this approach is that any serious initiation, teaching or privileging of the parents' (or the state's) belief and value system has the potential to be harmful to the child's future emotional state. If a child is raised with any serious commitment to a particular worldview, then his later abandoning that worldview for another might only be possible at a high emotional cost. If, for example, the child of a non-indoctrinating religious upbringing comes to abandon his religious beliefs, it may cost him the community he's grown up in, it may change the nature of his relationship with his parents, and it may make him feel disoriented about the world and his place in it.

Not only would religious parents potentially harm their children by homeschooling them or sending them to religious schools, but parents with deep political convictions, views about the ethical consumption of food, etc., would all risk harming their children if their children later reject their parents' beliefs. The child raised as a vegan who becomes a meat-eater may experience the same emotional distress and familial tension as the conservative who becomes a socialist, or the atheist who becomes a Christian. If the thing to avoid is *emotional* harm, then parents might need to refrain from imparting any particular belief system all together, religious or otherwise.

Whether the harmfulness of indoctrination is located in the belief itself or in the belief's impact on the child's future happiness, we lose the ability to make a moral distinction between indoctrination and sharing or initiation. The child who is included in his parents' religious practices can just as easily come to hold his parents' religious beliefs as the child

adolescents are permitted a period of "running around" before they must decide whether to commit to the Amish faith and lifestyle *seems* to respect the autonomy of Amish teenagers to choose church membership for themselves. However, whether their exit option is really a meaningful option is unclear, especially given that it is often a *permanent* exit from their family and community.

who is indoctrinated into them. Whatever the harm of religious indoctrination is, it can't just be that children come to share their parents' religious beliefs. If it is, then either the religious beliefs are innocuous and there's nothing particularly bad about being indoctrinated into them, or, they're somehow pernicious and it would be bad for parents to act in any ways that would lead to their adoption, indoctrination or not.

Perhaps the harm of indoctrination is that having rationally stuck beliefs—not just having religious beliefs—limits the child's future prospects. Justice William O. Douglas's describes the problem in his dissent in *Wisconsin v. Yoder* as follows:

*“It is the future of the students, not the future of the parents, that is imperiled by today's decision. If a parent keeps his child out of school beyond the grade school, then the child will be forever barred from entry into the new and amazing world of diversity that we have today. The child may decide that that is the preferred course, or he may rebel. It is the student's judgment, not his parents', that is essential if we are to give full meaning to what we have said about the Bill of Rights and of the right of students to be masters of their own destiny. If he is harnessed to the Amish way of life by those in authority over him and if his education is truncated, his entire life may be stunted and deformed. The child, therefore, should be given an opportunity to be heard before the State gives the exemption which we honor today.”<sup>19</sup>*

Joel Feinberg echoes Justice Williams' worry about the child's prospects in his argument for a child's right to an open future:

*“An education that renders a child fit for only one way of life forecloses irrevocably his other options. He may be a pious Amish farmer, but it will be difficult to the point of practical impossibility for him to become an engineer, a physician, a research scientist, a lawyer, or a business executive.”<sup>20</sup>*

Children have a right against others' foreclosing their future opportunities, or the paths that

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19 *Wisconsin v. Yoder*, 406 U.S. 205 (1972).

20 Joel Feinberg, “The Child's Right to an Open Future,” in *Whose Child?* ed. W. Aiken and H. LaFollette (Totowa, NJ: Rowman & Littlefield, 1980): 132.

would otherwise have been available for them to take (if they were permitted to develop “naturally”, or in a way that is unforced).<sup>21</sup> Indoctrination is bad, then, because it makes the child unable to rationally consider other viable worldviews, thus closing off potential life paths. Even though the Protestant homeschooler might embrace the Protestant worldview and life path, if he’s on it because other roads were closed to him, something has gone wrong. The child is made worse off, on this view, because paths that would have been open to him are now closed as a result of his parents’ actions.

The problem with locating the harm of indoctrination in foreclosed future opportunities, however, is that *any* education is going to close doors that were open to the child before his education began. Some skills require early acquisition for fluency or excellence (such as a learning a language, or operating at the highest levels of athletics or music). One parent might enroll her child in a strict academic environment in which extracurricular activities are shunned in favor of excellence in STEM subjects. Another parent might enroll her child in a year-round sport beginning at an early age in order to give that child a chance at Olympic greatness. Another might enroll her child in lots of different activities in order to expose her child to the widest array of options. But even the parent who tries to *maximize* her child’s future options can only do so at the expense of life paths that require serious single-minded focus and commitment. Whatever route a parent takes, there will be tradeoffs. So, unless we know *which* paths ought to remain open, or how many paths ought to remain open, it’s not clear whether the Amish children are any worse off than children who participate in highly competitive sports, or specialized schools.

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<sup>21</sup> Ibid., 127.

It is not obvious that the future to which a child has a moral right is a future that is maximally open. Williams and Feinberg are tracking a real problem, but it's not just the child's life prospects that are at stake—it's the child's capacity to embark upon a life path as the result of his own rational reflection. The development of the child's rational capacities should not itself be jeopardized by her parents' choices. A child may never give much thought to his worldview or life path, but he shouldn't lack the *capacity* to do so as a result of his parents' choices. If parents educate their children in ways that make it impossible for those children to later determine their own lives, then those parents have acted wrongly. Their doing so can result in the child's having fewer future opportunities open to him, but it's not the number of opportunities that's doing the work. Children don't need maximally open futures to be autonomous adults, but they do require the capacity to rationally reflect on and consider the paths that *are* available to them.<sup>22</sup>

The indoctrinated child is stuck with some set of beliefs, not because he has rationally reflected on and accepted them, but because they were psychologically reinforced in a way that prevents him from rationally reconsidering them—and *that* makes him worse off (both than he was and than he would have been). What makes indoctrination harmful to children and wrong for parents to do, then, is the damage it does to a child's capacity to later determine, for himself, what to believe, what to care about, and what to do. Contrary to the Supreme Court's ruling, then, the Amish children's coming to hold beliefs that are resistant to rational revision, and so being unable to see the world outside of the Amish lifestyle, is a

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<sup>22</sup> A parent raising a child in an oppressive socio-political environment isn't going to be able to avoid a narrow future for her child, but she can equip her child to think critically about the injustice in the social world he inhabits.



grievous harm—it's a harm to their future autonomy.<sup>23</sup>

If parents don't have the moral authority to indoctrinate their children because doing so jeopardizes the child's agential independence or autonomy, then the moral end or purpose of parenting must have some connection to the development of a child's autonomy. The end of parenting can't just be to raise happy children. A child's happiness or wellbeing isn't unimportant, but parents can't pursue it at the cost of the child's future autonomy. The indoctrinated child may be happy enough—after all, having the capacity to critically reflect on one's beliefs and values isn't always a recipe for contentment. The emotional cost of reflecting on one's beliefs can be high, especially if one ends up abandoning those beliefs. But even if it's true that indoctrinated children are happier than their autonomous counterparts, that doesn't thereby justify their indoctrination.

If, for example, a parent's worldview includes the belief that her child's eternal wellbeing depends on that child's holding some religious belief, that parent is not *thereby* permitted to instill that belief however she can. Indoctrinating her child may be the better bet if she wants to ensure her child's eternal salvation. It's better not to have that belief be subject to later rational scrutiny if his eternal salvation is on the line. However, that doesn't seem to excuse her indoctrinating her child. Even if she's right about her child's salvation, she shouldn't employ impermissible means to achieve it.<sup>24</sup>

If the child's future autonomy constrains parental authority, does that entail that

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23 Not all homeschooled or Amish children will *actually* be indoctrinated, or made unable to choose that life or another for themselves. However, the kinds of choices made for them by their parents put them at risk of being unable to do so, and that is a reason to prohibit parents from making those choices for their children.

24 If you are a strict consequentialist and the religious parent is right about her child's salvation, her end will justify the means she takes to achieve it.

parents must fully refrain from including their children in their religious practices or in other ways influencing (intentionally or not) what their children come to believe? In what way does the child's autonomy matter? Is it an end-state to be achieved (something like Feinberg's right to an open future), or a *precondition* for enrolling one's child in one's comprehensive doctrine—religious or secular? In *Justice and Legitimacy in Upbringing*, for example, Matthew Clayton argues for the latter.<sup>25</sup> On his view, even if a child's eventual autonomy isn't necessarily at risk, parents should not enroll their children in any comprehensive doctrine until the child is old enough and capable of choosing to participate of their own accord.<sup>26</sup>

Clayton considers the practice of paedobaptisms.<sup>27</sup> In some Christian sects, infant baptism is thought to be essential to the child's eternal salvation, and in those sects and others, infant baptisms or dedications signal a commitment of the child's parents and community to raise the child in the Christian faith. That commitment needn't include indoctrination. Parents may send their child to a secular public school during the week, but also take him to Sunday School on the weekend. Nonetheless, Clayton argues that it is impermissible for parents and the child's community to enroll the child in a religion (or other comprehensive doctrine) until the child is able to enroll himself, so to speak. So, infant baptisms and dedications are out.

Suppose a parent sincerely believes that her child's salvation, or eternal wellbeing,

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25 Religions represent one kind of comprehensive doctrine, but they are not the only ones. Serious Marxists, secular humanists, even vegans might also count as illegitimately enrolling their children in comprehensive doctrines of a secular sort.

26 Matthew Clayton, "Parents and Public Reason," chap. 3 in *Justice and Legitimacy in Upbringing* (Oxford: Oxford University Press, 2006).

27 *Ibid.*, 88.

depends on the child's being baptized. That parent intends to include her child in her religious practices by baptizing him for the sake of the child's wellbeing, and her doing so doesn't seem to *jeopardize* her child's future autonomy.<sup>28</sup> The child may or may not come to share his parent's belief in the possibility or source of his salvation or eternal wellbeing, but his infant baptism hasn't prevented him from considering the question for himself when he develops the capacity to do so. Does the parent have the moral authority to baptize her child without his consent?

If, as can be the case for infant baptisms, the child's *future* autonomy is not in danger, I think the answer to that question will depend on the end for which the parent actually acts. Recall from Chapter 2 that role obligations operate on two levels: 1) they prohibit role actors from acting in ways that are not possible means to the end of the role, and 2) they require that role actors act for the end of their role. Indoctrination violates condition (1) because it damages a child's capacity to determine her own beliefs and values and so is not a possible means to the facilitation of the child's autonomy. Most initiation practices, however, are not that extreme. The parent who baptizes her infant, for example, doesn't damage her infant's future rational capacities. However, there's a further question we should ask: does she act *for* the sake of her child's future autonomy?

In what follows, I will motivate a moral rationale for the parental role that appeals to both the child's and society's interest in the facilitation of the child's agential independence. Those interests give rise to the moral purpose of the parental role, namely, the development of the child's future autonomy. Parents are not permitted to act in ways that are not possible

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<sup>28</sup> That is, unless the baptism is followed by an indoctrinating upbringing.

means to fulfilling that purpose, nor are they permitted to act solely for the sake of ends that don't include the child's future autonomy as a limiting condition of their actions. The child's future autonomy isn't merely an end-state to be achieved—though that matters. It should also show up as a guiding condition of parental action.

### Children and the Rest of Us

If the mark of a person is her capacity to rationally reflect on her beliefs, desires, and values, and if morality requires respect for the autonomy of *these beings*, then there isn't an obvious place for children. Children, at least at the earlier stages of their development, lack many of the physical, cognitive, and emotional capacities that characterize mature moral agents. Children begin life with little control over their bodies, their thoughts or their desires. They also lack the skills and knowledge they need in order to successfully navigate the world on terms that could count as their own. As Tamar Shapiro writes, "...[T]he condition of childhood is one in which the agent is not yet in a position to speak in her own voice because there is no voice which counts as hers."<sup>29</sup>

However, children are also beings who will typically develop the capacities they need to operate in the world as independent agents. They are young human beings, and normal human development results in autonomous adults. If children are en route to becoming autonomous persons, then at the very least we shouldn't act in ways that will jeopardize that development.<sup>30</sup> Recall the autonomy principle from Chapter 1:

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29 Tamar Schapiro, "What is a child?," *Ethics* 109, no. 4 (1999): 729.

30 What we owe to children who are not capable of developing into even minimally autonomous adults is an important question, but it is beyond the reach of this chapter. I will return to the issue of developmental

*If for some X, P should determine X for herself, (i) and if Q's phi-ing would make it the case that P did not or cannot determine X for herself, (ii) but Q's not phi-ing would make it the case that P can, at some point, determine X for herself, then Q has a strong (prime facie) reason not to phi.*

As a young human being, P is the kind of creature who would typically become a mature agent or person, so there is some range of X's for which it will (or at least *could*) be the case that those X's should be up to P. When P is a child, Q's phi-ing can make it the case that P doesn't ever *become* an autonomous agent. If Q seriously injures P or, worse, fails to keep P alive, then P will never become a being who can determine any X's at all.<sup>31</sup> If Q's phi-ing would make it the case that P is unable to determine those future X's for himself, then Q has a reason not to phi. Though P may not *now* be able to settle some range of X's for himself, Q's phi-ing can nonetheless affect the X's P can (and should) settle for himself in the future. On the extreme end, Q should not phi were doing so prevents P from *becoming* a mature, autonomous person. Doing so would count as settling a range of X's for P which are not up to Q. That P cannot not yet settle some X for himself, then, does not thereby permit Q to settle that X for him by phi-ing. At the very least, then, we shouldn't act in ways that *inhibit* a child's becoming an autonomous person.

A child's development into autonomous person, however, is not strictly a matter of non-interference. Children need a great deal of care, support, education and resources in order to grow into persons who can operate in the world as mature agents. Q's inaction can just as easily result in P's being unable to settle some X (or range of X's) for himself that

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disabilities in Chapter 5.

31 Precluding some P from settling future X's that ought to be up to him can partially explain what makes it wrong to end a life of any person, not just a child.

should have been up to him. It would seem, then, that where P is the kind of being who typically will become autonomous, we are on the hook for respecting *adult* P's autonomy by actively facilitating his agential development now. Buchanan and Brock put it this way: "An important part of children's and adolescents' interest in self-determination is not their interest qua children ... but their interest in developing the capacities to be self-determining adults."<sup>32</sup>

That is not to say that we're obligated to bring it about that there *are* autonomous beings, full stop. Rather, if there is some P for whom there are X's which should be up to P, even if only in the future, then Q is constrained *now* in her actions insofar as those actions bear on P's capacity to settle those X's for himself; however, we are not obligated to bring it about that there are such P's. That is, we're not obligated, on basis of something like the autonomy principle, to create lots of persons. Potential persons are not P's for whom there are X's that *should* be up to them until and unless they are brought into existence.<sup>33</sup> Nor are we obligated to bring about autonomy in other beings or things that are not otherwise on the path of agential development. It is not true of my computer, for example, that there are any X's that ought to be up to it—even if something like strong artificial intelligence is possible. I am not obliged, then, to develop strong artificial intelligence so that my computer is the sort of thing for whom there would be X's that should be settled by it.

Importantly, that children are in a state of dependence on others for their agential

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32 Allen Buchanan and Dan Brock, *Deciding for Others: The Ethics of Surrogate Decision Making* (Cambridge: Cambridge University Press, 1989), 231.

33 Though, as I will argue in Chapter 4, Q can impermissibly act in ways that foreclose *some* P's X's, even though the particular P for whom that will be true is dependent on Q's phi-ing. The metaphysics gets trumped by the standards that govern different kinds of relationships, because those standards can have application before a particular relationship is underway.

development is a direct consequence of the actions of other persons. P is a being whose future agency stakes a claim on *this* Q's help often because Q created him. Where Q is P's creator, Q's procreating without also caring for P is what results in P's being unable to settle future X's for himself (absent the help of other persons). That's why the biological parents of P are typically the first persons saddled with responsibility for P's care.<sup>34</sup> Q can't both create P and fail to ensure that P is cared for without violating P's future autonomy.

