A THEORY OF RESPONSIBLE PROCREATION

by

RORY ALLEN WEEKS

(Under the Direction of Melissa Seymour Fahmy)

ABSTRACT

Procreation is a moral activity. And we have moral intuitions concerning when procreative choices are wrong. Yet given traditional ethical principles based on the standard account of harm, it is impossible to find any procreative choice—no matter how reckless or uninformed—is wrong. This is intolerable. But by focusing on the preconception and prenatal procreative choices of potential and prospective parents rather than the interests of possible or potential children, this thesis avoids the pitfalls into which traditional ethical theories fall. To account for our moral intuitions about procreation, this thesis therefore proposes two sufficient conditions for when the procreative choices of potential and prospective parents are morally indefensible. And in so doing, this thesis defends an ethics of procreation—Responsible Procreation.

INDEX WORDS: Ethics of procreation, Procreative ethics, Nonidentity problem, Principle N, Principle of Parental Responsibility, Rationality Requirement, Good Human Life provision, Julian Savulescu, Dan Brock
A THEORY OF RESPONSIBLE PROCREATION

by

RORY ALLEN WEEKS

A.B., The University of Georgia, 2008

A Thesis Submitted to the Graduate Faculty of The University of Georgia in Partial
Fulfillment of the Requirements for the Degree

MASTER OF ARTS

ATHENS, GEORGIA

2012
A THEORY OF RESPONSIBLE PROCREATION

by

RORY ALLEN WEEKS

Major Professor: Melissa Seymour Fahmy

Committee: Frank Harrison III
           Piers Stephens

Electronic Version Approved:

Maureen Grasso
Dean of the Graduate School
The University of Georgia
May 2012
DEDICATION

For Cameron and Rory—the loves of my life—and Jean who makes me believe that all things possible.
ACKNOWLEDGMENTS

This project began in earnest as an independent study course in the fall of 2009. Since then, Melissa Seymour Fahmy has shepherded this project to completion. I would like to thank her not only for her thoughtful comments on several prior drafts but also for the encouragement she gave me to really explore what I wanted to say.

I would also like to thank my wife for her patience and understanding as I completed this project. Although I have often discussed many of the arguments in this thesis, no one has heard more about them (and at times when she did not want to) than Jean. Thank you.
# Table of Contents

ACKNOWLEDGMENTS ..........................................................................................................v

CHAPTER 1: The Nonidentity Problem and Sufficientarian Procreative Ethics .......................1

I. Why We Need an Ethics of Procreation .............................................................................2
   A. The nonidentity problem .............................................................................................3
   B. General moral principles grounded on the standard account of harm are incapable of solving the nonidentity problem .................................................................4

II. Rejecting Possible Solutions to the Nonidentity Problem ..............................................8
   A. Dan Brock’s Principle N ............................................................................................8
      1. Principle N and the wrong in P1 cases ..................................................................10
      2. What’s wrong with Brock’s Principle N? ...............................................................11
   B. Bonnie Steinbock and Ron McClamrock’s Principle of Parental Responsibility ........14

III. Conclusion .....................................................................................................................20

CHAPTER 2: A Decent Chance at a Good Life ....................................................................21

I. Definitions .......................................................................................................................21

II. What is a ‘Good Human Life’? ......................................................................................23

III. RP’s Good Human Life Provision ...............................................................................26
   A. The morally relevant available information .............................................................27
      1. Genetic information ..............................................................................................28
      2. Socio-economic information ................................................................................28
      3. Some additional relevant considerations ..............................................................29
   B. Moral obligations under the GHL provision .............................................................31
      1. Preconception: relevant available socio-economic information ............................32
      2. Preconception: relevant available genetic information .........................................35
3. Postconception: relevant available genetic and socio-economic information..........38

4. The special case of in vitro fertilization .................................................................40

V. Concluding Remarks ...............................................................................................42

Chapter 3: Responsible Procreation’s Rationality Requirement ........................................43

I. Applying the GHL provision and coming up short ....................................................44

II. Expanding Responsible Procreation beyond the GHL provision ..............................48

A. The Rationality Requirement ....................................................................................49

  1. Applying the Rationality Requirement to P1 and P2 ............................................50

  2. Choosing between almost identical embryos following IVF and PGD ..................53

  3. When pregnant 14-year-olds want to have children ...........................................54

B. Is a sufficientarian principle appropriate for procreative ethics? ............................56

  1. Savulescu’s argument against sufficientarian procreative principles ..................58

  2. Sufficientarian procreative principles are superior to perfectionist principles ......60

III. Conclusion ..............................................................................................................62

Final Remarks ..............................................................................................................63

Bibliography ................................................................................................................66
CHAPTER 1: THE NONIDENTITY PROBLEM AND SUFFICIENTARIAN PROCREATIVE ETHICS

Parents have moral obligations to their children. Once born, no one seriously disputes that parents should care about the lives their children are capable of living. But what, if any, moral obligations do potential or prospective parents have before their child is born? This chapter argues that we need an ethics of procreation to account for our moral intuitions about preconception and prenatal procreative choices. In other words, we need a principle to account for our moral intuitions that potential and prospective parents can, and do sometimes, act wrongly when they make preconception and prenatal procreative choices.

Any ethics of procreation must confront what Derek Parfit terms the nonidentity problem. That is, given traditional ethical theories based on the standard account of harm, procreative choices—attempting to conceive or carrying a fetus to term—are not wrong (or wrongly made) because these choices do not harm anyone. To better understand the force of this problem, Section I draws it out through several examples. After clarifying the problem, Section II considers two sufficientarian principles of procreative ethics—Dan Brock’s Principle N and Bonnie Steinbock and Ron McClamrock’s Principle of Parental Responsibility—that seek to account for the wrongfulness of potential and prospective parents’ procreative choices. I argue however that each principle is flawed: for at least some cases, the wrongfulness that our moral intuitions ascribe to procreative choices is unac-

1 I say, “are capable of living,” since whether children live good lives often depends on their own choices. For example, a child may be capable of meeting his or her nourishment needs but may choose not to in order to partake in a religious rite that requires fasting. Perhaps more importantly, when children grow up and move away from home, they may make choices—to take illegal drugs or join a criminal enterprise—that will affect whether they live good lives. In many cases, parents are neither legally nor morally responsible for their children’s failure to live good lives and thus the best parents can do is make sure their children are capable of living good lives.

2 For present purposes, it suffices to state that “potential parents” refer to those who are biologically capable of reproducing whereas “prospective parents” refer to potential parents who have successfully conceived. For more on these and other terms, see chapter 2, section I.
counted for. But while these principles are flawed, they nevertheless provide important insights into the scope of an appropriate ethics of procreation. Thus, after establishing the need for an ethics of procreation in this chapter, I begin to sketch my principle of procreative ethics in the next.

I. Why We Need an Ethics of Procreation

Our commonsense moral intuitions of wrongdoing are entwined with our notions of harm. Our first step therefore is to define the commonsense notion of ‘harm.’ Following Joel Feinberg, let’s distinguish ‘harm’ as a noun from ‘harm’ as a verb—the difference between a harmful and a harmed condition. A ‘harmful condition’ is “a state in which a person is handicapped or impaired, a condition that has adverse effects on his whole network of interests.” A ‘harmed condition’ is a harmful condition that follows from someone’s prior act (understood broadly to include extended sequences of activity and omissions) of harming. So in order to determine whether A harmed B, we inquire counterfactually: are B’s interests worse-off or at least not as well-off as they would be if A had not acted as she did? If yes, then A harmed B; if they are not, then A did not. I refer to this as the standard account of harm. Yet as discussed below, general accounts of wrongdoing grounded on this account of harm are inapplicable to preconception procreative choices.

---

3 As Parfit puts it: this is the idea that “what is bad must be bad for someone.” Derek Parfit, Reasons and Persons, Oxford, Oxford University Press, 1987, 363.


5 Ibid.

6 Ibid.

7 Ibid, 149-50. “Not only can one harm a person without worsening his condition; our analysis also implies that one can harm a person by behavior that actual improves his condition (on the overall interest graph). . . . [O]ne can be harmed by an act that does not set back one’s interest on balance, but also does not promote that interest as much as it could and should have done.” Ibid.
A. The nonidentity problem

To help illustrate the nonidentity problem, consider these three cases:

P1: Alice visits her doctor and learns that if she conceives in the next month it is highly likely that her (possible) child will be born with moderate mental retardation. If, however, she takes a safe, cheap, and effective medicine for one month, then she eliminates this risk and will likely have a normal child. Because her vacation plans are prearranged and changing them is inconvenient (albeit not unreasonable or impossible), she does not take the medicine and becomes pregnant now. Her child is born moderately mentally retarded.

P2: The same general scenario but Alice learns of the risk to her (potential) child after conception. But like the previous case, she can mitigate the risk by taking a safe, cheap, and effective medicine for one month during her pregnancy. She does not take the medicine; her child is born moderately mentally retarded.

P3: In this scenario, Alice learns of the risk to the child after the child’s birth. Nevertheless, she can prevent the moderate mental retardation by giving the child a safe, cheap, and effective medicine for one month. She does not; the child becomes moderately mentally retarded.\footnote{Allen Buchanan, Dan W. Brock, Norman Daniels, and Daniel Wikler, From Chance to Choice: Genetics & Justice, Cambridge, Cambridge University Press, 2000, 244-245. In the introduction, the authors note that Dan Brock is principally responsible for the content and argument in Chapter 6. Thus, I refer to these as Brock’s examples. These cases have been slightly modified to keep their terms consistent with mine.}

To make Alice’s choice in each case as similar as possible, let’s stipulate the following: in P2 and P3 the fetus and child are highly likely to be born or become moderately mentally retarded unless Alice takes or gives the risk-mitigating medicine. Further, Alice’s reason for not taking or giving the risk-mitigating medicine in P2 or P3 is that doing so inconveniences her to the same extent that rescheduling her vacation plans in P1 does. In each case, therefore, Alice’s fails to act for a morally equivalent reason. Yet her inconvenience—whether in rescheduling her vacation plans or otherwise—does not obviate our commonsense moral intuitions: in each case, we consider her failure to act wrong.\footnote{Ibid, 244.}

But given the standard account of harm, does Alice’s conduct in P1, where she fails to take the risk-mitigating medication and wait a month before attempting to conceive, harm the moderately
mentally retarded child who is ultimately born, Brent? Because moderate mental retardation affects someone’s whole network of interests, it is a harmful condition. Yet under the counterfactual test, Alice harms Brent only if he is worse-off or at least not as well-off as he would be, if she had acted otherwise.

Intuitively, it makes sense to say that Alice’s conduct harmed Brent. After all, by not taking the medicine and waiting a month to conceive, Alice knew that she would likely give birth to a child who would be moderately mentally retarded instead of normal. But this first-blush reaction is mistaken. If Alice takes the medicine and conceives a month later, Brent will not be born. Instead Calvin, a normal child, will be. Brent therefore is not worse-off or at least not as well-off as he would be if Alice had taken the medicine and waited a month to conceive—i.e., if she acted otherwise. All things being equal, being born moderately mentally retarded is the best-off that Alice can make Brent. So if Alice does not harm Brent by bringing him into existence, how can we account for our moral intuition that her failure to take the risk-mitigating medicine is wrong? This is what Derek Parfit calls the nonidentity problem. Yet even though no one is harmed by Alice’s choice, our intuitions remain unchanged: Alice’s conduct in P1 is wrong. The nonidentity problem’s challenge therefore is: how do we account for the wrongfulness of Alice’s conduct, if her conduct does not harm anyone?

B. General moral principles grounded on the standard account of harm are incapable of solving the nonidentity problem.

The extent of wrongfulness attending Alice’s conduct in P1, P2, and P3 depends on our general moral commitments. Yet whether Alice’s conduct is wrong is something that I believe we can agree to, at least in principle. It does not matter whether her conduct is wrong because she fails to prevent an easily preventable and nontrivial disability or because as Brent’s mother she should take reasonable steps to ensure that he can live a good life. What matters is whether general moral princi-

---

10 *Ibid.,* 245.
ples grounded on the standard account of harm can solve the nonidentity problem and capture wrongfulness of Alice’s conduct in each case. Taking Dan Brock’s Principle M as a paradigmatic example of a moral principle grounded on the standard account of harm, I shall show that such principles fail, at least for some P1 cases.

Dan Brock accepts the standard account of harm—harm exists only if an individual’s interests are worse-off or at least not as well-off as a result of someone’s action or inaction. Moral principles grounded on the standard account of harm are said to be person-affecting, since whether A harms (and thus wrongs) B is determined by comparing the same person’s interests before and after A’s conduct. Among other things, Brock’s Principle M governs the moral obligations that parents or guardians have to their children or other dependents. He states this principle as:

M: Those individuals responsible for a child’s, or other dependent person’s, welfare are morally required not to let her suffer a serious harm or disability or a serious loss of happiness or good that they could have prevented without imposing substantial burdens or costs or loss of benefits on themselves or others.

Even if we (are inclined to) reject Principle M as the principle governing parental responsibility, it is, at the very least, consistent with our moral intuitions that parents have moral obligations to their children. For this reason, it can serve as a useful model for person-affecting moral principles based on the standard account of harm. Importantly, Principle M is a proactive principle—in some instances, parents are morally obligated to act for the benefit of their children’s interests. Let’s therefore apply Principle M to Alice’s conduct in P1, P2, and P3 and determine whether a person-affecting moral principle, which defines ‘harm’ using the standard account of harm’s counterfactual test, finds Alice’s conduct in each case morally impermissible.

---

11 Ibid, 225.
12 Ibid, 248.
We begin with P3—the simplest case for comparing Brent’s interests before and after Alice’s conduct. Note well: even in P3 Alice’s action (or lack of action) does not cause Brent’s moderate mental retardation—some hypothetical illness does. Alice’s wrongdoing, if any, therefore follows from her moral obligation under Principle M that prohibits her from allowing Brent to “suffer a serious harm … that [she] could have prevented without imposing substantial burdens or costs or loss of benefits on [herself] or others.” In other words, Alice has an obligation to prevent (or at least attempt to prevent) Brent from developing moderate mental retardation.

In P3, the wrongfulness of Alice’s conduct is obvious. First, she allows Brent to suffer a serious harm (becoming moderately mentally retarded) by failing to give him the risk-mitigating medicine. This follows even though Brent is not worse-off than he would have been if Alice had acted otherwise (i.e., Alice’s failure to give him the medicine neither causes nor worsens his moderate mental retardation). Brent is, however, certainly not as well-off as he would have been if Alice had given him the medicine.\footnote{He is “certainly not as well-off as he would have been” because unless he receives the risk-mitigating medicine, he has no chance of not becoming moderately mentally retarded. In other words, Alice does not harm Brent by giving him the risk-mitigating medicine even if he still becomes moderately mentally retarded. In that case, she would have made him as well-off as possible.} Most importantly, Alice could have prevented Brent’s harmful condition without incurring substantial burdens, costs, or loss of benefits, since \textit{ex hypothesi} her only loss is comparable to the inconvenience of having to reschedule her vacation plans. Thus, at least for P3 cases, Brock’s Principle M accounts for our moral intuitions that Alice’s conduct is wrong.

Principle M also governs P2 cases. This follows because like child-Brent’s interests in P3, fetus-Brent’s interests in P2 are comparable before and after Alice’s conduct. But according to Brock, this analogy does not extend to P1 cases because no comparison—whether of the \textit{same} person’s (or
fetus’) interests—is possible before and after Alice’s conduct. The reason is simple: in P1, the prior comparable condition for possible-child-Brent is nonexistence. Nonexistence is no condition at all!15

This is the nonidentity problem. Under the standard account of harm, Alice cannot harm possible-child-Brent by bringing him into existence. Preconception, possible-child-Brent had no interests, so his interests cannot be worse-off or at least not as well-off as they would be had she taken the medicine and waited a month to attempt to conceive. After all, if Alice takes the medicine and waits a month to conceive, Calvin and not Brent will come into existence. Thus, Brent can come into existence only as a moderately mentally retarded child. Further, because possible-child-Brent is not a “child or other dependent person” for whom Alice is responsible, Principle M does not apply in P1. So if Alice’s conduct in P1 is wrong, it cannot be based on Principle M.

According to Brock, this conclusion is a serious affront to our commonsense moral intuitions.16 I agree. What follows from this conclusion? First, person-affecting ethical principles based on the standard account of harm—like Principle M—cannot account for all of our moral intuitions concerning prenatal and preconception wrongs. So at the very least, a principle of procreative ethics is needed if we are to account for the wrongfulness of Alice’s conduct in P1. Second, in order to evade the nonidentity problem, this principle cannot be person-affecting in the sense that it requires a comparison of the same interests before and after the putative wrongful conduct. And by eschewing interest comparisons, a principle of procreative ethics therefore will be a non-person-affecting principle.

---

15 For this reason, being brought into existence (whatever this might mean) is not harmful unless the child’s existence is so bad as to not be worth living. Ibid, 245.