P's need for care doesn't just generate a claim on his creators. If Q fails to care for P, or fails to adequately care for P, then P has a claim on the rest of us to ensure that he is cared for by *someone*. P's future capacity to settle a range of X's for himself is on the line, and that alone generates a claim on others for their help. Before children are able to act for themselves, they present a moral obstacle to our own agential pursuits—children depend on help from us, but they are not yet in a position to return the favor and contribute to our collective needs. Children, at least at younger ages, are a net burden. Even if some people really enjoy the company of children, that doesn't render those children any less dependent.

We also have our own interest in children receiving the care they need to become independent agents. That interest is often cast in economic or political terms: we need new new labors to sustain the labor market, or we need more persons who can discharge the duties of citizenship.<sup>35</sup> At the very least, we need children to move from being burdens to being contributors in our social world. But, even if children don't stand to benefit the rest of us

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34 David Archard, "The Obligations and Responsibilities of Parenthood," in *Procreation and Parenthood*, eds. Archard and Benatar, (Oxford: Oxford University Press, 2010), 103–27. I agree with Archard that procreators (even genetic donors) are responsible for ensuring that their children *are parented*, but they are not thereby permitted to be those children's parents if they are not capable of doing an adequate job.

35 Serena Olsaretti, "Children as Public Goods." *Philosophy and Public Affairs* 41, no. 3 (2013): 226–58.

once they mature, we have another interest in their autonomy that's more squarely connected to our own: we have an interest in P's becoming a mature agent because, until he does, he can't respect *our* agency. We have an interest in P becoming the sort of being who is accountable for his actions in the same way that we are accountable to him for ours.

The family is the primary social institution that enables us to meet both the needs of children and our own need for children to become adults. The parental role does moral work: it designates certain persons as primary caregivers to particular children. Persons who *create* children are first in line for assuming that role, or at the very least, for ensuring that *someone* assumes that role. Once a person occupies the role of parent to some child, she is responsible for that child's agential development. She has permission to act for her child, even to (profoundly and somewhat permanently) determine aspects of her child's life, when doing so is necessary to facilitate her child's future autonomy.

We don't leave it *fully* up to parents to raise children. We have other social institutions that support children and act as a stopgap for parental failures. One justification for having a public education system, for example, is that it contributes to the development of a child's autonomy.<sup>36</sup> When homeschooling parents or the Amish pull their children out of the public education system, we have reason to be concerned that doing so will jeopardize the very end the education system serves: the child's developing agency. Whatever the expressed purpose of education system—to train citizens, equip the labor market, maximize our collective happiness—one available moral justification for it is that having an education

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36 Reich casts the end of education as the child's autonomy and the end of the family as the child's welfare. The two are connected, but can be odds, as is the case in the homeschooling case above. See Reich, "On Regulating Homeschooling," 20.



system can help bring P up to agential speed.<sup>37</sup> The education system both supplements and acts as a check to the parental role: when parental choices undermine child's autonomous development, we have reason to limit the parent's authority to make those choices—as might be case with extreme homeschoolers and the Amish.<sup>38</sup> When parents are given complete control over their children's education, there is a risk that parental choice will impede the child's agency, even if the parents are acting on behalf of their children's welfare.

If the moral rationale for the parental role is to facilitate children's agential independence, then we can explain the wrongfulness of indoctrination as a failure to act in a way that is a *means* to that end. No matter how noble a parent's intention, she cannot permissibly indoctrinate her child because doing so impedes her child's agential independence, and as such, is not a possible means to bringing it about. The moral justification for parental authority to act for a child is the very thing that is undermined by *this kind of action*, and so, this kind of action is not within the scope of parent's authority.

Not only must parents act in ways that are at least possible means to facilitating their children's autonomy, they must also have their children's autonomy as their end. We can now turn to religious initiation, or including one's child in one's religious practices. For at least some cases of religious initiation, like that of infant baptism, the parent's actions don't seem to *impede* a child's autonomy—but they also don't seem to directly facilitate it. What, then, if anything, can be said in support of a parent's freedom to exercise her own religion (or

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37 Harry Brighouse, *On Education* (London and New York: Routledge, 2005).

38 There may be legal reasons not enforce this limit. Or, if there are, the political climate might make it difficult to do (which is likely the case in the U.S.). Nonetheless, practical difficulties don't undermine the *moral* reason we would have to limit parental authority.

other comprehensive conception of the good) within the parental role? Can parents consistently have both the end of initiating their children in their religious beliefs *and* the end of facilitating their children's autonomy?

Parents can only parent as themselves. They can't act for the sake of their child's autonomy without operating on some beliefs about what the world is like and what matters. There is no fully neutral standpoint they can take while acting in the parental role. Suppose, for instance, that a devout Muslim parent took on a kind of value pluralism with respect to her parenting. Though she might think it's important to observe the tenants of Islam, she might teach her son that there is a wide array of equally valuable spiritual or secular worldviews. Her value pluralism is still a particular *view* about value. Pluralism is not neutral just because it's inclusive. Whatever viewpoint a parent has or adopts, she will still operate with some particular conception of what the world is like and what she (and her son) ought to do. The only way parents will be able facilitate their children's autonomy, then, is from within some particular belief and value system.

That parents can only parent from within a particular viewpoint doesn't seem to preclude children from becoming independent agents. By first learning some particular belief system "from the inside,"<sup>39</sup> children seem to acquire the capacity to form a commitment to a belief or value system. It's from *within* an initial system of beliefs and values that a child learns how to think about what the world is like, who he is, and what his place in that world is. A child who learns some particular belief or value system from within and in the context of a loving and secure relationship with his parent(s) seems well positioned (as ever he could

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39 Thanks to Barbara Herman for both the point and the turn of phrase.

be) to navigate the world as his own person. He knows what it is to care about something, and he has a support system within which he can sort out what *he* ultimately finds worthwhile.

A child's future autonomy doesn't require that his parent expose him to some à la carte array of prospective belief systems, pretending to be impartial to the merits of each. Doing so would not only be disingenuous to the parent's own commitments, but it would also fail to model to the child what it is to care deeply about something, to think seriously about whether those commitments are worthwhile, and to engage with others who don't share those commitments. Even in the case of parents who expose their children to beliefs and values à la carte, they are still parenting with a particular conception of the world and what matters. Exposing children to more options isn't neutral—it's just another way of thinking about what the world is like and what matters.

It might be the case that not all belief and value systems are consistent with the moral end of parenting. So, though parents can't escape operating within some viewpoint or other, they are not thereby permitted to transmit *any* viewpoint. If, for example, their particular religion holds that children ought to be discouraged from ever thinking for themselves, then it will be difficult to both follow the precepts of that religion *and* act for the child's autonomy. In such cases, parents needn't give up their belief system all together, but they will have to abandon (or not act on) whatever beliefs or tenants conflict with their duties as parents.<sup>40</sup>

When religious initiation meets condition (1), there's still a question about whether

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<sup>40</sup> You can imagine the situation in reverse as well. A parent may be in a belief system which is or can be held consistently with the end of parenting, and yet a particular parent fails to take her child's autonomy as an end.

parents who initiate their children also meet condition (2). What does it look like for parents to make their children's future autonomy a condition of their actions? Are they only permitted to bring their children to church if they're doing so *for the sake of* their children's future autonomy?<sup>41</sup> If they should do so only for the sake of the child's future autonomy, then parents who are squarely acting for the parental end shouldn't take their children to whatever church (or other organization) they happen to belong to—they should take their children to whichever church or organization does the best job of facilitating the budding autonomy of children. And if that's what (2) requires, not many religious parents, or any parents, are likely to meet their parental obligations. The parent who baptizes her child, for instance, doesn't seem to be baptizing her child strictly for the sake of her child's autonomy. At best she does it for his wellbeing as she understands it from within her own religious conception of the good. What ends, then, are parents permitted to act on as parents? Must they only act in ways that directly (and explicitly) facilitate their children's autonomy?

Parents are also persons, and though they are responsible for their children, they are not required to act *only* on the end of facilitating their child's autonomy. Rather, they must take their child's autonomy to be a kind of regulative end, or a limiting condition of their actions. And though many parents care quite a lot about their children, they are not, and should not be, mere instruments to the agential development of their children. Parenting is a full-time job, and a parent doesn't cease to be her own person when she is in the role of parent. In fact, the opposite is true: parents parent by living alongside their children as persons in their own right, with their own beliefs and values. When parents go about living

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41 An atheist colleague wondered whether he should take his daughter to church for this very reason.

their lives in front of their children, they can't help but model social and behavioral norms, express emotions, resolve (or fail to resolve) conflicts, possess (or lack) cultural capital, and, ultimately, operate with some orientation toward the world and their place in it. A parent's own capacities and understanding of who she is and what matters to her will have a profound impact on her children—whatever else she does as a parent.<sup>42</sup> Parents have their own interest, then, in explicitly sharing their beliefs, values, and commitments with their children—even if doing so will inevitably influence what their children come to believe, care about, and do.<sup>43</sup>

The parent-child relationship is just that, a relationship between two morally equal persons. Children aren't the property of their parents, nor are parents slaves to the needs of their children.<sup>44</sup> It's within the context of that parent-child relationship that parents have an interest in being able to exercise their own beliefs and values. If a parent is committed to eating organic food, for example, then she has an interest in preparing organic meals both for herself and for her child. If a parent is religious, she has an interest in participating in her religious practices with or around her child.<sup>45</sup>

The parental role, then, though grounded in the child's interest in exiting the dependency characteristic of childhood, is also sensitive to a parent's interest in being herself

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42 Susan Dumais, "Early Childhood Cultural Capital, Parental Habitus, and Teachers' Perceptions," *Poetics* 34, no. 2 (2005): 83–107.

43 Harry Brighouse and Adam Swift, "Shaping Values," chap. 6 in *Family Values: The Ethics of Parent-Child Relationships* (Princeton: Princeton University Press, 2014), 149–174.

44 That is, parents aren't obligated to always do what's in the *best* interest of the child. Meeting the moral end of parenting is the bar, after which a parent might appropriately meet her own needs at the expense of her child.

45 Of course, the child has an interest in being well-nourished, and if a parent's dietary restrictions fail to adequately nourish the child, the parent's interest may be overruled by the child's interest. However, even if the interest is overruled by a stronger consideration, the parent still has an interest in preparing meals that align with her beliefs about moral food consumption.

within the context of the relationship she has with her child. Part of being in an intimate relationship, like that of a parent and child, involves sharing oneself with the other person, both by talking about one's values and by sharing experiences and doing things together. A parent must have some leeway to share her values with her child as part of being true to herself within the context of their relationship, even if she doesn't do so directly for the sake of her child's agential development.<sup>46</sup>

However, though both the parent and child are equally morally valuable, the parent has nevertheless incurred an obligation, qua parent, to take the child's interest in becoming an independent agent as a limiting condition of her actions—which might limit her own freedom to transmit her beliefs and values to her child. The question is whether their actions are consistent with the moral end of parenting and whether they *condition* their actions on the moral end of parenting. Some kinds of actions, like indoctrination, are themselves unsupportable by the moral end of parenting, whatever the parent's ultimate reason for action. Other kinds of actions might be justifiable within the parental role; however, an action's being justifiable with respect to the moral end of parenting doesn't guarantee that a parent acts *for that reason* or *on that condition*. A parent might fail, not by actually hindering the realization of that end, but by failing to make that end the condition of her action.

This mistake is a subtle but important one. As a parent, a person takes on a role, the standard for which is determined by the child's and our interest in the child's future autonomy.<sup>47</sup> To assume the role of parent and yet fail to be guided by the moral end of

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46 This idea resists a purely child-interest view of parental rights. Though again, I'm not giving an account of parental rights, only describing the kind of interests parents have in the parent-child relationship.

47 People might assume this role for a variety of reasons, many of which may make no reference to the moral

parenting in one's parental decisions, or to make the realization of that end conditional on its being instrumentally valuable to one's other ends or projects, is to make a mistake as a parent. The parent who wants to baptize her child, then, can only do so and meet condition (2) if on some level she recognizes that the baptism will not hinder her child's agential independence in the future.

Consider, then, a case where it's not clear whether the parent's proposed action meets condition (1). We can evaluate potential justifications for such actions by determining whether they at least attempt to connect the action to the child's future autonomy. Take the child born with a disorder of sex development (DSD, also known as intersex). Starting in the 1950's, medical practitioners have routinely recommended that parents consent to a sex-assignment surgery wherein the sex of the child is settled by the parents.<sup>48</sup> The child could either grow up without falling into a single sex category, or the child could grow up with a surgically assigned sex—either way, the decision can only be made by someone *other* than the child.

A potential consequence of doing sex-assignment surgery soon after the birth of an

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status and needs of the child. However, the role is what it is based on the moral obligation that it is there to meet—regardless of the other interests potential parents take in the role. Once a person assumes the role of parent, she incurs the obligation to discharge the duties that attend it. Hannan and Vernon make this point about other roles: a person may become a doctor because it fits with her other interests or her overarching life plan. But, once she's a doctor, her interests in being a doctor are overruled by obligations that attend the role of being a doctor (obligations which are primarily determined by the interest of patients). See Sarah Hannan and Richard Vernon, "Parental Rights: A Role-Based Approach," *Theory and Research in Education* 6, no. 2 (2008): 173–89.

48 Vernon Rosario, "'Is It a Boy or a Girl?' Introduction to Special Issue on Intersex," *Journal of Gay & Lesbian Psychotherapy* 10, no. 2 (2006): 1–7. Psychologist John Money thought that gender identification was determined by perceived external genitalia and the gender the child was raised to identify with. His theory seemed to be supported by the case of a male infant surgically reassigned as a female after a circumcision accident. David was raised as a female, Brenda, but he eventually had surgery to reverse his surgically assigned sex.

intersex child, however, is that the the assigned sex will not always match the child's later gender identification (if the child identifies with a particular gender at all). The child's external genitalia, then, would not reflect his or her internal gender identity, which in some cases can lead to serious psychological distress. Intersex children whose assigned sex doesn't match their gender identity are in a circumstance similar to that of transgender persons, but unlike transgender persons, intersex persons face that situation as the direct result of *another person's choice*, namely, the choice of their parents. And though parents are often permitted to act on behalf of their children, it's not obvious that their authority extends to the selection of their child's sex, because it's not obvious that sex-selection at birth is a possible means to bringing about that child's future autonomy.<sup>49</sup> We can evaluate proposed justifications for the surgery with respect to their connection, if any, to the child's future autonomy. If, for instance, the parent claims that her conception of the good involves a strict binary understanding of gender, and if, on that conception, her child would be an unacceptable aberration, we can reject that parent's justification for the surgery.

Parental failure, then, is not relegated to cases where a child is *in fact* made incapable of later making up her own mind about some set of beliefs or values. A parent can make this mistake even when the child happens to successfully develop into an independent agent in the world—as might be the case for the intersex child whose sex is surgically assigned soon after birth. A parent who aims to bring it about that her child becomes a person with particular beliefs and values might do all the same things as a parent who is merely sharing her own beliefs on the condition that doing so doesn't hinder the moral end of parenting. The

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<sup>49</sup> I will return to this problem in Chapter 5.



difference lies in the condition: the former's condition is successful belief transmission while the latter's condition is capacity facilitation. In either case, the child may come to share her parent's belief system, yet only the former case counts as an inappropriate end with respect to the moral end of parenting.

A parent can introduce her child to her beliefs and values, then, if she takes the exercise of her own beliefs and values to be appropriate only on the condition that she is at the same time equipping her child with the skills and knowledge of the world that will enable him to eventually make up his own mind about what matters.<sup>50</sup> A parent may, for example, bring her child with her to a religious service, or even send her child to a religious school, and yet be doing so on the condition that doing so will enable the child to eventually make up his own mind about whether to believe and practice that religion or any religion at all.

The difference between a parent who acts on the right condition and a parent who doesn't may be most evident in cases where a child later rejects the parent's belief system.<sup>51</sup> A parent who is committed to the moral end of parenting will respond differently to the child's doubts, questions, and outright rejection than a parent who is committed to replicating her own religious beliefs and commitments in her child. A parent committed to the moral end of parenting would encourage the child's critical assessment of the belief system he was raised in, make it clear to the child that the parent's love is not conditional on the child's sharing the same belief system, etc., without having to disavow her own beliefs or even

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50 Clayton offers a similar constraint on parents. Parents ought not *intend* to enroll their children into a particular conception of the good, though they may reveal their enthusiasm for a particular conception of the good, which may lead to the child's also adopting that system of beliefs and values. Clayton, *Justice and Legitimacy in Upbringing*, 118.