16 Brock also suggests that the failure of traditional moral theories to account for our moral intuitions about cases like P1 is one of the most important practical limitations on them. Ibid, 247.
II. Rejecting Possible Solutions to the Nonidentity Problem

Solutions to the nonidentity problem are offered by nearly all procreative ethicists—even if the solution is embracing the problem and rejecting our moral intuitions concerning cases like P1. I will not consider all proposed solutions here. My focus in this section will be on two sufficientarian solutions: Dan Brock’s Principle N and Bonnie Steinbock and Ron McClamrock’s Principle of Parental Responsibility. I consider these principles because they reveal meaningful insights into procreative ethics generally. As a consequence, any acceptable ethics of procreation must be consistent with these insights. But as I discuss further below, both principles ultimately fail to account for at least some of our moral intuitions about wrongful prenatal and preconception procreative choices. The failure of these principles to account for some of our moral intuitions provides not only a strong prima facie reason to reject both principles as the principle governing procreative ethics but also a reason for us to consider a new principle for procreative ethics—which I begin to sketch in the next chapter.

A. Dan Brock’s Principle N

As discussed above, person-affecting ethical principles like Principle M do not account for our moral intuitions in P1 cases. Brock suggests that procreative ethics requires a non-person-affecting principle—and I agree. But Brock is reluctant to shed the comparative aspect of the standard account of harm that underlies Principle M. For example, he suggests that we can compare ‘harm prevention’ before and after Alice’s conduct, provided that we compare states of affairs with the “same number” of persons in them before and after.17 For Brock, therefore, the comparison in P3 concerns Brent’s interests before and after Alice’s conduct, whereas the comparison in P1 concerns the state of affairs before and after her conduct. Alice therefore acts wrongly in P1 if she fails

17 Ibid, 248.
to prevent a harmful condition (i.e., moderate mental retardation), which was preventable by substitution (i.e., she could have taken the risk-mitigating medicine and waited to attempt to conceive), from coming into existence. Or framed as a counterfactual test: is the state of affairs worse or at least not as good as it would have been had Alice acted otherwise? Brock’s claim has an important caveat: because the harmful condition must be preventable by substitution, the same number of persons must exist in the comparable states of affairs before and after Alice’s conduct.

To govern P1 cases, Brock proposes Principle N.

N: Individuals are morally required not to let any child or other dependent person for whose welfare they are responsible experience serious suffering or limited opportunity or serious loss of happiness or good, if they can act so that, without affecting the number of persons who will exist and without imposing substantial burdens or costs or loss of benefits on themselves or others, no child or other dependent person for whose welfare they are responsible will experience serious suffering or limited opportunity or serious loss of happiness or good.18

Because Principle N does not refer an individual child’s interests but to states of affairs—the class of persons who exist in two or more possible alternative futures—it is a non-person-affecting principle.19 By focusing on states of affairs, Principle N solves (or at least avoids) the nonidentity problem. Generally speaking, non-person-affecting moral principles are immune from the nonidentity problem. The reason is straightforward: non-person-affecting principles do not compare anyone’s well-being before and after the putative wrongful conduct. I agree with Brock that an ethics of procreation requires a non-person-affecting principle. But as I shall argue below, we should reject Principle N, since in some cases it fails to account for our moral intuitions about morally wrong prenatal and preconception conduct.

18 Ibid, 249.

19 “A principle applied to the classes of all persons who will exist in each of two or more alternative courses of action will be a non-person-affecting principle.” Ibid.
1. Principle N and the wrong in P1 cases

In P1, Alice’s failure to take the medicine and wait a month to conceive results in a state of affairs with more suffering and less opportunity that could have been prevented by substitution. In other words, Alice’s conduct allows a state of affairs where moderately mentally retarded Brent exists instead of one where normal Calvin does. For this reason, Brock concludes that Alice acted wrongly, since she could have prevented this less-desirable state of affairs through substitution while not incurring significant costs or imposing significant burdens upon herself.

Discussing an analogous case, Joel Feinberg reaches a similar conclusion. But Feinberg’s inquiry goes further; essentially, he asks: does Alice wrong Brent by bringing him into existence if he subsequently prefers his life—handicapped as it is—to nonexistence? In other words, can grown-up-Brent from P1 subsequently assert both that (a) his mother wronged him and (b) he was grateful for his existence? Feinberg writes:

[I]f he were to claim that she wronged him by doing what she did, that would commit him to the judgment that her duty to him had been to refrain from doing what she did; but if she had refrained, that would have led to his never having been born, an even worse result from his point of view. There is no doubt that the mother did act wrongly, but it does not follow that her wrongdoing harmed any particular person, or had any particular victim. She must be blamed for wantonly introducing a certain evil in the world, not for harming, or for violating the rights of, a person.

---

20 “Then in P1, if the woman chooses to have the moderately retarded child, she causes suffering and limited opportunity to exist that would be prevented and not exist if she chooses to take the medicine and wait to conceive a different normal child.” Ibid, 249.

21 Ibid.

22 Feinberg’s example, following Parfit, involves a child with a withered arm. Yet insofar as both children have lives that are worth living, I take them to be analogous.

23 Feinberg, 169.

24 It bears noting that Feinberg’s principal concern in asking this question is whether wrongful-life suits by those who have lives worth living make sense in torts.

25 Ibid. Emphasis mine. I shall consider Bonnie Steinbock and Ron McClamrock’s objection to Feinberg’s reasoning in Part B below. I also consider my objection to Feinberg’s view there.
Brock and Feinberg are right—the wrong in P1 relates to Alice’s choice to attempt to conceive, since she knows that she will likely bring a moderately mentally retarded child into existence. But as argued below, it is Alice’s choice itself, rather than the fact that her choice creates a state of affairs worse than one she could have created through substitution, that is wrong.

And while I disagree with Brock and Feinberg about why Alice’s conduct is wrong, I agree with them that we must reject the intuition that Alice *victimizes* possible-child-Brent by bringing him into existence. As Brock and Feinberg correctly point out, this view fails to adequately appreciate the nonidentity problem. Given the standard account of harm, Alice cannot victimize possible-child-Brent no matter how harmful it is to be born moderately mentally retarded.\(^\text{26}\) To reiterate an earlier point: person-affecting principles that compare a person’s (or fetus’) interests before and after the putative wrongful conduct are inapplicable to P1 cases. Principle N therefore supports two important conclusions. First, it holds that Alice’s conduct in P1, as our intuitions suggested, is wrong. Second, embracing the nonidentity problem as a real problem entails forgoing our intuitions that Alice *victimizes* possible-child-Brent if she brings him into existence without taking the risk-mitigating medicine.\(^\text{27}\) Yet *contra* Brock, we must reject not only person-affecting principles like Principle M for P2 cases but also non-person-affecting principles like Principle N that index the wrongfulness of Alice’s conduct to the undesirable state of affairs that follows from her conduct in P1. Only then can we adequately account for our procreative moral intuitions.

2. What’s wrong with Brock’s Principle N?

An ethics of procreation governs only procreative choices—choices about *who* will exist. For this reason, I place P2 and P1 cases in the same category. Brock does not. He reasons that because


\(^{27}\) *Ibid*, 251.
prospective parents’ conduct can make a fetus’ interests worse-off or at least not as well-off as they could be, P2 cases, like P3 cases, fall under Principle M. P2 cases therefore involve comparing the same-fetus’s interests before and after Alice’s conduct. I disagree. Before Alice takes the risk-mitigating medicine in P2, she is carrying fetus-Brent who will likely be moderately mentally retarded unless she takes the risk-mitigating medicine. But after taking the medicine, fetus-Brent likely no longer exists; instead, Alice is carrying fetus-Calvin who will likely be born normal. If this correct, then Alice’s choice in P2 affects who will exist and thus Alice’s choice in P2 is procreative.28

Yet even setting aside this criticism, Principle M still fails to account for at least some of our commonsense moral intuitions about the wrongfulness of Alice’s conduct in P2. In this case, what seemingly drives our intuitions is that Alice knows not only that a harmful condition will likely result if she does not take the risk-mitigating medicine but also that ex hypothesi she will suffer no substantial burdens, costs, or loss of benefits in doing so. And I take our intuitions to be that Alice’s choice is wrong at the time she makes it. If this is correct, then Principle M fails to account for the wrongfulness that our moral intuitions discern in her conduct in some cases.

According to Principle M, Alice’s conduct in P2 is wrong because it harms fetus-turned-child Brent—his interests are worse-off than they would be and Alice could have prevented this by taking the medicine. Under Principle M, however, Alice’s choice is not actually the focus of the moral inquiry; the harm to fetus-turned-child Brent is. To illustrate, consider the counterfactual P2 case: Al-

28 While I do not defend my view here, I do not believe that identity is determined simply by the fertilization of a single egg by a single sperm. Of course, if one takes this view, then P2 cases are very similar to P3 cases and thus not procreative choices. On my account, genetic characteristics are necessary for identity but not sufficient to establish it. For this reason, I believe that some characteristics are so fundamental—like whether someone is moderately mentally retarded—to someone’s identity that changing them, unlike farsightedness or even deafness, changes who will come into existence. My view—that a fetus’s identity, at least before a certain point during gestation, could change is surely not the majority view.

But nothing that follows depends on the correctness of my view concerning identity. In fact, even if my argument that P2 cases are like P1 cases fails, my conclusion that Principle N is an inappropriate principle for an ethics of procreation remains unscathed. All that follows is that P2 cases do not involve procreative choices and thus are governed by a principle of parental ethics instead of a procreative principle. This is the view that Brock takes.
ice does not take the medicine but against the odds fetus-turned-child Brent is born normal. In this scenario, does Alice do anything wrong under Principle M?

The answer is no. Although Alice does not take the medicine, she does not harm fetus-turned-child Brent because his interests are not worse-off or at least not as well-off as they would be had she taken the medicine. By not harming him, Alice has not failed her moral obligation to prevent him from suffering harm, disability, or loss of happiness, where she could do so without suffering substantial burdens, costs, or loss of benefits. Thus, Alice’s choice not to take the risk-mitigating medicine in the counterfactual P2 case is not wrong. This result highlights that the actual focus of Principle M: preventing harmful conditions, disabilities, and losses of happiness from occurring and not Alice’s choice.

But a fortuitous outcome does not obviate the moral indefensibility of Alice’s choice. And while preventing harmful conditions is an admirable goal, so is accounting for our moral intuitions about the wrongfulness of Alice’s conduct in counterfactual P2 cases. Principle M fails the latter requirement.29 On my account, it fails because of its person-affecting aspects—the focus on fetus-turned-child Brent’s interests before and after Alice’s conduct. Yet even if Brock treated, as I do, P2 cases like P1 cases, counterfactual P2 cases remain a problem: Principle N fares no better than Principle M at accounting for our intuitions concerning such cases. (Although I discuss Principle N’s shortcomings with respect to counterfactual P2 cases, the same arguments undercut Principle N’s applicability to P1 cases—where Brock applies it—given the counterfactual P1 case: Alice does not take the medicine but against the odds possible-child Brent is born normal.)

29 By analogy this suggests that Principle M is the wrong principle even where the child already exists—such as in P3. For on the counterfactual P3 case, where Brent does not become moderately mentally retarded despite Alice’s failure to give him the medicine, it seems impossible to account for the wrongfulness of Alice’s conduct given that Brent is not harmed or disabled, nor does he suffer a loss of happiness as a result of her conduct. Whether such a conclusion, if properly drawn, provides a significant reason to abandon person-affecting accounts of moral responsibility grounded on the standard account of harm will not be discussed here.
Under Principle N, as long as Alice can act without affecting the number of persons who will exist, she is morally required not to let any child for whose welfare she is responsible experience serious suffering or limited opportunity or serious loss of happiness or good. In the standard P2 case, Alice’s conduct is wrong because fetus-turned-child Brent experiences suffering and limited opportunity that she could have prevented. But in the counterfactual P2 case, fetus-turned-child Brent does not experience serious suffering, limited opportunities, or serious loss of happiness or good. So even though Alice does not take the medicine, she does not fail to fulfill her moral obligations. Consequently, neither Principle N nor Principle M can account for our moral intuitions that Alice’s choice not to take the risk-mitigating medicine is wrong at the time she makes it—irrespective of whether fetus-turned-child Brent is ultimately born normal—in counterfactual P2 cases.

This result may seem surprising. After all, Principle M is a person-affecting principle whereas Principle N is a non-person-affecting, same-number principle. Yet insofar as their focus or moral aim is on preventing some undesirable state of affairs (e.g., harmful conditions, disabilities, serious suffering, limited opportunities, or loss of happiness or good), these principles are alike. And it is this similarity—preventing undesirable states of affairs—that causes them to fail to account for our moral intuitions that Alice’s choice is wrong in counterfactual P2 cases. After all, when fetus-turned-child Brent is born normal, he suffers no harm. The counterfactual P2 case therefore shows that the moral focus of Principles M and N is not directly on Alice’s choice; rather, these principles condemn her choice (in the standard P2 case) indirectly, since it causes an undesirable state of affairs. If an ethics of procreation therefore is to account for our moral intuitions in both P2 and counterfactual P2 cases, it must focus on Alice’s choice directly and not indirectly as Principles M and N do.

B. Bonnie Steinbock and Ron McClamrock’s Principle of Parental Responsibility

Bonnie Steinbock and Ron McClamrock’s “principle of parental responsibility” (PPR) is an intentionally general sufficientarian principle of procreative ethics that, according to them, will be “filled
out . . . very different[ly], depending on which ethical theory undergirds it.”³⁰ They state their principle as:

>[P]rospective parents are morally obligated to consider the kinds of lives their offspring are likely to have, and to refrain from having children if their lives will be sufficiently awful.³¹

Thus, “[t]he basic idea [behind the PPR] is that before embarking on so serious an enterprise as parenthood, people should think about the consequences for their offspring.”³² Accordingly, “individuals [are required] to refrain, when possible, from having children if they cannot give them a decent chance of a happy life.”³³ An ethics of procreation therefore should not merely focus on lives that are so bad as to not be worth living; rather, it should focus on children who are born without a decent chance at a good life—those born without “the ability to develop or to do any of the things that humans do”³⁴ or those born with the “deck stacked against them.”³⁵

Motivating their PPR is a belief that Feinberg’s—and likely Brock’s—account of what is wrong in P1 cases is underwhelming.³⁶ For Feinberg, because no one is harmed or wronged by being brought into existence (unless her life is so bad as to not be worth living), Alice’s choice in P1 is wrong because it “wantonly introduce[s] a certain evil into the world.”³⁷ This conclusion, according to Stein-

---


³¹ Ibid, 19.


³⁴ Ibid, 16.

³⁵ Ibid, 17.

³⁶ Steinbock and McClamrock’s principle predates Brock’s; therefore, it is uncertain whether they disagree with his principle. But even if I am mistaken, it is clear that Brock does not find their motivating reason—the inherent unfairness to the child—convincing. In fact, according to both Brock and Feinberg, principles that focus on unfairness to the child misunderstand the nonidentity problem. See discussion in Section II, Part A.1.

³⁷ Ibid, 18.
bock and McClamrock, entails that only children born with lives so bad that nonexistence is preferable to existence are treated unfairly. But according to them, such reasoning is implausible, because it fails to account for the intuition that children born with lives that “fall below a decent minimum are the victims of their parents’ decision to procreate.” The moral challenge therefore is finding a way “to make a principle [of procreative ethics] plausibly account for a kind of unfairness to the child from being born in very adverse conditions, even if the child itself prefers the dismal life it's been given to no life at all.”

To illustrate, suppose that possible-child-Brent in P1 is born moderately mentally retarded but is a musical savant. Suppose further that at some future time—perhaps around age thirty—he expresses both (a) that Alice acted wrongly by not taking her medicine and waiting a month to attempt to conceive and (b) that he is grateful for his existence. Alice’s conduct provokes our judgment that she did something wrong. Feinberg asserts that Brent’s statements “commit him to the judgment that her duty to him had been to refrain from doing what she did; but if she had refrained, that would have led to his never having been born, an even worse result from his point of view.” According to Feinberg, Brent therefore holds contradictory beliefs.

The paradoxical nature of Brent’s beliefs however is resolved by recognizing that they refer to distinct historical vantage points. The first concerns when Alice fails to take her medicine and wait to conceive; the second concerns some future time (here, thirty years later) when Brent exists as a musical savant. But Brent’s preference and excitement for life mitigates the moral indefensibility of Alice’s conduct in P1 only if we are consequentialists who determine past wrongfulness based in part on future...