51 I owe this point to Daniela Dover.

support the values the child adopts.<sup>52</sup>

If the child rejects the parent's commitments, the parent is not thereby released from the role of parent. The parent must still facilitate the child's coming to be her own person. She is not permitted to make her relationship with her child, both her care and affection, dependent on whether her child eventually comes to share her values and commitments.<sup>53</sup> Importantly, the parent-child relationship, unlike other relationships, is characterized by only one party—the parent—being able to choose to enter the relationship. And even when the parent does choose to enter the relationship, she does so without knowing much, if anything, about who the child is or who the child will be. It's a relationship where the parent commits to caring for the child by loving her and respecting her as an independently valuable person before knowing who that child will be. Something goes wrong when that commitment is itself conditioned on the child's coming to be *someone in particular*.<sup>54</sup>

A parent who suspects that she could not continue to love her child if her child does not come to share some belief or value system shouldn't enter the parent-child relationship to begin with. Once in the role of parent, she will be obligated to provide that care irrespective of what her child comes to believe or care about, because once a parent is parenting a child,

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52 If part of her belief system is that she cannot continue to parent her child without disavowing her beliefs, then she ought to disavow her beliefs.

53 Or, as Hannan and Vernon put it, "parental care and affection cannot be conditional upon their children sharing the same interests." Hannan and Vernon, "Parental Rights: A Role-Based Approach," 179.

54 Michael Sandel, *The Case Against Perfection: Ethics in the Age of Genetic Engineering* (Cambridge, MA: Harvard University Press, 2007), 45–50. Sandel makes a helpful distinction between accepting and transformative love. Parents must have the right balance of both: a willingness to accept their children for who they are and a preparedness to bring about their child's well-being by changing who their children are (through education, discipline, etc.). Parents act in transformative love when they facilitate their child's coming to have the capacities they need to be independent persons, and they act in accepting love when they allow that process to lead where it may.

that child is dependent on the parent(s) she has for *her* love and support—another adult will not do.<sup>55</sup> Once the relationship is underway, the parent is in it for the long haul. To enter that relationship and *not* be committed to the moral end of parenting is as much a mistake as failing to condition one's child-rearing on the moral end of parenting.

The moral end of parenting, then, not only constrains the actions of parents who are parenting existing children, it also bears on how a parent enters the parental role to begin with. A parent should not create a child to parent and at the same time fail to take that child's coming to be her own person as the ultimate end of creating her. A parent who creates a person to parent in order to satisfy her own ends, without regard to her responsibility to her child as an independent person, fails in her obligations as a parent. The prospective parent's failure is a mistake not because the child will be harmed or otherwise made unable (or less able) to determine her own beliefs or values, but because the parent fails to condition her actions on the moral value of the child and the obligation she incurs by choosing to enter the parental role.

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<sup>55</sup> Anne Alstott, *No Exit: What Parents Owe Their Children and What Society Owes Parents* (Oxford: Oxford University Press, 2004). Alstott argues that the child's need for continuity in care is what makes the parental role one that a parent cannot easily exit.

## Chapter 4: Procreators as Prospective Parents

Recall from Chapter 1 Derek Parfit's argument that a person cannot be harmed by being brought into existence.<sup>1</sup> The non-identity problem, as he calls it, rests on the unique metaphysical situation of creation: before and at the time of the procreative act, the person-to-be does not yet exist, and so the procreator's act, no matter how she goes about it, cannot make the person she creates *better or worse off* than he was prior to that act.<sup>2</sup> Parfit also claims that the nature of human reproduction makes it the case that, for at least some procreative acts, the person created would not have existed at all had the procreator acted differently.<sup>3</sup> In such cases, the person created cannot be made better or worse off than he would have been had the procreator acted differently. So, if such procreative acts are ever wrong, they don't seem to be wrong because they make the person created worse off than he was prior to the act or worse off than he would have been had the procreator acted differently.

Responses to Parfit's non-identity problem tend to locate the wrongfulness of a procreator's act in the badness of the state she brings about. Some have tried to show that,

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1 Derek Parfit, *Reasons and Persons* (Oxford: Clarendon Press, 1987), 351–378. On Parfit's account, a person can be harmed by being created only if her life is worse than non-existence.

2 Again, to keep the distinction clear between the procreator and the person created, I will continue to use the female pronoun for the procreator and the male pronoun for the person created—though of course men are also procreators and women are also created persons.

3 If you think the identity of a person changes if a different sperm or egg cell contributes its genetic material to the initial embryo, then the chances are quite small that the exact same sperm and egg would form a different person even months later. For my purposes, it is not important whether Parfit is right on this count, so I will assume with him that if a procreator acts differently (in the cases discussed below), a numerically and qualitatively different child will be brought into existence.

though the created person may not be made worse off by being brought into existence, her creation is still be bad for her in some other sense. The procreator may violate that person's rights,<sup>4</sup> or she may cause that person to be in a non-comparatively bad state.<sup>5</sup> The utilitarian, by contrast, denies that the procreator wrongs the person created, though she acts wrongly in an impersonal sense when she fails to maximize wellbeing.<sup>6</sup> Others simply deny that the procreator acts wrongly at all.<sup>7</sup>

Making things worse or bad for another person, however, does not exhaust the moral space between persons. As I argued in Chapter 2, persons who occupy social roles can have special, personally directed obligations to other persons that they can meet or not irrespective of the outcome for a particular role recipient's wellbeing. A doctor can fail to act well qua doctor, a teacher qua teacher, a parent qua parent, etc., all without acting in a way that harms or is in some other way bad for the wellbeing of some patient, student, child, etc. Role actors can wrong the recipients of their roles just by failing to meet the standards of their roles. The doctor who fails to act well as a doctor wrongs her patient, the teacher her student, the parent

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4 Robert Elliot, "The Rights of Future People," *Journal of Applied Philosophy* 6, no. 2 (1989): 159–169; Joel Feinberg, "The Rights of Animals and Unborn Generations," in *Rights, Justice, and the Bounds of Liberty: Essays in Social Philosophy* (Princeton: Princeton University Press, 1980), 159–84; David Velleman, "Persons in Prospect," *Philosophy & Public Affairs* 36, no. 3 (2008): 221–88; James Woodward, "The Non-Identity Problem," *Ethics* 96, no. 4 (1986): 804–31.

5 Elizabeth Harman, "Can We Harm and Benefit in Creating?," *Philosophical Perspectives* 18, no. 1 (2004): 89–113; Seana V. Shiffrin, "Wrongful Life, Procreative Responsibility, and the Significance of Harm," *Legal Theory* 5, no. 2 (1999): 117–48.

6 What is strange about the utilitarian strategy is that the procreator does maximize the wellbeing of the person she creates—she just fails to make the world a place where more wellbeing exists (in an impersonal sense). This strategy leads to what Parfit calls the repugnant conclusion, namely, that we are obligated to create more happy people just to increase the overall happiness that exists in the world. See Parfit's *Reasons and Persons*, 385–90.

7 David Boonin, "How to Solve the Non-Identity Problem," *Public Affairs Quarterly* 22, no. 2 (2008): 129–59; David Heyd, *Genethics: Moral Issues in the Creation of People* (Berkeley: University of California Press, 1992), 30–33.

her child, etc.

In what follows, I will argue that a person can be bound by the obligations of her role even before she enters a role relationship with a particular person. If her role failure causes her to enter a role relationship with a particular role recipient, then her failure to meet her role obligations will count as a wrong to that recipient—whatever the outcome for the role recipient’s wellbeing. I will then show that prospective parents assume the role of parent by procreating in order to parent. They act wrongly, then, when they fail to act in accordance with the *end* of the parental role. Prospective parents wrong their progeny when they fail to act well qua parents, even if their procreative actions do not harm their progeny and are not in some other way bad for their wellbeing.<sup>8</sup> Prospective parents, then, should look to their parental obligations to orient their deliberation about how and whether to bring a person into existence.

### Social Roles: A Level Up

In Chapter 2, I elucidated an account of role obligations that showed how socially constructed positions could generate genuine moral obligations, obligations that don’t just reduce to natural duties, or the general obligations we owe to one another as persons. Social roles can do moral work because they allow us to organize ourselves in ways that divide our moral labor. Where a social role contributes to a moral need, the standards for that role track

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8 David Wasserman, “The Nonidentity Problem, Disability, and the Role Morality of Prospective Parents,” *Ethics* 116, no. 1 (2005): 132–52. My account is similar in spirit to Wasserman’s account, though it is more demanding on prospective parents. It’s not enough that prospective parents be concerned with some good of the future child. They must fulfill their *parental obligations* to that future child, even before he exists. Mere concern for the future child’s good won’t suffice, if, say, selection would otherwise violate their parental duties.

the kinds of actions that, if taken by some group of persons, will generally serve the moral needs of some other group of persons to whom we all have a collective obligation.

Importantly, then, the content of a role's obligations is fixed by the moral end of the role, not the needs or situation of particular persons. A doctor's obligations qua doctor track the *kinds* of actions that doctors should and should not take in order to, as a social group, best meet the needs of patients generally. Those obligations may not always allow a particular doctor to best meet a particular patient's needs, if, say, doing so would require the doctor to break the duties of her role. The patient who needs an organ donation may be best served by the doctor's getting him an organ however she can—but doing so would not well serve patients generally, and so is not permitted within the doctor's role. Roles are not setup to best benefit particular role recipients; they are setup in a way that allows us to meet some collective need.

It is possible, then, that a role actor might fail to meet her role obligations and yet make some role recipient better off (all things considered). Likewise, it is possible for a role actor to successfully meet her role obligations and yet make some role recipient worse off (or at least fail to make him better off). Consider the following scenario:

*An emergency dispatcher comes to work intoxicated. While at work, the drunk dispatcher receives a call about a near-drowning. No one on the other end of the call knows how to perform CPR. One of the dispatcher's responsibilities is to talk callers through the basic steps of performing CPR so that persons who have stopped breathing or do not have a heartbeat can receive care before emergency responders arrive. Current CPR training instructs non-medical responders to do chest compressions without ventilation, or mouth-to-mouth resuscitation. However, for near-drowning victims, their primary problem is a lack of oxygen, not circulation, so in this case the dispatcher should instruct the caller to have someone open the victim's airway and start mouth-to-mouth breathing (and, if necessary, chest*

*compressions). The dispatcher, however, forgets that near-drowning victims need non-standard CPR. He instructs the caller to have someone start chest compressions and continue doing them until help arrives. The victim dies.*

While it might be acceptable for most people to have a few drinks with friends, someone who is about to start his shift at the emergency dispatch office is not morally permitted to do so. Persons under the influence of alcohol can have impaired judgment, slurred speech, and reduced reaction time. An emergency dispatcher with slowed reaction time and impaired judgement and speech is, generally, worse at serving callers than a dispatcher who is not intoxicated. Dispatchers are required to react quickly and make decisions that can have life and death consequences. A dispatcher who comes to work intoxicated not only violates the terms of his employment, he also fails to meet his moral obligations to the persons whose calls he fields during his shift—whoever they happen to be. He reports to work in a condition that affects his ability to do his job adequately, and his mistake is a predictable lapse of judgment for a person whose cognitive functioning has been impaired by the consumption of alcohol. The dispatcher in the case above *wrongs* the victim because he fails to meet the obligations of his role as an emergency dispatcher.

Importantly, the drunk dispatcher's wrongful action isn't made wrong just by the fact that the victim dies. The dispatcher has acted wrongly *even if* the near-drowning victim does not, in fact, drown. Suppose, for example, that a former lifeguard was present on the scene. She would know to perform CPR with ventilation, even though the dispatcher fails to instruct the caller to have someone do so. The victim might survive despite the dispatcher's lapse in judgment, but her survival does not negate the dispatcher's wrongful action.



When the dispatcher fails to act well in his role as a dispatcher, he wrongs the persons on the other end of the call,<sup>9</sup> and he does so even if his drinking causes him to make some caller *better off* than she would have been had he not come to work intoxicated. Suppose that instead of fielding the call about the near-drowning, he receives the next call to come in—a caller who is struggling with suicidal thoughts. Suppose also that the dispatcher had struggled with suicidal thoughts in the past. Because the dispatcher has been drinking, he is unusually open with the caller about his past struggles and how he overcame them—to the point that he makes the call primarily about himself. From the point of view of his professional obligations, he does not adequately handle the call. As a dispatcher, his job is to listen to and secure the appropriate help for the caller, not to wax philosophical about the meaning of life. Yet, in this instance, the dispatcher’s ramblings connected with the caller, and she stayed on the phone long enough for emergency responders to arrive at her location before she harms herself.

In this case, the dispatcher’s being drunk led to his scattered musings on life and meaning, which happened to be enough to keep the caller on the phone. Far from harming the caller, the drunk dispatcher has, all things considered, made the suicidal caller better off than she was before he called. She may even be better off than she would have been had he been sober. She might have hung up if he had come off as cold or too professional. If we only evaluate the dispatcher’s action from the perspective of the caller’s subsequent wellbeing, then the dispatcher has not wronged the caller by drinking before his shift.

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<sup>9</sup> That could include more than the person in need of help. The dispatcher might count as wronging the victim *and* the caller, if those persons are distinct (as they are in the near-drowning case).

The role of emergency dispatcher is not just a vocation—it serves a moral purpose. We have an obligation to help others, and designating some people to be available and capable of sending help to others is one way in which we divide our moral labor. An individual person isn't obligated to *become* an emergency dispatcher, but once he does, he is obligated to act in accordance with the standards for that role. One of those standards is coming to work with the physical and mental wherewithal to do one's job well. When he fails to meet those standards, he acts wrongly. He acts wrongly not just in those cases where he harms some role recipient, nor does he act well in those cases where he successfully helps or benefits the role recipient. A failure to act in accordance with the standards of his role is enough to constitute its own kind of a wrong: a role violation.

In the second case, if the dispatcher's action is wrong, it can't be because it makes the caller worse off (she isn't) and it can't be because it brings about a worse or non-comparatively bad state of affairs in the world (it doesn't). You might think, though, that he wrongs the role recipient just because he *risked* harming her. However, acting in ways that put others at risk for harm isn't *always* a violation of a moral duty. What makes the dispatcher's putting the caller at risk morally salient is the role he occupies.

Take the practice of driving on public roads. Cars are dangerous vehicles, and their danger is only compounded when there are many cars being operated alongside one another. Driving a car *always* risks harming persons—other drivers, passengers, and oneself. To minimize the risk of driving, we have regulations and driving norms that govern who can drive, where they can drive, and how they can drive. All drivers risk harming others, but

some drivers risk harming others in ways for which they are morally accountable. Drunk drivers not only increase their risk of harming others, but they also fail to conform to the standards for the role of driver, standards that are meant to allow us to operate dangerous vehicles together more safely. The drunk driver acts wrongly because she doesn't act well qua driver, not just because she increases the risk to others. Even if she were a slightly better driver buzzed than sober, and so lessened the risk to others while driving, she would *still* act badly because her culpability for the state in which she drives is keyed to the obligations that attend drivers.<sup>10</sup>

The dispatcher's wrong, then, is in his drinking within his role, not the risk of harm alone.<sup>11</sup> Because the dispatcher occupies a role in which he is expected to be capable of assisting persons in emergency situations, his drinking is the kind of action that jeopardizes his ability to help the persons who rely on him. When the drunk dispatcher comes to work in a state that makes him less able to fulfill his role adequately, he acts wrongly, and his wrong is not mitigated when fortuitous circumstances lead to his making some role recipient better off.

In failing to meet the standards of the role he occupies, the drunk dispatcher also directly wrongs the persons he is responsible for assisting during his shift. Roles connect those who occupy them to the persons who are the objects of those roles, or the persons to

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10 Imagine someone who, when driving buzzed, pays much more attention to the road and her driving than she does while sober because she is afraid of getting pulled over.