38 Ibid, 19.

39 Ibid, 18.

40 Feinberg, 169. I agree with Feinberg that Alice’s conduct in P1 did not wrong possible-child-Brent; after all, he did not exist and thus could not be harmed, let alone wronged. But this does not mean that Alice’s choice not to take the risk-mitigating medicine and wait a month to conceive was not wrong. All that follows from the fact that Alice’s conduct did not wrong possible-child-Brent is that the nonidentity problem is a real problem.
ture preferences. Setting aside the defensibility of such a view, it is clear that such a view does not account for our moral intuitions about the wrongfulness of Alice’s conduct in P1 irrespective of any subsequent state of affairs—including whether Brent prefers his existence to nonexistence or is born normal as in the counterfactual P1 case. 41

However, as Steinbock and McClamrock rightly explain, one can be treated unfairly now, even if the state of affairs following the unfair treatment is better than an alternative without the unfair treatment. 42 In fact, because an advantageous outcome may be impossible without antecedent unfairness, one may even be glad (in some sense) for the unfair treatment. Nevertheless, Steinbock and McClamrock hold that just because someone prefers the state of affairs following an unfair act does not mean that they were not treated unfairly at the time the act took place. This seems to echo our intuitions concerning the counterfactual P1 case—Alice acts wrongly by not taking the medicine and waiting to attempt to conceive even if a normal child is ultimately born. But unlike our intuitions concerning the counterfactual P1 case, which are connected to Alice’s choice, Steinbock and McClamrock couch Alice’s wrongdoing in terms of future unfairness to Brent (or more specifically, his future interests).

Following Mary Anne Warren, Steinbock and McClamrock suggest that what’s wrong with Alice’s conduct in P1 is not that it violates a possible-child’s presently existing rights. What’s wrong with is that her conduct frustrates the interests of an actual person who will exist in the future. 43 In other words, Alice’s choice in P1 is wrong and treats possible-child-Brent unfairly only if his interests are


42 Steinbock and McClamrock, 19. “If you act so as to utterly disregard my legitimate interests for your own (perhaps even minor) benefit, then you’ve wronged me by treating me unfairly, even if in the end… I end up in a situation preferable to the one I would otherwise have been in.” This seems to suggest that someone could be treated unfairly although they might not be harmed on the standard account of harm.

43 Ibid, 18.
actually frustrated in the future.\textsuperscript{44} The PPR is therefore (future)-person-affecting. And just as Brock’s Principle M—as a person-affecting principle—was incapable of accounting for our moral intuitions in the counterfactual P2 case, Steinbock and McClamrock’s PPR cannot account for our intuitions in the counterfactual P1 case.

If against the odds possible-child-Brent is born without a “setback” to any of his interests—despite Alice’s failure to take her medicine and wait to attempt to conceive—our intuitions are that she nevertheless acted wrongly. Yet the PPR cannot hold that Alice’s choice was wrong: Brent has not been those born without “the ability to develop or to do any of the things that humans do”\textsuperscript{45} or with the “deck stacked against [him].”\textsuperscript{46} The failure of PPR to account for our moral intuitions in the counterfactual P1 case reiterates the conclusion from the prior section—an ethics of procreation should

\textsuperscript{44} I am not persuaded that talk of future interests—even of future children, who by definition will come into existence—is coherent. Perhaps some interests are so basic that all existing children have an interest in them—such as opportunities for nourishment or their parents’ love. But it is less clear how a future child has an interest in being born without moderate mental retardation, a withered harm, or even a predisposition for asthma—especially where a choice to eliminate such conditions would require another that child is born instead. Consistency demands that only children with lives that are so bad as to not be worth living have an interest in nonexistence.

This is not to say that a future child’s interests do not give prospective parents a moral reason to act. A farsighted child has an interest in good eyesight, and this interest obligates his parents to have him or her fitted with glasses. But extending this analogy, does it follow that possible-child-Brent in P1 has an interest in being born without moderate mental retardation that obligates Alice to take her medicine and wait a month to conceive someone else? I don’t think so. Perhaps this is because it is farcical to talk of Alice choosing to conceive possible-child-Brent in P1—sexual reproduction is only so well-ordered in essays on procreation. At best, Alice makes a choice to attempt to conceive in P1. If she is successful, then it is likely that whatever child she conceives will likely be born with moderate mental retardation.

After Alice conceives, if fetus-Brent (a name for convenience) will be born, then he is a future child. And since during her pregnancy Alice cannot know whether fetus-Brent will be born, it is appropriate for her to act as though he will—including acting for the best interest of the fetus-turned-child who will exist. (I still maintain that in so acting Alice could change who will exist. For more, see footnote 28.) But until some particularized set of interests exists—like those of a particular fetus or child—potential and prospective parents can only be motivated by whatever interests all children possess. And while I agree that there is a basic interest in not being born with a life so bad that it is not worth living, it is far more difficult to see how there can be a basic interest in not being born with moderate mental retardation unless we accept that all such children are born with their interests setback such that they cannot be expected to develop into people who can do the things that humans do. I can see no reason to accept this conclusion.

\textsuperscript{45} \textit{Ibid}, 16.

\textsuperscript{46} \textit{Ibid}, 17.
abandon person-affecting principles in order to account for our moral intuitions. This includes (future)-person-affecting principles like PPR.

But Steinbock and McClamrock posit another moral intuition—that choosing to have a child who will likely suffer serious setbacks to his or her interests—is unfair to that child. Does a principle of procreative ethics have to account for this intuition? In a word—no. And we should disabuse ourselves of it. This intuition— that it is unfair to bring a child into existence under very adverse conditions—likely persists because many conflate our intuitions about presently existing persons (and what is fair to them) with nonexistent possible children.

Children have interests that can be furthered or hindered; children can be harmed or wronged. Possible children cannot be harmed or wronged because they do not yet—and might not ever—exist. Potential children, like those in P2 cases, are a far more complicated. Assuming that no potential child has an interest in coming into existence, it follows that it is not unfair to not bring a potential child into existence. Abortions therefore do not treat potential children unfairly. But it is also true that once a choice is made to carry a potential child to term, there are certain interests that the potential child will have once born—such as being able to be properly nourished, sheltered, and cared for—in other words, the interests that all children possess. By not conflating the interests of actual children (e.g., the interests of Brent in P3 in not developing moderate mental retardation) with those of possible and potential children (e.g., the interests of fetus-Brent in P2), we deflate the intuition that there is something unfair to the child who is born with moderate mental retardation. In so doing, we embrace the non-identity problem as a real problem. And as we saw above, we can solve (or at least avoid) this problem through a non-person-affecting principle.

Yet Steinbock and McClamrock’s motivating intuition is not totally meritless. It illuminates something important: when making procreative choices, potential and prospective parents should consider the life that the possible or potential child is likely to be capable of living. A principle of procrea-
tive ethics therefore should at least define the conditions under which it is wrong to make the choice to carry a child to term. Steinbock and McClamrock’s PPR offers an intentionally overgeneralized solution—when the potential child is unlikely to have a decent chance at a happy life. And while the (future)-person-affecting aspect of their solution that focuses on unfairness to the future child is wrong-headed, their goal for procreative choices—a decent chance at a good life—seems appropriate for an ethics of procreation.

III. Conclusion

We need an ethics of procreation to account for Alice’s wrongdoing, at least in P1 cases. As discussed above, this follows because person-affecting principles grounded on the standard account of harm fail. That is, since these moral accounts require comparing the interests of an existing person before and after the putative conduct, they run headlong into the nonidentity problem. So unless we reject the standard account of harm or the connection between harm and wrongdoing that undergirds our commonsense moral intuitions, avoiding the nonidentity problem requires embracing a non-person-affecting moral principle for procreative ethics.

More importantly, an ethics of procreation should focus directly on the positive, procreative choices that potential and prospective parents make. And as the discussion of Steinbock and McClamrock’s PPR revealed, these choices should be made so that the child that ultimately results has a decent chance at a good life. The sufficient goal for an ethics of procreation therefore is a good human life. In the next chapter, I build upon and incorporate these insights into an ethics of procreation that I call Responsible Procreation.
CHAPTER 2: A DECENT CHANCE AT A GOOD LIFE

Some children born today are incapable of living good lives. Even before defining a good life, I assume that we agree that this is morally undesirable. In this chapter, I shall argue that an appropriate ethics of procreation should entail that it is morally indefensible, when avoidable, to bring such children into existence.

In the first chapter, I argued that an ethics of procreation is needed because moral principles based on the standard account of harm are inapplicable to procreative choices. To avoid the counterfactual problems other principles of procreation encounter, I focus the moral inquiry on the choices that potential or prospective parents make: first, in attempting to conceive (or at least by behaving indifferently to this potential consequence), and second, on whether to carry the fetus to term. I take procreative ethics to be a subspecies of Parental Responsibility and call this Responsible Procreation (RP). RP assumes that prospective and potential parents—as the logical ancestors of parents—should care about the lives their potential or possible children are likely to be capable of living. The live question, therefore, is not whether but how they should care. This chapter begins to answer this question by establishing the sufficient goal for procreative choices: a good human life. But since procreative ethicists often use the same terms differently, I begin by defining mine to limit any potential miscommunication.

I. Definitions

While this list is not exhaustive, it should provide the reader a solid starting point for understanding the discussion that follows.
Potential parents. ‘Potential parents’ possess the biological capability to reproduce. Unless otherwise stipulated, all pregnancies or sexual activity between potential parents is consensual and morally permissible.

Prospective parents. ‘Prospective parents’ not only possess the biological capacity to reproduce but also have engaged in a reproductive method—whether coitus, artificial insemination, or in vitro fertilization (IVF)—where pregnancy results. Pregnancy does not occur until the zygote-turned-blastocyst (or fertilized ovum following IVF) implants itself into the uterine wall or other organ in the case of ectopic pregnancies.

Procreative choices. ‘Procreative choices’ occur both pre- and postconception. Preconception potential parents choose either pregnancy avoidance via abstinence or contraception or to attempt to conceive via coitus, artificial insemination, or IVF. Contraception means employing an external means of pregnancy prevention. A potential parent’s choice (unless it is abstinence) is mutually exclusive; thus, when potential parents fail to use contraception, they exhibit an indifference to the potential consequences that is morally equivalent to attempting to conceive—no matter their intentions, desires, or hopes. Postconception prospective parents choose either to terminate a pregnancy or carry the potential child to term. So like potential parents, prospective parents also make a mutually exclusive procreative choice—a choice to not terminate a pregnancy is a choice to carry the potential child to term and vice versa. In pregnancies arising from IVF, the prospective parents may make two procreative choices: one when they implant and another when they decide whether to carry the fetus to term.

Positive procreative choices refer to preconception choices to attempt to conceive (or choices not to use contraception thereby exhibiting indifference to the possibility of pregnancy) as well as choic-

47 So notwithstanding their effectiveness, neither coitus interruptus nor active nursing are valid contraception methods under this account.
es to implant an embryo following IVF, and postconception choices to carry the potential child to term. Conversely, negative procreative choices refer to preconception choices to avoid pregnancy as well as choices to discard an embryo following IVF, and postconception choices to terminate a pregnancy.

Potential and possible children. A ‘potential child’ is a developing fetus. Fertilized embryos therefore are not potential children; rather, they are possible children until the implanted embryo implants in the uterine wall or other organ. A ‘possible child’ is a child that could exist but has not yet become potential. I take the set of possible children to be vast.

II. What is a ‘Good Human Life’?

Following Martha Nussbaum, I define the ‘good human life’ in terms of essential human capabilities. Although Nussbaum’s concepts of humanness and good human lives were developed for political theory, they are equally applicable to procreative ethics. In fact, her conception of the good human life serves as the basis for the morally sufficient goal for procreative choices under RP. Let me be clear: all human lives possess the same moral or normative worth. But it is undeniable that some human lives are qualitatively better than others. Thus, where RP distinguishes human lives from good human lives, it does so on qualitative and not normative grounds.

RP governs human procreation. But what does it mean to be human? In answering this question Nussbaum asks: what are the most central features of humanness, that is to say, those features without which one can be counted (or counted any longer) as human?48 Her answer, like mine, begins with our experiences of humans qua human. After all, we recognize humans across both time and space. A human therefore is recognizable by other humans. Nussbaum suggests that human storytelling is informative about the essential features of humanness.

Consider mythical beings that irrespective of their physical appearance or genetic composition are not human, such as: Cyclopes, vampires, cyborgs, leprechauns, or aliens. When we read, see, or hear stories involving such beings, we recognize that they are not human. In fact, often stories involving these beings are compelling precisely because they *seem* (or begin to seem) human. But *humanness* requires more than *appearing* (physically or genetically) human. For instance, in James Cameron’s *The Terminator*, the title character is a humanoid-cyborg—a machine. The Terminator completely lacks, among other things, the capacity to experience pain or pleasure. But even without only this capacity, the difference between the Terminator and humans is too great—we cannot countenance the Terminator as human. It follows therefore that the capacity to experience pain and pleasure is an essential feature of *humanness*.

Building on this theme, if a creature has any of the following deficiencies, it is *not* human:

1) A creature that is not capable of sense perception of any kind.
2) A creature that completely lacks imagination.
3) A creature devoid of the ability to think.
4) A creature that lacks practical reason, understood as the ability to participate (or at least try to) in the organization and management of its life.
5) A creature that lacks the capability to experience pain or pleasure, or that never seeks to avoid pain or enjoy pleasure.
6) A creature which is completely devoid of the capacity for empathetic or sympathetic feelings for humans.
7) A creature that cannot recognize its relationship to other creatures or the natural world.
8) A creature that never relaxes, laughs, or seeks out recreational activities.
9) A creature that cannot exercise any measure of autonomy.\(^{50}\)

And since humans develop from infancy into adulthood, we have essential needs. We need nourishment, shelter, and healthcare to persist. And while less urgent, humans need opportunities for sexual activity. Finally, unlike trees that are fixed and moved only by external forces, humans are mobile and thus require the capability to move. These needs therefore are just as essential for a *hu*

---

\(^{49}\) *Ibid.* Some of the characters on this list are mine, but the point is substantively Nussbaum’s.

\(^{50}\) *Ibid.*, 216-220. In her paper, Nussbaum develops this as a list of positive traits.
man life. By combining the above list together with the essential needs, we establish a general, jointly necessary, definition of humanness.

Humanness, however, is defined generally—and with good reason—we recognize a wide array of beings as human. Some are tall, some short, some bald, some blond, some male, some female, some run well, some are paraplegic, some postulate new theorems, while others are incapable of even reading these theorems; however, these differences do not make a being nonhuman. For this reason, we do (and should) treat the offspring of two human parents as human.

But this account of humanness is not a sufficient account of the good human life. An obligation to have merely human children sets the moral bar far too low. And since we can distinguish nonhuman and human lives, we should be able to distinguish merely human lives from good human lives. Nussbaum agrees and suggests a second threshold. And just as this second threshold is essential to Nussbaum’s theory of political justice, it is also essential to RP, since it establishes the sufficient goal for procreative ethics. Concerning the second threshold, Nussbaum remarks that this is “a somewhat higher threshold, beneath which those characteristic functions are available in such a reduced way that although we may judge the form of life a human one, we will not think it a good human life.”

Nussbaum’s second threshold is:

1. Being able to live to the end of a complete human life, as far as possible; not dying prematurely, or before one’s life is so reduced as to be not worth living.
2. Being able to have good health; to be adequately nourished; to have adequate shelter; having opportunities for sexual satisfaction; being able to move from place to place.
3. Being able to avoid unnecessary and nonbeneficial pain and to have pleasurable experiences.
4. Being able to use the senses; being able to imagine, to think, and to reason—and to do these in a truly human way.

---

51 Ibid, 216-217.
52 Ibid, 228.
53 Ibid, 221.
5. Being able to have attachments to things and persons outside ourselves; to love those who love and care for us, to grieve in their absence, in general, to love, grieve, to feel longing and gratitude.
6. Being able to form a conception of the good and to engage in critical reflection about the planning of one’s own life.
7. Being able to live for and with others, to recognize and show concern for other human beings, to engage in various forms of familial and social interaction; being able to sympathize with others, and have the capacity for justice and friendship.
8. Being able to live with concern for and in relation to animals, plants, and the world of nature.
9. Being able to laugh, to play, to enjoy recreational activities.
10. Being able to live one’s own life and nobody else’s; being able to live one’s own life in one’s very own surroundings and context.\(^{54}\)

Like the essential features of humanness, these capabilities are separate but jointly necessary for a good human life. A person therefore that lacks any essential capability does not have a good human life, no matter how much of the other capabilities he or she possesses.\(^{55}\) Hence, positive procreative choices are morally indefensible under RP where the possible or potential child cannot reasonably be expected to be capable of obtaining all of the essential human capabilities.\(^{56}\) The sufficient goal, therefore, for procreative choices is a good human life. And there’s nothing shabby about a good human life!

III. RP’s Good Human Life Provision

RP concerns the positive procreative choices of potential and prospective parents. These choices are subject to the same constraints as other moral choices. That is, they are indefensible unless justified by the morally relevant considerations. What are the morally relevant considerations? Since the sufficient goal for positive procreative choices is a good human life, what’s morally rele-


\(^{56}\) Because the choices are (often) made under conditions of uncertainty, to require more would violate the principle ‘ought implies can’.
vant is information about those things that can affect whether a life is capable of being a good life.\footnote{For simplicity, I dispense with the cumbersome ‘good human life’ and substitute ‘good life.’ Since RP is concerned with the second threshold—the good human life—it follows that all of the lives under consideration are (or are assumed to be) at least human.} RP captures this obligation via the Good Human Life (GHL) provision.