11 Paul Klaas et al., "When Patients Are Harmed, But Are Not Wronged: Ethics, Law, and History," *Mayo Clinic Proceedings* 89, no. 9 (2004): 1279–86. Medical ethics and medical malpractice law, for example, track the difference between iatrogenic injury (unintentionally inflicted harm) which occurs despite due care and that which occurs due to negligence. Here the dispatcher does not harm the caller, but he does wrong her.

whom the role actor's duties are directed. A person can wrong another person just by failing to fulfill the duties he or she has to that person, irrespective of the other person's subsequent wellbeing.<sup>12</sup> A person who occupies a role with respect to another person has duties to that person that are not met when the role actor violates the standards of her role. When the dispatcher fails to meet the standards of his role, then, his role violation is funneled to the recipients of his role as a personal wrong, whatever the outcome for their individual wellbeing.

The drunk dispatcher example shows that the standards for moral roles operate a level up: they constrain and guide the *kinds* of actions that tend to help or hinder a person's ability to contribute to the moral end of the role she occupies. Those standards are informed by facts about what effects certain actions typically have on other persons, but they do not cease to apply even when happenstance intervenes in an unforeseeable way. In the case above, it was luck that made things work out well for the second caller *in spite* of the dispatcher's action, but the dispatcher's action is nevertheless the kind of action that is generally bad for persons who call the emergency dispatch center. Even if the dispatcher's acting well (not drinking, getting to work on time) would have resulted in either the first or second caller's being made worse off, the dispatcher would not thereby have wronged them by coming to work on time and in an acceptable state, because he would not have failed to fulfill his duty to those callers. His duty is to do his job well, not to ensure that every person he serves is successfully helped.

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<sup>12</sup> Bernard Williams, *Moral Luck* (Cambridge: Cambridge University Press, 1981), 20–39. I am not tempted here by a version of Bernard William's moral luck claim. I take it that Gauguin, as Williams imagines him, wrongs the persons to whom he has pressing moral duties, even if he happens to become a great painter. His paintings may increase the happiness of many people, but if it comes at the expense of his child's having food to eat, he wrongs his child, and that wrong is not mitigated even by his child's coming to take great pleasure in his father's art.

What is interesting about the second dispatcher scenario is that the dispatcher couldn't act well in his role *and* make the suicidal caller better off, yet his failure to act well still constitutes a wrong to that caller. Consider another example with a similar structure. A landlord manages a building that is not up to code. She has a unit that is unoccupied. She could either fix the code violations and then rent the unit to some tenant a few months later, or she could rent the unit to some tenant now. With the high turnover of rental properties in the city, she is likely to rent the unit out to a different tenant if she fixes the code violations before renting it out. The landlord decides to ignore the code violations and rent the unit immediately. The tenant who moves into that unit may be happy to rent it despite the code violations. Perhaps the tenant is able to fix them himself, or perhaps he would have been homeless had he not been able to move into that unit at that time. Though the unit is not up to code, it is livable, and the tenant may well be better off living there than no where at all.

Occupying the role of landlord puts the landlord in a moral relationship with her tenants: she has a duty to them to ensure that the building she rents meets the standards for safe, accessible housing. The landlord's failure to do her job—bringing the unit up to code—is a failure in her role as a landlord, and by extension, a failure to her tenant. Though that tenant would have been worse off had the landlord done her job well, he is nevertheless wronged by the landlord's failure to fulfill her duties to him as his landlord.

These cases share an important feature: the role actors' actions can be constrained by obligations to some role recipients even when those actions determine *which* role recipients they eventually serve. The dispatcher's obligation not to drink before his shift is not an

impersonal duty even though he's not yet on a call with a particular person. His obligation is to someone—it is just not yet settled which someone that is. The dispatcher owes his obligation not to drink before going on duty to whomever he later serves. Which person that is depends on lots of factors: his action, the caller's timing, the assignment of callers to dispatchers, etc. Yet, whomever's call he takes, that person is the object of his role actions considered over time, from his drinking to the call itself.

The nature of role obligations allows for a kind of recipient placeholder for a role actor's wrong: role actors have obligations to *de dicto* role recipients when their actions are not yet within the context of a particular role relationship. The fact that their actions determine which recipients they serve explains how the role actors can both fail their obligations and yet still be causally responsible for making a particular person better off. The dispatcher's failure is the *very thing* that makes it the case that the suicidal caller is made better off, yet he has still failed to meet his obligations qua dispatcher, obligations he owed to her. So, even when a role actor's failure happens before she is in a particular role relationship, and even when her failure determines *which* other person is her eventual role recipient, that role failure can count as a wrong to someone—to the eventual recipient of her role.

The role actor doesn't owe her role obligations to all the possible persons who might occupy the role recipient's place. The *de dicto* role recipient is just a placeholder for the role recipient who eventually occupies that place. A role actor owes her role obligation to whomever eventually occupies that place—whether it is one person or a group of persons. If

no one occupies the place of role recipient, then she will only succeed or fail with respect to her role. If she acts wrongly, she will not have wronged all the possible persons who *might* have been the role recipient. So, though a role can provide a placeholder for an unspecified role recipient, a role actor's duty only connects as a success or failure with respect to some role recipient once there is a particular role recipient with whom she is in an actual role relationship.

### Procreation and Role Obligations

The crux of Parfit's non-identity problem rests on the metaphysical claim that any change in a procreator's action will likely result in the creation of a different person.<sup>13</sup> Locating a wrong to the person created is difficult if the procreator's action, however otherwise objectionable, makes the person she creates as well off as he could be. Consider Parfit's example of the woman on medication who is deciding whether or not to conceive a child.<sup>14</sup> The woman's medication causes moderately severe, irreversible birth defects (e.g., a shortened limb). The woman in Parfit's example does not need to take the medication permanently. In fact, in just a few months, she will no longer need to take the medication at all. If the woman intends to conceive, then she can either: 1) conceive now, while taking the medication, or 2) wait a few months and conceive while no longer taking the medication.

In scenario (1), the woman's action will likely result in the creation of a person with a

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13 Again, Parfit's account involves genetic essentialism: if the person created at a later time will have different genetic material (different egg and/or sperm), then that person is not numerically identical to the person who would be created now. See *Reasons and Persons*, 351–52.

14 Derek Parfit, "On Doing the Best for Our Children," in *Ethics and Population*, ed. Michael Bayles (Cambridge, MA: Schenkman Publishing, 1976), 100–115.

moderately severe birth defect. In scenario (2), the woman's action is much less likely to result in the creation of a person with a birth defect. To most people, it seems clear that the woman *should* wait the three months.<sup>15</sup> However, if she should wait to conceive, it is not because waiting would be better for the child she would conceive now. If she waits to conceive, he will not come into existence at all.<sup>16</sup> He is made as well off as he can be by the woman's conceiving now.

Suppose the person created in scenario (1) is born with a shortened limb. If the woman wrongs him, it is not because his life is not worth living. He will be able to do much of what persons with typically-sized limbs can do, and he is as likely as anyone to have a full, flourishing life. On Parfit's account, if the woman acts wrongly, then it is because she fails to bring about the better of two possible states of affairs. Her failing an impersonal consequentialist principle, however, doesn't explain how her action wrongs *him*.

One could argue that by failing to wait before conceiving, the woman has violated her offspring's rights. For example, on Joel Feinberg's account of the child's right to an open future, by failing to wait before conceiving, the woman makes her offspring's future less open than it would have been had he been born with a typically-sized limb.<sup>17</sup> The woman's action puts her offspring in a condition that precludes him from a non-negligible range of opportunities, from becoming a firefighter to playing the clarinet. Of course, there is much he could do, like become an opera singer or a writer, and lots of persons with typically-sized

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<sup>15</sup> Of course, not everyone shares this intuition. Thanks to Harry Brighouse for raising this point.

<sup>16</sup> Again, I'm assuming with Parfit that both the numerical and qualitative identity of the person created changes with a different egg and/or sperm.

<sup>17</sup> Joel Feinberg, "The Child's Right to an Open Future," in *Whose Child?*, eds. William Aiken and Hugh LaFollette (Totowa, NJ: Rowman & Littlefield, 1980), 124–53.



limbs will also lack the special skills they need for some activities or vocations. Still, he has limited use of one of his limbs, and that is a direct result of his mother's action.

Appealing to a rights violation, however, seems to walk right back into the non-identity problem. Rights are owed to someone, but it is not as if the woman could make that particular child's future more or sufficiently open by conceiving later. If that child has a right to an open future, the future he would have with a shortened limb is as open a future as he could have, and it is a more open future than not existing at all. So, while I agree that the woman violates a duty she has to the child she creates, I am not convinced that appealing to rights will be able to adequately capture her failure.

One could argue that, contra Parfit, the woman harms her offspring by conceiving now. Elizabeth Harman and Seana Shiffrin, for instance, propose alternative accounts of procreative harm that do not rely on a counterfactual comparison of the child's state at birth with his state in some possible world.<sup>18</sup> Harman still relies on a comparative notion of procreative harm, but the relevant comparison is between the child's state at birth and the typical or average state of human beings at birth. The child with the birth defect is harmed because the woman's action puts him below typical species functioning, not because he is worse off than *he* might have been. For Shiffrin, the child's shortened limb is a non-comparative or an absolute harm because it presents an obstacle to his agency. On these accounts, a person can be harmed by being created, not because they are worse off than they were or might have been, but because they are in some bad state now that they exist.

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<sup>18</sup> Elizabeth Harman, "Can We Harm and Benefit in Creating?," *Philosophical Perspectives* 18, no. 1 (2004): 89–113; Seana V. Shiffrin, "Wrongful Life, Procreative Responsibility, and the Significance of Harm," *Legal Theory* 5, no. 2 (1999): 117–48.

Both accounts depend on the procreator's action bringing about or risking some bad state for the person created.<sup>19</sup> On either account, if the woman waits to conceive and the person is *still* born with a shortened limb, she will have harmed him. The woman may have attempted to avoid a genuine and substantial risk that the person she creates will have a serious birth defect, but this particular case has defied the odds. Does bad luck make the woman's action wrong? Or conversely, if she conceives now but (by luck) her child does not develop a birth defect, is she thereby absolved from any wrongdoing?

If you think that the morality of the woman's action should depend on something about the nature of her choice, not luck, then harm can't be the full story.<sup>20</sup> Suppose we accept that procreators can and sometimes do harm their offspring by creating them. That doesn't settle the question of whether they have *wronged* their offspring. We need some further account of when, if ever, it is permissible for the procreator to risk harming her offspring. For Harman, that an action would or might harm the person created provides a morally serious reason against performing that action, one that is not easily outweighed by prospective benefits to the person who will be harmed.<sup>21</sup> Shiffrin goes a step further and argues that harms and benefits are morally asymmetrical: the presence of some benefit does not itself outweigh the imposition of a harm. On both accounts, the possibility of procreative

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19 Shiffrin is after liability, and so is after a better way to determine damages in wrongful life cases. She is shifting the bar used to determine damages from a counterfactual comparison to a non-comparative account of harm. Her view doesn't rule out that there are ways of acting wrongly by procreating that don't turn on the question of harm (or risk of harm) to the person created.

20 There is no analogy to Williams' Gauguin when the woman conceives now but by luck her offspring does not have a birth defect because her conceiving now rather than later doesn't have some morally important upshot that depends on luck. You might, though, think that all procreators take on something like Gauguin's position: if they are successful, their risk is vindicated, if they fail (even due to luck), they have acted wrongly.

21 Harman, "Can We Harm and Benefit in Creating?" 105.

harm can be a strong, if not decisive, reason not to procreate. So, insofar as the woman's choice to procreate at all risks harming her offspring, her action seems to be, at the very least, morally problematic.

In Chapter 1, I began with the assumption that the ordinary view of procreation is correct: it is at least sometimes, if not often, permissible to procreate. If we accept one of these alternative accounts of procreative harm, then that initial assumption looks questionable. Whenever a person procreates, she risks harming her progeny—either by making him worse off than typical persons or by making him badly off with respect to his agency. In light of those potential harms, what could possibly justify the choice to procreate? On Harman's account, a procreative benefit, if strong enough, might outweigh the risk of procreative harm and so justify procreating. For Shiffrin, procreative benefits will not be sufficient to justify the imposition (or risk of) procreative harm, but she leaves it open that some other value might be able to justify the harms associated with procreation. The mere fact that the person created has been harmed (or was put at risk of harm) needn't entail that his procreator has wronged him, so long as there is something else at stake.

Harm is certainly relevant to wrongdoing, but it is not the *only* moral consideration that is relevant to wrongdoing. Sometimes harm is the cost of something else that matters. In particular, on an autonomy-based account of morality, harm gets its moral salience from its connection to autonomy: harm is bad for a person because it is usually bad for her autonomy. A harm might be justified, then, if a person's autonomy can't be secured without it (or without risking it). That doesn't entail that anyone can harm or risk harming someone in service of

their autonomy, but it could explain why certain groups of persons have a permission to act for the sake of the autonomy of other persons—even in ways that sometimes risk harming them. Parents are one of those groups of people. They have an obligation to facilitate their children’s autonomy and a permission to act in the ways that are necessary to do so. It matters, then, that the woman in the example is not unconnected to her progeny: she is his prospective parent. As a prospective parent, she occupies a role that is keyed to the child’s autonomy. Insofar as the child’s existence is a precondition of his future autonomy, her obligation to facilitate his autonomy may also include a permission to create him.<sup>22</sup> However, she will also be constrained by the obligations of the parental role. She does not have a *carte blanche* to procreate however she would like. If conceiving now increases the risk that her child will be born with a condition that will *impede* his agency, she has a strong reason, *qua* parent, to conceive later.

Importantly, this case—and the cases I am after in general—involves a procreator who intentionally procreates in order to parent the person she creates. If the woman in Parfit’s example were to become pregnant unintentionally, her action wouldn’t yet come under the constraints that bear on parents because she will not count as having assumed the role of parent at the time of the child’s conception. The woman might have had a separate duty to avoid becoming pregnant while on the medication, but that duty isn’t grounded in her obligation to the future child as his parent. A person only has parental duties once he or she has assumed the role of a parent. Persons usually assume the parental role by taking

<sup>22</sup> If that is true, then the permission to intentionally procreate may be limited to persons who, like parents, are committed to facilitating eventual agential independence of the persons they create. More will need to be said in order to defend the common sense view of procreation against the problem of procreative harm, but I think the role-based framework is a useful place to start.

responsibility for a particular child—either by adopting a child or by parenting a child they have already created. When persons adopt children, they explicitly assume the role of parent, but persons can also tacitly assume the role of parent by not transferring the responsibility for their offspring to someone else (by, say, giving the child up for adoption).<sup>23</sup> The woman who becomes pregnant unintentionally might not know whether she plans to parent the future child or whether she plans to transfer the responsibility for that child to someone else, so she would not yet count as having assumed the role of parent. However, once she decides to parent the child, whether that is before the child’s birth or after, she thereby assumes the role and subsequent obligations of a parent.

The parental role needn’t be the only relevant role involved in procreation. There may, for instance, be other roles that capture the involvement of persons who participate in the creation of persons but don’t parent the persons created (such as donor, surrogate, genetic counselor, obstetrician, etc.). I am beginning with the parental role because parents seem to have especially stringent moral obligations with respect to their children that persons don’t generally have to other persons. If intentional procreators count as assuming the role of parent, then they will be under serious obligations with respect to their future children, even if their actions do not or cannot harm their offspring.

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23 William Blackstone, “Of Parent and Child,” in *Commentaries on the Laws of England, in Four Books* (London: A. Strahan, 1803), 435; David Archard, “The Obligations and Responsibilities of Parenthood,” in *Procreation and Parenthood*, eds. Archard and Benatar, (Oxford: Oxford University Press, 2010), 103–27. Blackstone influentially claims that the mere act of creating a child incurs a responsibility to parent that child. I think, like Archard, that you might incur responsibility to ensure that the child is *parented*, but that doesn’t entail that you must be that child’s parent. Understanding parental obligations as role obligations pushes toward a voluntaristic rather than causal account of how persons incur parental obligations. That one’s actions are causally connected to the creation of a person doesn’t yet put one under parental obligations, though one might have an obligation to ensure that one’s offspring is parented by someone.

In Parfit's example, the woman intentionally creates a person in order to parent that person. Her procreating, then, plausibly counts as her voluntarily assuming both the social and moral role of a parent, which puts her under the obligations of that role—even in her procreative actions. Doctors, teachers, lifeguards, pilots, etc., all take steps to assume their respective roles, and those steps are themselves guided by the standards for those roles. These professionals go through training, certification, and other preparatory measures before they treat patients, teach students, guard pools, fly passengers, etc. Though occupying these roles connects these professionals to the persons they eventually serve, the roles themselves extend beyond particular role relationships. Role actors often operate in their roles with respect to more than one role recipient, and role obligations bear on how they prepare for and assume their roles, which is often before they enter role relationships with particular persons.

As noted above, role obligations can also govern the actions of a role actor whose action will determine *which* person(s) she serves. A doctor who chooses to help only the very wealthy or a lifeguard who only admits persons of a certain race to swim at the pool fail to act well in their roles. The doctor may do an excellent job with the patient she chooses to treat and the lifeguard may guard her pool patrons well, yet neither of them fully act well in their roles. Doctors are supposed to treat sick *persons*, not just affluent persons. Lifeguards are supposed to guard swimming *persons*, not just persons of a particular race. The standards for their roles have something to say about how they *enter* role relationships—it matters with whom and under what conditions they do so.

Consider an analogy to romantic relationships, which have a moral dimension but not

necessarily an explicitly moral purpose. For romantic relationships, something goes wrong when a con artist picks a mark to swindle out of money by pretending to engage in a sincere romantic relationship or when the teenage couple dates only because one of them is trying to win a bet. If romantic comedies have taught us anything, it is that there can be something wrong with how a relationship begins, not just how it goes once it is underway. This can be true *even if* the relationship eventually becomes sincere and thriving. Should the con artist and the teen fall in love with their respective partners, their relationships are nevertheless marred by their objectionable beginnings. Romantic relationships are about mutual admiration and love, not just once they are underway, but also in their conception.

Both the con artist and the teen *wrong* their partners, but that wrong may not be captured by some harm or bad that results from the actual relationship. Their wrong consists in how they entered those relationships to begin with. A romantic relationship is, at least ideally, characterized by two persons who admire and care for one another, where both commit to serving the interests and wellbeing of the other person. Both the con artist and teen, however, enter their relationships in order to *use* their partners as a means to their own ends, and they do so by pretending to sincerely commit to their partners. They capitalize on the other persons' feelings and commitment to them, and in doing so they wrong their partners, not just when the relationship sours, but when they enter the relationship under false pretenses. Their wrong is not made less wrong even if they later develop feelings for and make a sincere commitment to their partners. A relationship's beginning is as much a part of the relationship as its middle or end, and though persons in relationships may acquire more or

different obligations as a relationship progresses (like when two persons progress from dating to being married), that doesn't mean that there are *no* obligations that bear on how the relationship gets started.

The woman in Parfit's example, like the dispatcher and romantic partners above, is not exempt from her parental obligations just because her action determines *which* child she parents. Prospective parents, like other role actors, can succeed or fail to meet their obligations as parents in the actions they take to become parents. Some actions constitute inappropriate means for becoming a particular child's parent, such as kidnapping the child or buying the child from someone else. Kidnapping or purchasing children are, of course, wrong whether or not the person intends to parent those children. Importantly, however, they are also wrongful ways for *parents* to enter the parent-child relationship. A parent may parent the kidnapped child well once the child is in her care, but her becoming a parent to that child by kidnapping him violates her obligations to act well as a parent. There is an additional moral element at stake: not just what persons owe one another as persons, but what parents owe their children in virtue of being their parents.

In Chapter 3, I argue that an important moral purpose of parenting stems from our duty to respect one another's autonomy. The moral purpose of parenting, on my account, is to facilitate a child's coming to be an independent agent in the world. A parent's decisions, then, should be both guided and constrained by considerations about the kinds of actions that tend to facilitate or hinder her child's coming to be such an agent. For example, adequate nutrition is essential to a child's physical and mental development, and parents know (or are



expected to know) this and act accordingly. People who intentionally procreate are, at least in some cases, just as capable of affecting the mental and physical development of their children's (future) capacities as parents are after their children's conception. Though the child doesn't yet exist in Parfit's medication example, the woman is still in a position to determine whether she will bring into existence and parent a child who will likely have a serious birth defect, a condition that bears on the child's capacity to operate in the world as an effective agent.<sup>24</sup> If a child's coming to be an independent agent in the world depends on having certain mental and physical capacities, and if a prospective parent's action might hinder her child's coming to have those capacities, then it is reasonable to think that she should constrain her actions accordingly.<sup>25</sup>

Not all parental obligations are owed to this or that child, at least not at the time of the parent's decision. Parental obligations can be about one's unspecified future child, and so constrain what is appropriate for the parent to do before the identity of her child is set. Prospective parents shouldn't be unmoved by the impact their actions will have on the persons for whom they will be held morally responsibly. The procreator's deliberative position is similar to the dispatcher in the example above. Though the identity of the caller depends on what the dispatcher does before work, his action (whatever it is) is still relevant to

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24 We can return to the accounts given by Feinberg, Harman, and Shiffrin to fill out the sorts of things prospective parents should avoid or not (where possible), though there is more than harm or a less open future at stake. Shiffrin's account, in particular, is a helpful starting point for thinking about the connection between our agency and our bodies and our circumstances. Parents are not obligated to close the gap between a person's will and her life circumstances, but they are obligated to work in the direction of bringing them closer together.

25 That hardship doesn't make his life not worth living, nor, I think, does it make his life not worth creating. If the same woman did wait to conceive and still conceived a child with the very same birth defect, she's not thereby obligated to terminate her pregnancy.

some future caller—whoever she may be. That he occupies the role of a dispatcher who will serve some person is enough to ground an obligation to the future caller, whoever she is, not to go to work intoxicated. The woman in Parfit’s example is intentionally conceiving as a way of coming to parent some child, and so she, like the dispatcher, is still acting with respect to some person. Even if her actions cannot harm *this* or *that* child, her actions are still the actions of a prospective parent with respect to *some child* for whom she she will be responsible. So, even where her decision determines which child comes into existence, she is nevertheless obligated to act well as a parent to her future child, whoever that child turns out to be.<sup>26</sup>

Consider a related example raised by Jeff McMahan.<sup>27</sup> He considers the case of a woman who takes an aphrodisiac medication that, were she to get pregnant while on that medication, would cause her to conceive a child with a disability. McMahan notes that many of us would think it is wrong for the woman to intentionally create a child with a disability, either merely for the sake of her own increased sexual pleasure or because she wants to raise a child with a disability and welcomes the effects of the medication on her future child. That intuition, he argues, is inconsistent with the claim that it is morally permissible (if not required) to allow oneself to have a child with a disability (by, say, not terminating a pregnancy once one discovers that the fetus has a disability). McMahan worries that you can’t consider the hardships that come with having a disability morally salient enough to

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26 To put it another way, the procreators’ (and dispatcher’s) obligations are to *de dicto* persons, not *de re* persons, but their roles eventually funnel their wrongful actions as wrongs to *de re* persons.

27 Jeff McMahan, “Causing Disabled People to Exist and Causing People to Be Disabled,” *Ethics* 116, no. 1 (2005): 77–99.

make the woman's action wrong unless it is also permissible, if not obligatory, for persons to avoid having children with disabilities (by using screening, selective implantation, etc.), a consequence which seems to suggest that the lives of persons with disabilities are of less value than the lives of other persons.<sup>28</sup>

McMahan and the disability advocates make the same mistake: they treat the value of creating disabled persons as dependent on the choiceworthiness of the disability itself. For McMahan, the disability itself is not choiceworthy, and so we have reason to avoid bringing disabled persons into existence. However, even if the disability is not choiceworthy, that needn't entail that persons with disabilities are less valuable than other persons or that we should always avoid bringing them into existence. The value of the disabled person's life is independent of the moral right or permission a procreator has to choose that disability for her offspring. Recall Elizabeth Barnes' gene therapy example from Chapter 1: that it would be impermissible to alter your child's sexual orientation doesn't entail that persons with the sexual orientation in question are less valuable, or that their sexual orientation is itself bad. A procreator can lack a moral right to choose disability for her offspring, not because persons with disabilities are less valuable, but because some traits cannot justifiably be chosen on behalf of other persons.<sup>29</sup>

On the account I have proposed, it can both be true that the woman fails to act well as a prospective parent *and* that it is not a moral failure to allow a fetus with a diagnosed disability to be carried to term. The reason is this: the wrongness of the procreator's action

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<sup>28</sup> Ibid., 82–84. McMahan's target is the view of disability activists who contend that any selection against disability is wrong, either because it's discriminatory or because it expresses an objectionable view about the value of persons with disabilities

<sup>29</sup> I will return to this issue in Chapter 5.

does not consist in the badness of their being a person who has a disability, the wrongness consists in the prospective parent's failure to consider the potential effects of her procreative action on the autonomy of her future child. That persons with disabilities face potential obstacles to their autonomy does not entail that their lives are less valuable than others, but it does matter to the permissibility of a prospective parent's choosing a disability on behalf of her child. Prospective parents have a duty to facilitate their future children's autonomy, not select traits that will present obstacles to their autonomy.<sup>30</sup>

The woman, then, can both be prohibited from conceiving while on the medication and yet not be required to abort a fetus who, even if conceived while not taking the medication, is diagnosed with a disability. Once the child has been conceived, the prospective parent's decision is no longer a matter of: create a child with this or that trait. Her decision becomes: what to do for or with *this* child. In all but perhaps the most extreme cases, parental role obligations needn't force prospective parents to terminate one fetus in order to create and parent a *different* child any more than they would tell the parent of an already existing child to end that child's existence in order to create and parent some other child. Once a particular fetus is en route to becoming someone's child, parental role obligations will direct parents about how they can do well by *that* child. Before conception, however, when a prospective parent's choice might determine whether this or that child will be created, those same considerations might direct a prospective parent to do well by their *future child* by making

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30 The woman in McMahan's example is not unmoved by the potential effects of her conceiving while taking the aphrodisiac—the potential effect of the drug *is* what moves her to conceive. She prefers to parent a child that will, other things being equal, be *more* dependent on her than some other child she might create. That dependency doesn't make her child's life less valuable, but it is also not the sort of thing that a prospective parent should aim at for her future child.

procreative decisions that enable their future child to be more independent in the future, not less.

Consider another one of Parfit's non-identity examples, the case of the 14 year old girl who wants to have a child.<sup>31</sup> Even if the girl is likely to give birth to a child with a clean bill of health, it would still be better for the child to be born to a mother who is herself better prepared to parent him. Parfit claims that the girl does something wrong in giving the child she creates a bad start in life, but that wrong is not directed at the child himself. It may be true that if the girl waits to conceive, then that particular child will not come into existence. Nevertheless, the girl is still under an obligation as a prospective parent to wait and conceive when *she* is better prepared to discharge her parental obligations to her child. The 14 year old girl should wait, on this view, not because the child she would have at 14 would not have a life that is worth having (the bad start is not *so* bad), she should wait because *she* is not yet ready to be a good parent to that child. Acting well in the parental role may well require that a prospective parent *refrain* from entering the parent-child relationship, either at a certain time, or with a particular child. The 14 year old girl, insofar as she is a prospective parent, has a duty to refrain from becoming a parent until she is adequately equipped to discharge her parental obligations well. Even if the child she would conceive now would be as well off as *he* could be, she will still count as having wronged him by failing to act as a parent.

### Conclusion

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<sup>31</sup> She's not already pregnant; she wants to become pregnant. See Parfit's *Reasons and Persons*, 358.

What is helpful about using a role-based framework in procreation cases is that we don't have to first locate a harm to the person created in order to capture wrongful procreative action. Certain kinds of procreative actions may not be justifiable with respect to the obligations that prospective parents have to their future children, whether or not the children they create are harmed or put at risk of harm. We can instead ask whether a prospective parent has reasoned well about what to do in her procreative decision, where reasoning well about what to do is relative to her role as the future child's parent.

If this strategy for evaluating the morality of prospective parents' procreative decisions is sound, then we will need to know more about how parental obligations bear on prospective parents' reproductive choices. Acting well as a prospective parent may, for example, require that prospective parents refrain from procreating in ways that lead to their creating children who will be unable (or less able) to become independent agents. Acting well as a prospective parent may also prohibit procreators from selecting the traits of their future children, even where those traits are not themselves cumbersome to the future child's agency, because the choosing of such traits may constitute a wrongful way to create a person to parent. Whether a child has been harmed by being created isn't irrelevant to the moral assessment of a procreator's action, but it is important to notice that it is not the only metric by which we can evaluate the morality of the procreator's action with respect to the person she creates.

An upshot of this account is that it does not entail that persons who have burdensome traits should be prevented from coming into existence. The problem is in the intentional

actions of prospective parents, not in some disvalue of the lives they create. You needn't think that persons with burdensome traits are not good enough or would not have valuable enough lives to be brought into existence, and yet prospective parents may be prohibited from knowingly imposing such burdens on their future children.

In the following chapter, I will apply my account of parental obligations to prospective parents and the practice of reproductive selection. Much attention has been given to the morality of the *means* by which procreators select for the traits of their children, but less attention has been given to the morality of the practice itself. In Chapter 5, I will show that in at least some cases, it would be wrong for procreators to use reproductive selection to select for a trait because it would violate their obligations as prospective parents.

## Chapter 5: Selection and Disability

Reproductive selection, the practice of selecting for particular traits in one's offspring, can be done—with varying degrees of success—by selecting a partner or genetic donor who carries the desired trait, testing and selectively implanting fertilized embryos during in vitro fertilization (IVF), and testing and selectively aborting fetuses that do not have the desired trait.<sup>1</sup> Whether or not reproductive selection is a morally acceptable practice can seem to depend on the morality of the means employed: Is it morally objectionable to choose a reproductive partner for his or her genetic features?<sup>2</sup> Is it permissible to discard embryos that lack the desired trait?<sup>3</sup> Is prenatal genetic testing, and its accompanying risks to both the fetus and pregnant woman, permissible?<sup>4</sup> Is it permissible to abort a fetus that carries an undesired

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- 1 Xiangjin Kang, et al., “Introducing Precise Genetic Modifications into Human 3PN Embryos by CRISPR/Cas-mediated Genome Editing,” *Journal of Assisted Reproduction and Genetics*, (April 2016): 1-8, doi: 10.1007/s10815-016-0710-8. The development of CRISPR technology may soon make it possible for scientists to change the genetic traits of a given embryo, rather than selecting an embryo that already carries the desired trait.
  - 2 For a discussion of the history of eugenics, see Allen Buchanan, Dan Brock, Norman Daniels, and Daniel Wikler, *From Chance to Choice: Genetics and Justice* (Cambridge: Cambridge University Press, 2000).
  - 3 D. Gareth Jones and Barbara Telfer, “Before I was an Embryo, I was a Pre- embryo: Or was I?” *Bioethics* 9, no. 1 (1995): 32–49; Elizabeth Harman, “How is the Ethics of Stem Cell Research Different From the Ethics of Abortion?” *Metaphilosophy* 38, no. 2-3 (2007): 207–25; Matthew S. Liao, “The Embryo Rescue Case,” *Theoretical Medicine and Bioethics* 27, no. 2 (2006): 141–47. If you think non-implanted embryos have some moral status, either as a person or as something else of value, then it's not obvious that procreators should be permitted to discard them. A related worry can be raised about the use of embryos in stem cell research.
  - 4 Antina Jong, Idit Maya, and Jan Lith, “Prenatal Screening: Current Practice, New Developments, Ethical Challenges” *Bioethics* 29, no. 1 (2015): 1–8; Denier, Yvonne, “From Brute Luck to Option Luck? On Genetics, Justice, and Moral Responsibility in Reproduction” *Journal of Medicine and Philosophy* 35, no. 2 (2010):101–29. There are two related worries about prenatal testing. The first worry is about the risks of invasive prenatal testing (amniocentesis) to the fetus. The second worry is about whether procreator's ought to have knowledge about a fetus's traits.



trait?<sup>5</sup>

Whatever means a procreator uses to select for or against a trait, there is a further question we can ask about the moral permissibility of the selection itself: Do procreators have a moral permission to create persons on the basis of their traits? This question, as noted in Chapter 1, seems to run into Derek Parfit's non-identity problem. If it would be wrong for procreators to do so, it doesn't seem to be wrong because doing so would be bad for the persons they create. Whatever trait a procreator selects for (or against), she seems to make whoever she creates as well off as he could be because her selection makes it the case that *he* is the one who is brought into existence. The created person's wellbeing, level of physical and mental functioning, and future prospects are as good as he could ever hope for them to be.<sup>6</sup> The procreator's selection results in his creation, and whatever genetic traits he has (or doesn't have), he could not have existed without them. What, then, could possibly make it the case that his procreator wrongs him when she creates him on the basis of some trait?