Positive procreative choices are morally indefensible at least where a possible or potential child cannot be reasonably expected to be capable of living a good human life based on the relevant available information.

A. The morally relevant available information

As a \textit{prima facie} moral obligation, RP cannot require the impossible or imprudent. So where otherwise-relevant information is unavailable, the GHL provision does not require potential or prospective parents to obtain or consider it. For present purposes, information is available just in case it is reliable, affordable, and safe to obtain. And while acknowledging that \textit{reliable}, \textit{affordable}, and \textit{safe} are inherently vague (e.g., are tests that are 90\% accurate reliable?), I set aside the task of providing precise definitions (assuming this is possible). My suspicion, however, is that precise, generally acceptable definitions are impossible. If this is correct, then perhaps these terms should be defined by considering what \textit{reasonable} potential or prospective parents in the position of these potential or prospective parents would consider reliable, affordable, or safe.

As mentioned above, relevant information refers to anything suggesting whether a possible or potential child can be reasonably expected to be capable of living a good human life. I shall argue that two types of information—genetic and socio-economic—are morally relevant. Positive procreative choices are therefore morally indefensible if the available genetic or socio-economic information entails that a possible or potential child cannot reasonably be expected to be capable of living a good life.
1. Genetic information

Genetic conditions affect whether someone is capable of living a good life. After all, a genetic affliction that causes an unacceptable amount of unbeneﬁcial pain or prevents the use of practical reason (e.g., some severe physical or mental defects) necessarily precludes that person from living a good life. While the obvious examples involve disease traits like Tay-Sachs disease, non-disease traits like intelligence or memory (assuming that they are genetic in nature), can also make it impossible for someone to live a good life. Genetic information, therefore, must be considered in making positive procreative choices.

Yet even in scientiﬁcally advanced nations, we are years away from adequate prenatal tests for most genetic afflictions. Further, exactly how and to what extent genetic traits affect human life is currently hotly debated. Still, if (and when) such tests become available, RP obligates prospective and potential parents to consider this information. And insofar as genetic information is available now, a positive procreative choice is morally indefensible unless justiﬁed in light of this information. Potential and prospective parents therefore cannot obviate their moral obligations under RP by failing to obtain available information.

2. Socio-economic information

Socio-economic conditions also affect whether someone is capable of living a good life. For example, consider this essential human capability: “Being able to have good health; to be adequately nourished.” While no one-size-ﬁts-all daily caloric intake exists, this essential capability is not satisfied where someone cannot obtain adequate daily nourishment to permit proper bodily function. So if someone persistently lacks the economic wherewithal to procure adequate nourishment, she is incapable of living a good life. Likewise if someone’s home country is often ravaged by famines (and barring outside aid), she is incapable of living a good life. Considering the essential human capability “to live one’s own life and no one else’s,” it becomes clear that political or social environments can
render some people incapable of living good lives (e.g., in cases of caste systems). I refer to these economic, political, social, geographic, or religious conditions under the umbrella-term socio-economic conditions.

Since socio-economic conditions can (and do) render some people incapable of living good lives, potential and prospective parents must consider the available socio-economic information when making positive procreative choices. But unlike genetic information—which depends on the availability of safe, affordable, and reliable tests—socio-economic information requires only that potential or prospective parents use commonsense reasoning based on their personal experiences with and awareness of these conditions.58

3. Some additional relevant considerations

The GHL provision holds that positive prospective choices are morally indefensible at least where the possible or potential child cannot be reasonably expected to be capable of living a good human life. But what does ‘reasonably expected’ mean? Stated differently: when are risks of adverse genetic or socio-economic conditions sufficient to entail that a good life cannot be ‘reasonably expected’? No concrete answer seems possible and thus the answer is highly context dependent. But to aid potential and prospective parents making positive procreative choices, I offer the following factors:

1. the likely severity of the adverse genetic or socio-economic conditions;
2. the likely availability of means or methods to ameliorate the adverse conditions; and
3. the likelihood or potential for change in the adverse conditions.

Finally, the worse the reasonably expected adverse genetic or socio-economic conditions, the less tolerant of risk they should be. Suppose however that potential or prospective parents reasonably anticipate that their adverse socio-economic conditions will change in the near future. Do all

58 Those potential and prospective parents who for whatever reason unaware of their socio-economic circumstances are absolved from fulfilling this requirement.
positive procreative choices under such conditions violate the GHL provision? Stated another way: does a reasonable expectation that a child will live only a few years without the capability for a good life render positive procreative choices morally indefensible?

The short answer is no. By focusing on what is reasonably expected, principled disagreements between reasonable persons about the morally indefensibly of positive procreative choices are possible. But this is not a weakness in the GHL provision. Rather, it furthers my contention that positive procreative choices are like other moral choices. Yet reasoned consideration of the relevant available genetic and socio-economic information (using the factors above) only permits principled disagreement in close cases; that is, only if whether the potential child is reasonably expected to be capable of living a good life is a close question. This is very advantageous. By focusing the inquiry on the second threshold—the capability to live a good human life—if the potential or prospective parents err when determining whether a good life is reasonably expected, the child will still be born with a life worth living. This is a vast improvement over the consequences of an errant choice where the focus is on the first threshold—whether a life not worth living.

Moreover, the qualitative evaluation of someone’s life can change. The GHL’s reasonableness requirement relates to living a good life—defined in terms of essential human capabilities. As a result, someone can become capable of living a good life because of, for example, improved socio-economic conditions or the removal of social impediments. Unfortunately, the converse is also true: someone can lose the capability to live a good life because of, for example, changed socio-economic conditions or suffering a severe injury. Nevertheless, on my view, someone can live a good life and yet experience periods when he or she is incapable of living a good life. Just how much of someone’s life must be lived above the second threshold to consider it—on the whole—a good life is an open question that I do not address here. But I deny that it must be one’s entire life (though a life-long evaluation of the quality of one’s life may be appropriate).
To recap: RP concerns potential and prospective parents’ positive procreative choices. The GHL provision provides a sufficient but not necessary condition for when positive procreative choices are morally indefensible. So other conditions may also render positive procreative choices morally indefensible. But the GHL provision’s most important implication is: Potential and prospective parents should make positive procreative choices with an eye toward securing the sufficient goal of a good human life. In this way, the GHL provision is a sufficientarian or satisficing moral principle. And since procreative choices are made by moral agents—potential or prospective parents—I next consider what obligations each has under the GHL provision.

B. Moral obligations under the GHL provision

As written, the GHL provision applies to both potential and prospective parents. But this does not mean that the moral obligations on both potential and prospective parents are identical. After all, even under the same moral principal different people may have different moral obligations. So while both have to make their procreative choices in light of the relevant available information concerning whether their possible or potential child is reasonably expected to be capable of living a good life, the extent to which information is “relevant” is not necessarily the same for them.

To illustrate this point, consider preconception procreative choices: Potential parents make morally indefensible positive procreative choices where a possible child cannot be reasonably expected to be capable of living a good life. But if at least one possible child that the potential parents could create can be reasonably expected to live a good life, then their positive procreative choice will not be morally indefensible. For this reason, most preconception positive procreative choices will not be morally indefensible—at least based on the GHL provision. This part therefore clarifies the moral obligations attending both potential and prospective parents with respect to obtaining and making choices based on the relevant available information.
1. Preconception: relevant available socio-economic information

Socio-economic information is almost always available. To acquire it, potential and prospective parents need only consider their personal experiences given the prevailing socio-economic conditions. To illustrate the moral obligations of potential parents, consider the following scenario. Suppose that Nick and Ophelia are a young couple who want children. They know that RP imposes moral obligations on their preconception procreative choices. But what are these moral obligations? If we rephrase the GHL provision so that it refers only to preconception procreative choices, we get: Potential parents make morally indefensible positive procreative choices where based on the relevant available information a possible child cannot be reasonably expected to be capable of living a good life. The GHL provision therefore requires that Nick and Ophelia’s procreative choice—to attempt to conceive—must be made in light of the relevant available information. But before exploring Nick and Ophelia’s preconception moral obligations further, we need to know more about them. Suppose that neither Nick nor Ophelia are at special risk of developing a genetic condition or having children with such a condition (e.g., Huntington’s disease or Tay Sachs). Additionally, they live in a large, stable, democratic country. Both are college educated, have steady jobs, and live in a three-bedroom house in a low-crime neighborhood.