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5 Bernard M. Dickens, "Can Sex Selection be Ethically Tolerated?" *Journal of Medical Ethics* 28, no. 6 (2002): 335–36; Julie Zilberberg, "Sex Selection and Restricting Abortion and Sex Determination," *Bioethics* 21, no. 9 (2007): 517–19. For example, in the debate over the ethics of sex selection, there seems to be two overlapping issues: the ethics of abortion and the ethics of selecting for a child's sex. If abortion is impermissible, then sex selection via abortion will be wrong. Suppose, however, that you think that women ought to have extensive reproductive autonomy, including a moral and legal permission to abort her fetus. If that's the case, then women ought to be permitted to use abortion as a means for sex selection, even selection *against* having a female child. This is the worry in India and China, where there is a high social and cultural pressure to have male children. There seems to be a tradeoff between protecting a woman's right to her body and preventing the discrimination against women that happens when procreators select against female fetuses. That women are the ones selecting against women makes the issue all the more difficult.

6 Julian Savulescu and Guy Kahane, "The Moral Obligation to Create Children with the Best Chance of the Best Life," *Bioethics* 23, no. 5 (2009): 274–90. A principle of procreator beneficence like the one given by Savulescu and Kahane can't capture a failure to act beneficently toward the person who is actually created—whatever his situation. It seems odd, then, to describe the duty to create the most advantaged child one can as a duty of beneficence: beneficence *to whom*? I agree with them that prospective parents ought to consider the wellbeing that their future child will likely have, but the principle of procreative beneficence doesn't fill out why they should with respect to *this* child.

In Chapter 2, I argued that social roles can generate personally directed obligations when those roles contribute to our moral division of labor. Social roles designate groups of persons who are permitted to act in the service of some moral end. Those persons are bound by obligations that mark out the kinds of actions that are possible means to that end, as well as the ends from which those role actors are permitted to act. Though role obligations are not generated by the needs of particular persons, they are still *owed* to particular persons. Individual role recipients don't generate those obligations or give them their content. A role's moral purpose shapes the content of the role actor's obligations, and those obligations are owed to *whomever* eventually occupies the place of the role recipient, even if that person doesn't occupy that position at the time of the role actor's action and if the person who will occupy that position is determined by the role actor's action.

This is good news for evaluating the morality of reproductive selection. If a role actor can be bound by obligations to a future, unspecified role recipient, then a procreator who occupies a role with respect to her progeny can be bound by personally directed obligations to him—whoever he turns out to be. In Chapter 4, I argued that procreators who procreate in order to parent the persons they create occupy the parental role and assume its corresponding obligations to their progeny. In Chapter 3, I argued that the moral end of the parental role is to facilitate the child's development into an autonomous person. Parental obligations are keyed to this end: parents ought to act only in ways that could bring this end about, and they ought to act for this end. Prospective parents, then, ought to think about how their reproductive choices will affect the autonomy or agential independence of their future

children, whoever those future children turn out to be, and they owe that obligation to whichever children they in fact create.

The role-based framework allows us to look at the deliberation of procreators who are prospective parents with respect to how their actions will affect some future child, where that child's identity is not yet determined. Prospective parents should consider how their actions will affect the conditions of their child's future agency, whoever he is. The particular child they create may be as well off as he possibly could be, with as wide open a future as he could have, and yet if his procreators fail to regulate their reproductive choices with respect to his future autonomy, then they have wronged him.

In this chapter, I will examine the practice of reproductive selection from within the role-based framework. Procreators who are prospective parents are constrained in their selection decisions, not by their future child's wellbeing, but by their obligations qua prospective parents. Where the use of selection would not count as a possible means toward securing at least the necessary conditions of their future child's autonomy, or where prospective parents fail to consider how the selection of a trait would impact their future child's autonomy, the selection will be impermissible and will count as a wrong to whomever they create.

### Parental Actions

Role actors can fail to meet their role obligations by acting in ways that are not possible means to the moral end of their role. The moral end of the parental role is, at least

partly, to facilitate the child's future autonomy, and parents ought to constrain their actions to those that are at least possible means to this end. Procreators who are prospective parents are under the same obligation in their reproductive practices: prospective parents should act in ways that are possible means to bringing about their future children's autonomy. To evaluate a prospective parent's procreative action, then, we need to know how a procreative action can affect a future person's autonomy.

In this section, I will explore the connection between a future person's autonomy and both her mental and physical capacities. Though there may be some minimum bundle of capacities required for the emergence of autonomy, settling that bar is not my focus here. My goal is to show that a person's mental or physical capacities can either help or hinder a person's agential independence. In what follows, I will focus my discussion on how having an intellectual or a physical disability can present a serious obstacle to a person's agential independence.<sup>7</sup> Persons whose capacities make agential independence *more* difficult do not thereby lack autonomy or have lives that are less worth living than those of other persons. However, something goes wrong when the obstacle to their agency is the result of a choice made for them by their parents. The problem isn't in the creation of a person with a disability, the problem is that prospective parents lack the moral authority to choose a

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<sup>7</sup> I will use "person-first language" to refer to persons with disabilities. There is a divide among disability advocates about the use of "person with a disability" and "disabled person". The former puts the person first and makes her disability secondary. However, some persons prefer the latter because they take the former to diminish their identity as disabled. I will use the person-first language for two reasons: 1) not all disabled persons take their disability to be central to their identity, and 2) a question of this chapter is how we should think about disability and choosing it for someone else. To use the identity-emphasizing locution suggests that the choice is more than a choice about a trait: it's a choice about the core of the created person's identity. If a person's disability isn't just a trait but her core identity, then it seems even *less* likely that prospective parents could be justified in choosing it for her, at least on the role-based framework as I've described it. I will leave it open that for some persons having a disability is not central to their identity, though of course, the person created with a disability might come to strongly identify with it.

disability for their children.

### *Mental Capacities*

If a mark of autonomy is a person's capacity to rationally reflect on what to think and do, then facilitating a person's autonomy will depend, at least in part, on helping her develop the cognitive and psychological capacities (broadly understood) that allow her to do so. These capacities include, but are not limited to, the capacity for self-consciousness,<sup>8</sup> the capacity for practical rationality,<sup>9</sup> and the capacity for sociability.<sup>10</sup> Mental impairments can affect these capacities. A person who has had a stroke, for instance, can have a difficult time communicating her thoughts to other persons. A person with dementia can experience memory loss and struggle to retain new information, and a person who has experienced serious brain damage might lose her capacity for self-consciousness altogether.

Persons with moderate to severe intellectual or psychological disabilities can have trouble both in their intellectual functioning, or their ability to make sense of the world, and in

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8 Tyler Burge, "Our entitlement to self-knowledge," *Proceedings of the Aristotelian Society* 96, (1996): 91–116. The agentialist view of self-knowledge, for instance, appeals to our capacity for self-consciousness as the basis for some kinds of knowledge. Burge connects our entitlement to self-knowledge to our responsibility for satisfying rational norms (conferred on us by our rational agency).

9 David Wasserman et al., "Cognitive Disability and Moral Status", *The Stanford Encyclopedia of Philosophy*, ed. Edward Zalta, Fall (2013), URL = <<http://plato.stanford.edu/archives/fall2013/entries/cognitive-disability/>>. I follow Stanford Encyclopedia of Philosophy's use of practical rationality as the "ability to reason about what to do...[and] to make and respond to moral demands."

10 Michael Berube, *Life as We Know It: A Father, a Family, and an Exceptional Child* (New York: Pantheon, 1996); Amy Mullin, "Children and the Argument from 'Marginal' Cases," *Ethical Theory and Moral Practice* 14, no. 3 (2011): 291–305. I understand the capacity for sociability, broadly, as the bundle of capacities that enable persons to interact in meaningful ways with other persons: capacities for communication, empathy, ability to enter relationships of reciprocal care, etc. These capacities are sometimes appealed to as alternative grounds for the moral status of persons in order to make room for persons with severe cognitive disabilities who are nonetheless part of our wider social community.

their adaptive functioning,<sup>11</sup> or their ability to live and operate in the world as independent persons.<sup>12</sup> A person with an intellectual disability can have difficulty with language acquisition and use, reading, math, and problem solving. It can also be more difficult for her to communicate with others, to navigate complicated social interactions, to hold down a job, to manage her money, etc. Persons with intellectual disabilities can still become independent agents; however, having an intellectual disability can present an additional *obstacle* to a person's navigating the world on her own terms. Persons with intellectual disabilities are not, for this reason, less valuable as persons, because a person's value doesn't depend on her particular traits, or in this case, on how independent she can be. Her value is in being a person, not in being a person of a particular kind or with particular levels of functioning.

The obstacles that face a person with an intellectual disability have become a source of concern for prospective parents. Through the use of both prenatal testing and preimplantation genetic diagnosis (PGD) during in IVF, prospective parents are able to select against genetic traits that are associated with intellectual disabilities. For example, the availability of prenatal testing enables prospective parents to select against having a child with Downs Syndrome by way of aborting fetuses diagnosed with trisomy 21, the genetic marker for Downs.<sup>13</sup>

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11 Intellectual disabilities include both learning and mental disabilities. The former affects *how* a person understands the world while the latter affects the degree to which a person is able to understand the world at all. Dyslexia is an example of a learning disability, and Downs Syndrome is an example of a mental disability. Psychological disabilities include psychological disorders that affect a person's emotions and behaviors, like schizophrenia or bipolar disorder.

12 According to the Individuals with Disabilities Education Act (IDEA), a person has an intellectual disability when she has "...significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance" IDEA, 34 CFR §300.8(c)(6).

13 Cara Mai et al., "Selected Birth Defects Data from Population-Based Birth Defects Surveillance Programs in the United States, 2006 to 2010: Featuring Trisomy Conditions," *Birth Defects Research Part A: Clinical and Molecular Teratology* 97: 709–25, doi:10.1002/bdra.23198.

Prospective parents are also able to use PGD during IVF to avoid implanting embryos with trisomy 21 or other genetic markers for neuroatypical functioning.

Proponents of neurodiversity have opposed this trend by insisting that selecting against having a child with a moderate intellectual disability constitutes discrimination against persons who are neuroatypical. Procreators shouldn't select against creating persons with an intellectual disability because doing so expresses an objectionable view about the moral worth or value of such persons. Persons with Downs Syndrome, for example, are capable of living rich, meaningful lives—lives that also enrich other people's lives in unique ways. To select against Downs Syndrome, on their view, is to express the view that persons with Downs Syndrome are less valuable than other persons, or that their lives are unable to contribute to our social world.

Behind this view is a characterization of disability as a difference rather than a defect. For example, in "Valuing Disability, Causing Disability," Elizabeth Barnes argues that the burdens that accompany having a disability are generated by our social organization, not the physical characteristic itself.<sup>14</sup> That it is more difficult for the person with Downs Syndrome to get and keep a job is a feature of her social world, not her disability. If employers better accommodated persons with different cognitive capacities and if there were less prejudice against persons with Downs, then persons who have Downs Syndrome would be better integrated in our labor market. The burdens faced by the person with Downs, on this view, is a product of *our* actions toward the disabled, not the cognitive (and physical) impairments caused by the person's chromosomal abnormality.

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<sup>14</sup> Elizabeth Barnes, "Valuing Disability, Causing Disability," *Ethics* 125, no. 1: 88–113.

In “Causing Disability and Causing Disabled People to Exist,” Jeff McMahan argues against Barnes’ mere-difference view by appealing to the impermissibility of *causing* disability. If disability is just a difference, like a person’s race, gender, or sexual orientation, then we should think that it is permissible to *cause* a person to be disabled—a view he thinks few people would support.<sup>15</sup> If the burdens associated with having a disability make it impermissible to cause someone to be disabled, then it will be impermissible for procreators to select *for* disability and permissible (if not required) for them to select *against* it.<sup>16</sup>

There may be a middle road between Barnes’ and McMahan’s views. On the role-based account of the morality of procreation, it could be wrong for procreator to select for a disability but not wrong for her to allow herself to have a child with a disability. If the procreator is a prospective parent, then her selecting for an intellectual disability, like Downs Syndrome, can be evaluated in terms of its suitability with respect to the moral end parenting: facilitating her future child’s autonomy. If we take the definition of an intellectual disability from IDEA, then, by definition, an intellectual disability makes it harder for the person who has it to understand and navigate the world as an independent person. If selecting for an intellectual disability would make it harder for child to operate as an autonomous agent in the world (though not impossible), then it doesn’t look like it could be a possible means to facilitating the child’s future autonomy. The person with the disability may still be able

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15 Jeff McMahan, “Causing Disabled People to Exist and Causing People to Be Disabled,” *Ethics* 116, no. 1 (2005): 77–99. I discuss McMahan’s position in Chapter 4.

16 Barnes replies to McMahan’s argument in two ways. First, she notes that there is a difference between growing up with a disability and becoming disabled; the later has transitional costs that affect the person’s wellbeing while the former doesn’t have to. Second, if it’s an infant who we’ve made disabled, so there’s no transition costs, she’s ultimately prepared to bite the bullet and say it’s not wrong to make the infant disabled on account of the disability. Barnes and McMahan have in mind both intellectual and physical disabilities. I will turn to physical disabilities in the next section.



to lead a flourishing life. In fact, his life may flourish in ways unavailable to persons who lack the intellectual disability in question. However, procreators do not have the authority to *choose* an intellectual disability on behalf of their offspring. With or without the disability, the person would be equally valuable. However, the trait in question—the intellectual disability—is a permanent and life-shaping trait. As was the case in the gene therapy procedure, persons are not obviously permitted to choose such traits for other persons, even when the choosing is done by one’s parents.<sup>17</sup> Prospective parents get their authority to choose permanent and life-shaping traits on the condition that doing so is necessary for their children’s autonomy. Insofar as an intellectual disability makes it more difficult for the child to act as an independent agent, prospective parents lack the authority to choose it on his behalf. That wrong stems from the procreator’s role obligations, not some disvalue of the disability itself.

Even if we shift the focus from the child’s prospective wellbeing to his future autonomy, Barnes might still contend that what makes the person’s intellectual disability a burden to his agency is not the disability itself, but the unjust social arrangements around him. Disability would be something like a person’s race or sexuality: in some social settings, being non-white or gay (or trans or bi) can be detrimental to one’s agency—not because it is bad to be that race or have that sexual orientation, but because those persons face discrimination, racism and/or homophobia. We shouldn’t conclude from that fact, however, that there is something intrinsically bad for a person’s agency about being a different race or having a different sexual orientation. Rather, we should treat persons of different races and sexual

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<sup>17</sup> See Chapters 1 and 4 for a discussion of Elizabeth Barnes’ gene therapy example.

orientations better than we currently do. If it is more difficult for persons with intellectual disabilities to operate as agents, then that is a feature of *our* actions toward them, not their level of cognitive functioning.

Having an intellectual disability, however, affects a person's agential capacities in a way that her race or sexual orientation do not. Being non-white or gay doesn't make it more difficult for a person to understand the world in which she lives, but having an IQ below 70 does. Having a low IQ isn't bad for an agent just because she will not know or understand as much as she would be able to with a higher IQ—everyone understands the world less well than we would if we had a higher IQ. The problem for the person with the intellectual disability is that she occupies a social world organized around the cognitive capacities of neurotypical persons. Barnes is right that the burden of a disability for the person who has it is partly a function of the social world that she inhabits. However, even if the wellbeing of persons with disabilities would be markedly improved by making our social arrangements more just, it doesn't follow that the *agential* burdens of having a disability would be fully eradicated by doing so.

The capacities and resources available to other agents, even if not unjustly distributed, will still impact the nature of their interactions with each other and how well individual agents can navigate the world around them. Take communication. Part of being an autonomous person is having the ability to communicate one's thoughts, attitudes, intentions, etc., to other persons and vice versa. For the person with an intellectual disability, communicating with other persons can be more difficult for him than it is for his peers. That communication is

more difficult for him is not just a matter of our language being unnecessarily complicated or other people not being willing to take the time or put in the effort to communicate with him—though that can be true as well. Communication is more difficult for him because communication is a social practice that is keyed to the capacities shared by most persons. When an individual lacks one of those capacities or when he has different capacities, he will be at a disadvantage in his communication with other agents.

One way human beings communicate, for instance, is through non-verbal cues. For some persons with autism, it can be difficult to read those cues and to control the ones they send.<sup>18</sup> Non-verbal cues allow persons to communicate meaning that is not directly expressed in what they say, but if a person has trouble picking up on non-verbal cues, or controlling the non-verbal cues that he sends to others, then he will have a difficult time understanding and conveying meaning to other persons. That communication with other persons is more difficult for him isn't just a matter of his own neurological functioning. He has trouble communicating *because* our communicative norms reflect the cognitive and psychological capacities of neurotypical persons, or persons who are able to easily send and receive non-verbal signals. It's not *unjust* that human communication involves both the transmission and receipt of non-verbal cues, but that they are part of our communicative practices inevitably puts some persons at a disadvantage.

Human beings are not isolated agents whose agency depends only on their own capacities and resources. We are agents who live and act together. That our agency is

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<sup>18</sup> "Autism Spectrum Disorder: Communication Problems in Children," National Institutes of Health pub. no. 97-4315.

couched in social practices is the basis for the role-based framework. Our social practices, conventions, and institutions shape and are shaped by our lives as agents. Our agency is situated among other agents: we live together, we work together, we understand the world together, and we occupy relationships to each other that alter our moral obligations to them and others.<sup>19</sup> When a person's intellectual capacities impede his ability to communicate with, understand, relate to, and work together with other agents because his cognitive capacities don't match theirs, that affects his agential independence. Our social practices are not thereby unjust, but they do adversely affect the agency of persons whose functioning is atypical.

So, though Barnes is right to flag the social dimension of disability, a more just society doesn't make intellectual disabilities mere-differences, at least when it comes to a person's autonomy. Having different cognitive capacities can affect what it is like to operate as an independent agent because our social world reflects the typical cognitive functioning of our species. A person who falls below typical cognitive functioning will have an obstacle to her agency.<sup>20</sup> Differing from our species' typical cognitive functioning isn't bad because it is

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19 Seana V. Shiffrin, *Speech Matters: On Lying, Morality, and the Law* (Princeton: Princeton University Press, 2014), 196–200. Shiffrin argues, for example, that police officers, as agents of the state, should not be permitted to lie about matters of law.

20 That falling below or differing from typical species functioning is an obstacle to a person's agency combines the spirit of both Harman's and Shiffrin's accounts of procreative harm. On Harman's view, the person is harm comparative, but the comparison is to what a typical human being is like, not to what that person might have been. What's missing, though, is an explanation of the normative significance of typical species functioning. On Shiffrin's account, procreators can wrong their offspring by causing them to be in non-comparatively bad states, or states that hinder a person's autonomy. If differing from typical species functioning constitutes an obstacle to a person's autonomy, then both Harman and Shiffrin capture an important part of procreative wrongdoing. On my view, however, the wrongdoing depends not just on the created person's eventual functioning, but rather on the *choice* of the procreator qua prospective parent. See Elizabeth Harman, "Can We Harm and Benefit in Creating?" *Philosophical Perspectives* 18, no. 1 (2004): 96; Seana V. Shiffrin, "Wrongful Life, Procreative Responsibility, and the Significance of Harm," *Legal Theory* 5, no. 2 (1999): 123–24.

intrinsically better to be “normal.”<sup>21</sup> Rather, on the autonomy picture, having cognitive capacities that differ from other persons will make it harder to operate as an independent agent among those persons, and that is not something that parents can appropriately *choose* on behalf of their children.

McMahan is right, then, that there is a disadvantage that comes from being disabled which makes the fact that a child would have a disability morally salient for procreators. However, what makes the disability morally salient isn't *just* the burden of the disability for the person who has it. That a person would have an intellectual disability and would in some ways be less independent than others does not alone constitute a reason not to create him. It is because parents are obligated to act in ways that facilitate, not hinder, their children's future autonomy that a future person's prospective intellectual disability becomes a trait that isn't appropriate for a prospective parent to intentionally choose for her child. Where a prospective parent could prevent her future child's coming to have an intellectual disability, she should do so (e.g. by not consuming large quantities of alcohol which can lead to Fetal Alcohol Syndrome, or not conceiving while taking medication that causes birth defects).

If all the moral work was being done by some disvalue of being disabled or of there being persons who are disabled, then prospective parents should do whatever is in their power to prevent disabled persons from coming into existence. The moral import of a child's prospective disability isn't just that a person will exist who will experience the (agential)

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21 To avoid reading some intrinsic value in typical functioning, I have avoided using “normal functioning,” because it carries with it a sense that some way of functioning is how we *ought* to function. Whether or not you accept a notion of normal human functioning, there is still a fact of the matter about how most humans function, or what is typical human functioning. Our social arrangements, in turn, reflect typical human functioning. For discussion on normal human functioning see Ron Amundson, “Against Normal Function,” *Studies in History and Philosophy of Science Part C* 31, no. 1 (199): 33–53.

burdens of the disability, but that it is not appropriate for his procreators to choose the disability, along with its corresponding agential burdens, for him.<sup>22</sup> I don't think the agential burdens associated with having a disability are such that prospective parents must do whatever is in their power to *avoid* creating persons with disabilities, but they can't permissible choose that disability or cause their child to come to have it.

Recall the autonomy principle from Chapter 1. Q shouldn't phi if phi-ing would make it the case that something that should be settled by P is now no longer up to P. When Q is a prospective parent and P is Q's future child, Q is on the hook for whomever happens to be her future child. Q's phi-ing might determine which child P is, but the X's that should be up to P when Q acts are the X's that should be up to an *unspecified* P.

At the time of Q's procreative decision, Q occupies a role that connects her first to an unspecified future child and, only after she procreates, to her particular child. The X's that should be up to P at the time of the procreative decision are the X's that would usually be under the purview of a person with typical species functioning. That is not because P is guaranteed to have typical species functioning, but because, absent the selecting, Q can presume that P will be like most children, or that P will have typical species functioning. Of course, P might not be typical even if Q doesn't select for an atypical trait; yet, from Q's point of view before P's conception, P is just some future child, a child who is likely to function at

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22 In "Wrongful Life," Shiffrin argues that the fact that an action will result in a benefit to someone does not automatically justify choosing it for them, especially when that choice also risks harming the person. My account raises a similar worry, but the choice is couched in the parental role framework, not the harm framework. Parents are not permitted to act for their children when their action is not a possible means to the end of parenting. On my account, even if ordinary procreation risks harming the person created, it is justifiable within the parental role framework as a possible means to facilitating that person's future autonomy, so long as the parent is also prepared to continue acting for that end.

the level that is most common for human beings to function.

When Q decides to create P, Q should presume that, absent further information or some other intervention, Q is going to create a P who is species-typical. Selecting for an atypical trait, then, can be evaluated from the point of view of whether P's being atypical, in the respect in which he is atypical, affects the range of X's over which he will have control. Parents are charged with facilitating, not impeding, their children's future autonomy. A parent who chooses a condition for her child that will create an obstacle to her child's future autonomy, fails to meet her obligation to her child as his parent because she oversteps her authority to make decisions on his behalf. Q is permitted to act for P *because* she stands in the role of parent to P. That permission turns on her acting for the sake of P's future autonomy. If Q's trait selection makes it the case that some X's are now *not* open to P, then Q has failed to act well as a facilitator of P's autonomy.

As I argued in Chapter 4, the role-based framework allows us to draw a kind of comparison that we couldn't do just from the point of view of the person who is eventually created. Whomever Q creates is as well off as he could be, intellectual disability or not. However, from Q's point of view, Q undertakes an action that will put her in the role of parent to some future child. If Q's action would impede her future child's autonomy, then she acts wrongly qua parent. Whether her selection impedes her future child's autonomy doesn't turn on how well off she makes the child she in fact creates. Her selection impedes her future child's autonomy if her action makes the child less independent he would have been had he been born with typical species functioning. Selecting for an intellectual disability, like Downs

Syndrome or mild autism,<sup>23</sup> wouldn't make the person created worse off than he would have been—but it will make him less independent as an agent than a person without an intellectual disability. His life is still valuable and well worth living, but his parent failed to meet her parental obligations when she selected for a trait that inhibited rather than facilitated his autonomy.

For a procreator who doesn't choose to have a child with an intellectual disability but instead finds out while pregnant that the fetus she is carrying has a chromosomal abnormality that will cause an intellectual disability, she is not, on this view, under a moral obligation qua prospective parent to terminate the pregnancy. Prospective parents are prohibited from choosing disability for their unspecified future child, but, once some specified child is underway, their obligation is to *that* child. They will be obligated to help him become as independent as he can be; they are not obligated to avoid bringing him into existence. His disability's moral salience is at the level of what his procreator can appropriately choose on his behalf—not what kind of people should or should not exist in the world.

### *Physical Capacities*

I have not offered a definitive account of the mental capacities that are required for a person to be an autonomous agent. That question is an important one, but it is not my question. I am concerned with traits that seem to move a person further from agential independence, even if they don't preclude a person from becoming autonomous altogether.

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<sup>23</sup> Pier Jaarsma and Stellan Welin, "Human Capabilities, Mild Autism, Deafness and the Morality of Embryo Selection," *Medicine, Health Care and Philosophy* 16, no. 4 (2013): 817–24. Jaarsma and Welin argue that it is impermissible to select for congenital deafness but not for mild autism.



Intellectual disabilities seem to do just that—they make it harder for a person to operate as her own person, but not impossible. If a person has a disability that makes it more difficult for him to understand the world and determine his own life, then that disability will count as an obstacle to his autonomy and will not be the sort of thing that could be justifiably chosen by his parents on his behalf.

A person's mental capacities, however, are not the only capacities that are relevant to his autonomy. Being autonomous is about more than what a person can think or understand, it is also about what he can decide to do. What a person can decide to do depends on what he is physically able to do. To borrow a distinction from Kant, there is a practical difference between *wishing* something and *willing* something—the latter requires that one take oneself to be the acting cause of the thing to be brought about.<sup>24</sup> I can't make a practical commitment to bring about some end without, at the same time, committing to taking the necessary means to that end. The means that are available to a person depend in part on his *physical* capacities. Whether I can see, walk, use my arms, etc., affects what I am able to do, and in turn, what I am able to decide to do. You can affect a person's autonomy, then, by affecting his body, not just her mind.

This point is central to Joel Feinberg's argument for a child's right to an open future. A child's future choices are only as open as the means he will have available to him. You can close off a future choice or life path by impairing some physical capacity now. If a child is sterilized, for instance, you close off a future choice that should be up to him, namely,

<sup>24</sup> See Kant's *Groundwork to the Metaphysics of Morals*, 28. For Kant, the will is a technical term. But even if you taking "willing" in a looser sense, it still seems to involve a person's rational commitment to bring about some state of affairs, and what she can rationally commit to bringing about will in turn depend on the means she has at her disposal.

whether or not he will have children.<sup>25</sup> Autonomy isn't just about a person's capacity to reason, but her capacity to *to act from* reason, which depends on the means available to her.

Possible persons don't themselves have a *right* to some maximally open future, or any future at all.<sup>26</sup> However, we can still say that prospective parents should not make selection decisions that limit the autonomy of their future children, where, absent the procreators' selection, those future children are presumed to have typical species functioning. Prospective parents can limit the autonomy of their future children, not just by selecting for intellectual disabilities, but also by selecting for physical disabilities.<sup>27</sup> Future children, specified or not, don't have a right against being created and having a disability, but their parents have an obligation not to choose a physical disability on their behalf.

Again, disability advocates will point to the social dimension of physical disabilities. Having a physical disability is a burden not because of one's physical characteristic but because of our social organization. They rightly want to put pressure on able-bodied persons to better accommodate persons with physical disabilities, and they have made some headway in how we design buildings, public transportation, and public spaces.<sup>28</sup> However, the fact that there is a social dimension to physical disabilities doesn't make those disabilities *less* of a hinderance to the agency of the persons who have them, nor is it clear that making our social

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25 Joel Feinberg, "The Child's Right to an Open Future," in *Whose Child?* ed. W. Aiken and H. LaFollette (Totowa, NJ: Rowman & Littlefield, 1980), 124–53.

26 There is a difference between violating a future right of some future person and violating the right a possible person has *not* to exist. It's hard to imagine how a possible person could have a right against being brought into existence, when being brought into existence seems to be a condition of her having any rights at all.

27 I am not here including deafness. Whether deafness is a burden to agency might depend on the community into which the child will be born. I will return to selecting for deafness in the last section of this chapter.

28 Title II of the Americans with Disabilities Act of 1990, for example, requires state and local governments to ensure that persons with disabilities have equal access to their programs and services.

world more just would make those disabilities neutral with respect to a person's autonomy. As with intellectual disabilities, part of what makes it more difficult to navigate the world on one's own terms when one has a physical disability is that our social world is oriented around what most of us are capable of doing.

Take blindness. A person who is blind in a world where everyone else is blind isn't missing out on possible life paths or opportunities on the basis of his blindness. In such a world, the cooperative endeavors available to agents will be keyed to *blind* agents. However, in a world where most people are sighted, there are real opportunity costs to the person who is blind. Even if we justly accommodate blind persons in our social arrangements, there will still be some opportunities that are only open to persons who can see, like driving a car, watching a movie, performing surgery, etc. The person who is blind in a social world arranged around persons who can see has less means available to him for effecting his ends than does his peers *in our social world*. That alone doesn't make him unable to act autonomously, or unable to live a happy, flourishing life. However, if being blind means that a person will have less means available to him than he would have had if he could see, then prospective parents are not permitted to choose blindness on behalf of their future children. Doing so would count as a failure to facilitate their future children's autonomy.<sup>29</sup>

The social dimension to a person's agency was at work in the case of the Amish from Chapter 3. Amish parents who raise their children exclusively in the Amish lifestyle don't settle some range of X's that should be up to their children just in virtue of what the Amish

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<sup>29</sup> Strictly speaking, as noted with selection of an intellectual disability, they don't make *him* worse off or make *his* future less open, but they do foreclose future opportunities for their *de dicto* child—and that choice is one they are not authorized to make, whatever the outcome for their *de re* child's eventual wellbeing.

culture is like. When the first Amish settlers made a home in Pennsylvania in 1737, their community was the only community readily available to the persons in it. Amish parents who raised their children to be Amish in that context weren't making their children *less capable* of pursuing other opportunities. That is, they weren't make a choice that foreclosed some range of choices that should have, and would have, been up to their children. Other opportunities didn't yet exist.

The same is not true today. The Amish community is situated within a larger society that provides access to public education for all children, including Amish children. When Amish parents intentionally limit their children's access to the community around them, they aren't making the same kind of choice for their children that the Amish made in the 1700's. When there *wasn't* a community outside of the Amish community, the only means the Amish parents had available to them to facilitate their children's agential independence were within the Amish lifestyle. However, when a public education is readily available, they have different means with which to meet their parental obligations. If they withhold a public education from their children, they are now making a choice to exclude their children from opportunities to develop their agency that would have otherwise been available to them. Amish parents, like all parents, are only authorized to make permanent, life-shaping decisions for their children when doing so is in the service of their children's autonomy. It is hard to see how excluding their children from a public education is supportable by this end.

For prospective parents, actions that tend to make their future children less independent as agents are not possible means to facilitating their future children's autonomy.

Selecting for an intellectual or physical disability, where that disability is *not* common among other agents, will make it more difficult for that person to navigate the world as his own person. If we do a better job of accommodating persons with different capacities, then the person who has the disability can still flourish. However, prospective parents cannot knowingly and purposefully impose that difficulty on their future children without acting against the end of their role as parents.

Though prospective parents cannot justifiably choose disability for their children, they also are not obligated to do everything in their power to avoid creating persons with disabilities. The only surefire way to avoid creating a person with a disability is to not procreate at all. All procreation is risky. Some persons will be born with traits that make it more difficult for them to live lives that are the product of their own choices rather than their circumstances. We are human beings, not gods, and our autonomy will never be absolute. But perfect autonomy isn't the point. We respect other persons by not determining their lives for them, and sometimes that respect takes the form of equipping them to determine their own lives, as parents do for children. That respect does not, however, require us to ensure that they can successfully do all the things they hope to do.

### Parental Ends

Prospective parents are also required to act *for* the end of their role. Consider a prospective parent who selects against disability rather than for it. From what I have said so far, that looks like the kind of action that could be supportable as a means to the facilitation of

her future child's autonomy, at least insofar as the disability in question would have made it more difficult for the child to act as an independent agent. Suppose, for instance, that the procreator knows she is genetically disposed to have a child with Cerebral Palsy. That procreator might opt to use selection as a means to create a child who will have typical human functioning, rather than atypical human functioning. What is the moral status of her selection?

Suppose she selects against Cerebral Palsy (CP) because she doesn't want to parent a child who will be—in her eyes—imperfect. Would she act wrongly if she selected against CP, and would that wrong constitute a wrong to the person she creates? On the role-based framework, the answer to both of those questions is yes. She might have selected against CP for the sake of her child, but she doesn't. She also might have selected against it because she doesn't think she will be able to fulfill her parental obligations to her child if her child has CP, but again, that's not what she does. She selects against CP because she doesn't want to parent a child who, by her lights, is not as good or valuable as a "normal" child. However, as a prospective parent, she is obligated to act on ends that cohere with the moral end of parenting. Her selection should make some appeal to the child's interests, not just her own. Prospective parents don't need to explicitly think to themselves: in so acting I will be facilitating my future child's autonomy; however, on some level they must be acting for the child's sake. The prospective parent who uses selection to avoid creating a child she wouldn't like to parent gets something wrong about what it is to be a parent. Parenting, even procreating to parent, is about meeting the interests of the child. Parents who parent only to

meet their own needs or to pursue their own interests fail to act well qua parents.

The role-based account allows us to capture the procreator's failure *and* explain why that failure constitutes a wrong to the child who is created. Prospective parents must act for their child's sake—both in what they do and why they do it. When a child is created for the sake of his parents' own ends, he has been wronged. Children are not instruments to the ends of their parents; they are, or will be, persons in their own right. When procreators create a child to parent on the basis of a trait that serves their own needs rather than the child's, those procreators act badly qua parents, and their failure constitutes a wrong to the child they create (whatever the impact of the trait on the child's future autonomy). Even if you think the parental role is aimed at the child's wellbeing or happiness rather than the child's future autonomy, any choice made by prospective parents that is for the prospective parent's own ends rather than for the child will be criticizable with respect to their parental obligations.

The parental role is morally justified because we have an obligation to help children become independent agents—not because parents are in need of malleable persons to shape in accordance with their own interests.<sup>30</sup> If parents treat their role as a way of furthering their own interests rather than their children's interests, then they have already failed qua parents, whatever else they do. Even if furthering their own interests happens to align with their children's interests (e.g., they want to be praised for their parenting by others, which requires

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<sup>30</sup> I am not contesting that parents might have a moral interest in being in a parent-child relationship. So, we might allow parents to care for children rather than have state-run orphanages (or some other non-parent arrangement). But, even the relationship in which they have an interest is about and for the child, not them. That is the very thing they have an interest in being part of, at least on plausible accounts of parental interests. For an account of the parent's interest in the parent-child relationship, see Harry Brighouse and Adam Swift, *Family Values: The Ethics of Parent-Child Relationships* (Princeton: Princeton University Press, 2014).

them to act in ways that are good for their children), they are not thereby good parents.

On this score, the role-based framework is similar to accounts of procreative ethics that appeal to parental virtues, parental attitudes, or parental love.<sup>31</sup> The difference, however, is that the role-based account further *specifies* the end parents should act on or take as a condition of their actions. Asking what virtuous parents would do or whether parents adequately heeded their future child's prospective wellbeing doesn't give prospective parents guidance in their procreative decisions—not unless we have a way to pin down what makes the virtuous parent virtuous or the appropriate attitude appropriate. Rosalind McDougell, for instance, suggests that an important parental virtue is acceptance because part of parenting is coping with the unpredictable. While it is true that parents will have to accept things about their children that they can't predict or control, there are limits to what they should accept. Parents shouldn't accept their child's susceptibility to disease as fixed when we have vaccines that can lessen that susceptibility. Parents shouldn't accept their children's mistreatment of others or their ignorance; they should educate their children, morally and otherwise.

In *The Case Against Perfection*, Michael Sandel notes this balance.<sup>32</sup> He describes it as balance between two kinds of love: transformative love and accepting love. Sometimes parents must love their children by transforming them, like when they vaccinate them, educate

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31 Rosalind McDougell, "Acting Parentally: An Argument Against Sex Selection," *Journal of Medical Ethics* 31, no. 10 (2005): 601–05; David Wasserman, "The Nonidentity Problem, Disability, and the Role Morality of Prospective Parents," *Ethics* 116, no. 1 (2005): 132–52. McDougell, for instance, proposes a virtue theory account of procreative ethics. To know whether parents should select for a trait, we should ask: what would the virtuous parent do? Wasserman suggests that we evaluate prospective parents' procreative actions by asking whether they had an appropriate parental attitude. To evaluate prospective parents' procreative actions, we should ask: was the prospective parent sensitive to wellbeing of her future child?

32 Micheal Sandel, *The Case Against Perfection: Ethics in the Age of Genetic Engineering* (Cambridge: Harvard University Press, 2007), 45–62.



them, and even discipline them. Other times parents must love their children by accepting them for who they are, rather than trying to force their children to become who the parents want them to be. On the role-based account of parental obligations, that balance is captured and explained by the moral end of parenting. Parents should transform their children when doing so is necessary to facilitate the children's autonomy. Children become independent agents in part because their parents make them do things that they don't want to do: eat their vegetables, do their homework, go to timeout. Parents lay the foundation for a child's physical, mental, and emotional development—all of which enable him to become an independently functioning adult agent. Sometimes, though, parents must be prepared to accept things about their children. If the parent wants the child to be a football star, but his talent and passion is playing the flute, then the parent must come to terms with that. It is the parent's own hopes that are on the line, not the child's agential development. That good parenting requires this balance is nothing new. The parental role has as its object a constantly changing person, from a helpless newborn to an almost autonomous teenager. The role-based framework sets boundaries within which parents can appropriately negotiate this complicated relationship over time—including in its inception.<sup>33</sup>

### *Selecting for Deafness*

I will now turn to the issue of selecting for deafness. Part of what makes an intellectual or physical disability a hindrance to the future child's autonomy is that the

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<sup>33</sup> Tamar Schapiro, "What is a Child?" *Ethics* 109, no. 4 (1999): 715–38. Schapiro discusses the progression of giving one's child autonomy by gradually giving him the opportunity to make choices for himself.

disability is not widely shared by other persons. For deaf persons who are part of the Deaf community, however, their disability *is* widely shared by other persons.<sup>34</sup> Within the Deaf community, it is the deaf person, not the hearing person, whose functioning is typical with respect to the social world around him. The Deaf community has developed its own social practices—languages, schools, rules of etiquette, technology, literary and storytelling traditions—that are shaped by the needs and interests of deaf persons.<sup>35</sup> Being deaf in the Deaf community is very different from being deaf in a hearing community. In fact, research shows that the education and income disparities between deaf and hearing persons largely disappears when you look at deaf children who are born to deaf parents rather than deaf children who are born to hearing parents.<sup>36</sup>

If typical species functioning gets its normative significance from the interplay between an individual's capacities and the social world around him, then, at least within the Deaf community, deafness isn't obviously a burden to a person's agency. Does the objection to prospective parents' selecting for deafness lose traction, then, when that child will be born into the Deaf community? Deaf parents would be selecting for a physical trait around which a rich culture has developed, and that choice seems more akin to selecting for something like the child's race rather than his disability.<sup>37</sup>

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34 For this example, I will use the identity locution of deaf person rather than person who is deaf, because the case I have in mind is that where deafness is considered by those persons to be cultural identity, not a secondary physical characteristic.

35 Edward Dolnick, "Deafness as Culture," *The Atlantic Monthly* 272, no. 3 (1993): 37–53; Anna Mindness, ed. *Reading between the Signs: Intercultural Communication for Sign Language Interpreters* (Boston: Intercultural Press, 2006).

36 Dena Davis, "Genetic Dilemmas and the Child's Right to an Open Future," *The Hastings Center Report* 27, no. 2 (1997): 7–15.

37 Even without reproductive technology, procreators can and do select mates on the basis of traits they want to

Deaf children will only have these agential advantages, however, if they remain in the Deaf community. Persons who leave the Deaf community will encounter the same sorts of obstacles that are faced by persons with other disabilities, because the hearing world is not organized around persons who are deaf. Deaf parents who select for deafness, then, are also selecting membership in a particular community on behalf of their children by way of a permanent physical trait, and it is not obvious that they are permitted to do so—even if those children will be able to flourish within that community. Amish parents are not permitted to indoctrinate their children just because the Amish children who remain in the Amish community are able to flourish. Indoctrination can permanently alter the child's rational capacities, which limits the opportunities that would have otherwise been available to him. Deaf parents would, potentially, be making a similar mistake if they select for a permanent physical trait in order to ensure their child's membership in their community. In both cases, the parents phi-ing seems to preclude their children from settling a range of choices that would have been, and should have been, up to their children. They do so for the sake of their own preferences or values, not in service of the moral end of parenting.

Perhaps, though, the analogy to the Amish is inapt. Deaf parents might not be trying to ensure their children's permanent membership in their own community at all. Perhaps they believe they will better able to facilitate their children's future autonomy if the children they parent are also deaf. Deaf parents in the Deaf community may have a harder time equipping a hearing child to navigate the world as an independent agent, partly because the child will

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share with their children. For example, a Jewish man might choose to marry a Jewish woman, because Judaism is partly an ethnic heritage inherited from one's mother. I owe this point to Colin MacLeod.

grow up in a community organized around deafness. I am skeptical of this reply, in part because deaf parents in the Deaf community need not remain isolated from the surrounding hearing community. Just as the Amish can allow their children to go to public schools, deaf parents can rely on resources outside of the Deaf community as needed. That they might prefer not to doesn't make it less of an option.

It is not clear, then, whether selecting for deafness is a possible means to facilitating the future child's autonomy. Nonetheless, we can still evaluate proposed justifications for selecting for deafness by asking whether those justifications appeal to the moral end of parenting. Consider the following kind of justification for the selection. Deaf parents have an interest in sharing their beliefs, values, and culture with their children. An important part of sharing their culture with their children is having deafness in common with them. Therefore, deaf parents should be permitted to select for deaf children.

As I noted in Chapter 3, parents have a legitimate interest in sharing what they care about with their children as part of the intimate relationship between them. Parents do not, however, have a blanket permission to do whatever they can in order to make it easier for them to share their beliefs and values with their children. Indoctrinating one's child can make it easier to include him in one's religious practices and to ensure his continued participation, but that doesn't permit a parent to do so. Parents are permitted to *share* their belief and value system. They are not permitted to ensure that it is adopted.

Unless the justification for the selection somehow appeals to what would help facilitate the *child's* agency, then it will not succeed. The same problem applies to

justifications that appeal to the interests of the larger Deaf community. Even if the Deaf community would benefit from there being more deaf persons, that alone doesn't justify a prospective parent's selecting for deafness. Such justifications treat children as means to some further end. Imagine the same justification being given by religious parents for indoctrinating their children. It may well benefit minority groups to have more members, but those parental actions are not justified by that end.

There may be a justification available to deaf parents that would support their selecting for deafness in their children. If, for example, deaf parents have good reason to believe that they could only adequately parent a deaf child, then that might be a reason to select for deafness that would appeal to the interest of their future child.<sup>38</sup> However, many of the justifications that are *in fact* given are insufficient. Only a justification that connects selecting for deafness with facilitating autonomy will get traction within the bounds of appropriate parental choice. Good parenting is as much about acting for the right reasons as it is acting in the right way. Selecting for deafness may not be impermissible, but what is typically said in support of the practice will not succeed from within the role-based framework. Insofar as the procreators are creating children to parent, they are bound by parental obligations and so must act for the sake of their child, not just themselves or their community.

## Conclusion

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<sup>38</sup> I am skeptical that they would be correct in their self-assessment. But even if they're mistaken, their reason for selection would at least be about their child's interests and not just their own.

Parents are guardians of their children's interests, namely, their children's future autonomy or agential independence. They are often permitted to act on behalf of their children, but that permission is not absolute. I have argued that parents are obligated to facilitate their children's future autonomy, but, even if you locate a child's interests in something other than his future autonomy, parents will still be constrained to act for their children's interests—whatever those interests are. Whether or not a child's interests are ultimately grounded in his autonomy, his happiness, his excellence, or something else, parents and prospective parents must take those interests as their end.

The role-based framework allows us to have a different kind of conversation about procreative ethics, not only in cases of reproductive selection, but about procreation generally. Where the focus has typically centered on either the possibility or nature of procreative harm (or procreative beneficence), we now have available an alternative method for assessing procreative wrongdoing. Even if you disagree about the moral purpose of parenting, and so disagree about the extent of a prospective parent's authority to choose for her future child, we are now in a discussion about the moral parameters of parental choice rather than the metaphysics of procreative harm.

In this dissertation, I have proposed an autonomy-based account of roles, the parental role, and the obligations that constrain prospective parents with respect to the practice of reproductive selection. I have argued that social roles shape our moral obligations. Whatever ultimately grounds those obligations, our relationships with one another, particularly our socially recognized and institutionalized relationships, change the moral landscape of our

actions. We don't just have duties to other persons qua persons; some of our duties are to other persons qua role actors and role recipients, respectively.

The role-based framework is especially helpful in thinking about our obligations to future persons. It was not obvious how a person could have *personally directed* duties to persons who do not yet exist and who may not ever exist. If, however, the procreators occupy a social role, then she will come under obligations that are generated by our social organization and the work it does in dividing our moral labor. Her duties will still be personally directed insofar as her role has a role recipient. However, the obligations she is under don't depend on facts about *those* persons; they depend on the purpose of the role and the kinds of actions and ends that serve that purpose.

In this chapter, I have applied the procreators' role obligations qua prospective parents to the issue of selecting for disability. More needs to be said both in support of autonomy as the grounding value of the parental role and the connection between a person's autonomy and her mental and physical capacities. I don't take what I have said here to settle the morality of selecting for disabilities, intellectual or physical. However, I have shown how a role-based framework can allow us to get traction on those questions. The role-based framework can serve as an anchor for evaluating the morality of other kinds of procreative choices, from cloning to enhancement.

Appealing to roles can also allow us to extend the investigation to persons who either procreate or assist procreators but who do not occupy the parental role with respect to the persons created. Genetic donors, surrogates, genetic counselors, and fertility doctors all

occupy different roles, and, arguably, they all occupy a kind of role that connects them to the persons they help create. The moral parameters of those roles will depend on the moral justification or purpose of those roles, if there is one. These procreative role actors, like prospective parents, will act well or not depending on how well their actions (and ends) cohere with the moral ends of their respective roles.



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