Under what conditions can Nick and Ophelia reasonably expect “a possible child” will not live a good life. It is important to notice that “a possible child” is extremely broad—it refers to any possible child that Nick and Ophelia could create. In other words, based on the relevant available socio-economic information, Nick and Ophelia’s attempt to conceive is morally indefensible only if the prevailing socio-economic conditions are so awful that no possible child can be reasonably expected to be capable of living a good life. And given the available socio-economic information, Nick and
Ophelia’s preconception positive procreative choice is not morally indefensible, since at least some of their possible children can be reasonably expected to be capable of living a good life.59

But this need not always be the case. For example, suppose instead that Nick and Ophelia lived in an impoverished, famine-stricken country in the midst of civil war that showed little sign of changing in the near future. In this case, even without considering any genetic information, no possible child can be reasonably expected to be capable of living a good life. After all, an essential feature of a good life is the capability to be adequately nourished—something that cannot be reasonably expected for any possible child given the prevailing socio-economic conditions. Any positive procreative choice by Nick and Ophelia therefore is morally indefensible. Yet this does not mean that Nick and Ophelia must remain abstinent. They meet their moral obligations under the GHL provision so long as they always use contraception. This follows because the GHL provision does not apply to negative procreative choices like having sexual intercourse while using contraception.

Suppose however that contraception is not available (or not always available): is unprotected sex therefore a positive procreative choice that violates the GHL provision? Thus far, availability has been discussed only in terms of information. Specifically, genetic information was “available” just in case it could be safely and affordably procured and the information itself was reliable. But for Nick and Ophelia socio-economic information is clearly available. The problem is that a means to carry out their obligations—contraception—is unavailable. Generally speaking, when compliance with a moral obligation is impossible, the moral obligation has no force. So it is tempting to think that because contraception is unavailable, the GHL provision cannot apply. Yet the GHL provision does not require Nick and Ophelia to use contraception. Rather, it holds that all positive procreative choices are morally indefensible where, as here, the relevant available information indicates that no possible child can be reasonably expected to live a good life.

59 I consider what role available genetic information plays in preconception choices below.
Consequently, under the GHL provision, the moral defensibility of their (or any potential parent's) procreative choice turns only on what choice they made given the relevant available information. Because *ex hypothesi* no possible potential child can be reasonably expected to be capable of living a good life, any positive procreative choice Nick and Ophelia make will be morally indefensible. The logical conclusion therefore is: where contraception is unavailable and prevailing socio-economic conditions indicate that no possible child can be reasonably expected to be capable of living a good life, potential parents violate the GHL provision unless they remain abstinent. Can this be right?

The oversimplified answer is—yes. After all, it is morally undesirable for children to be born without the capability to live a good life. But at the same time, Responsible Procreation only imposes *prima facie* moral obligations and thus can be overridden by countervailing moral commitments. Thus, it is possible for their obligation to remain abstinent to be overridden. While delimiting what (types of) commitments could override this moral obligation is outside this work’s scope, one final point is in order. If despite the unavailability of contraception, abortion remains available (highly unlikely), then Nick and Ophelia are morally obligated to abort any pregnancy that results from their failure to use contraception. But more importantly, even if my conclusion—that an ethics of procreation can (or should) require autonomous potential parents to forgo sex where contraception is unavailable—overstates the appropriate role for procreative ethics, the Nick and Ophelia examples nevertheless highlight the importance of socio-economic information to potential parents. And at least in some cases, socio-economic conditions can be so awful that based on this information alone pre-conception procreative choices will be morally indefensible.

But as important as socio-economic information is for potential parents, it is arguably more important for prospective parents.
2. Preconception: relevant available genetic information

Because prospective parents can test a potential child’s (developing fetus’) actual genetic condition, more genetic information is (potentially) available to them than potential parents. And given this direct testing, there is a sense in which the information prospective parents possess is better—meaning more predictive of whether this potential child can be reasonably expected to be capable of living a good life—than the genetic information available to potential parents. But this does not mean that genetic information is neither relevant nor available to potential parents. Genetic tests on potential children are not the only means of gathering genetic information: Potential and prospective parents could also test themselves.

Some argue that potential parents have a moral obligation to undergo genetic testing in order to justify their preconception choice to attempt to procreate. Others suggest that this obligation is strongest when potential parents have a significant risk of transmitting a genetic condition whose effects are very adverse. What does RP, via the GHL provision, require, given that a preconception positive procreative choice is not morally indefensible unless no possible child can be reasonably expected to be capable of living a good life? To understand what the GHL provision requires, let’s consider whether John, a potential parent who is at risk of developing a horrific genetic affliction but is not yet symptomatic, has a “right not to know” if he is afflicted.

Laura Purdy suggests that a “right not to know” can only be defended where ignorance does not put others at risk. Given this, she concludes that for possibly affected potential parents who do

---

60 There is an important exception: potential parents who undergo in vitro fertilization. I discuss this special case in section 4 below.

61 See, for example, Rahul Kumar, “Who Can Be Wronged?” Philosophy and Public Affairs 31, no. 2, 2003, p.113. Kumar considers a couple who have decided to conceive a child and are considering what steps are morally required. He, however, seems to require that there is an intentional choice to attempt to conceive as opposed to the failing to avoid conception that I also consider to be a positive procreative choice.

not want to know if they are affected (with Huntington’s Disease in her argument), their decision to
not be tested (given the test’s availability) is morally defensible only where they are prepared to forgo
genetically related children.63 Purdy’s conclusion follows from this moral principle: “[W]e ought to
try to provide every child with at least a normal opportunity for a good life, and because we do not
harm possible people if we prevent them from existing, we ought to try to prevent the birth of those
with a significant risk of living worse than normal lives.”64 According to Purdy, lives marked by
Huntington’s disease have a significant risk of being worse than a normal life.65 Potential parents
therefore should avoid bringing potential children affected with Huntington’s disease into existence,
since they cannot be reasonably expected to be capable of enjoying a “minimally satisfying life.”66

Purdy’s posits that potential parents, like John, can avoid testing themselves (if they cannot
face the test’s results) only if they are committed to testing every potential child and terminating ev-
ery fetus that tests positive for Huntington’s disease. On her account, potential and prospective par-
ents must obtain the available genetic information whenever (they know that) there is a significant
risk of transmitting to their children a genetic affliction that will limit their ability to have a normal
opportunity for a good life.67 Willful ignorance is not defensible.68

Responsible Procreation, on the other hand, generally does not require potential parents to
undergo genetic testing on themselves—even if they know that they have a significant risk of trans-
mitting a genetic affliction to their children. Under the GHL provision, preconception positive pro-

63 Ibid, 48.
64 Ibid, 53.
65 Ibid.
66 Ibid, 46.
67 Ibid, 53.
68 Ibid, 49.
creative choices are morally indefensible only if no possible child could be born capable of living a good life. So in John’s case, his positive procreative choice to attempt to conceive is morally indefensible only if *all* possible children he could create cannot reasonably be expected to be capable of living a good life. Outside of an essay on procreation, it is unlikely that genetics works so predictably. For this reason, potential parents generally do not have a moral obligation to undergo genetic testing on themselves prior to making positive preconception procreative choices. For potential parents, therefore, socio-economic information is the most relevant source of available information.

But what if abortion services are unavailable: does this change the preconception moral obligations of potential parents? The availability of abortion services is part of the relevant socio-economic information. Where these services are unavailable, prospective parents cannot make procreative choices. And unlike potential parents who cannot obtain contraception but can still remain abstinent, prospective parents do not have an alternative negative procreative choice that they can make. Yet the mere fact that prospective parents cannot terminate their pregnancies should not change our intuition that it is nevertheless undesirable for children to be born who are incapable of living a good life. This is true whether the reason that abortion services are unavailable is based on socio-economic conditions (e.g., it is illegal) or other moral commitments (e.g., a view that life begins at conception).

For potential parents who know that abortion services are unavailable, there is a compelling reason to believe that their preconception moral obligations—especially concerning whether they should undergo genetic testing—should change. In other words, when the only procreative choice will be made preconception, this should be the most well-informed procreative choice possible. While I agree that potential parents who cannot make procreative choices postconception—for whatever reason—should be more careful preconception, the GHL provision however does not obligate them to do so. At the same time, I do not believe that this shortcoming is a sufficient reason
to reject the GHL provision as the appropriate principle for procreative ethics. On my view, such obligations would likely fall under an ethics of parenting, although I will not argue for such an ethics here.

3. Postconception: relevant available genetic and socio-economic information

The GHL provision also obligates prospective parents to make their positive procreative choices in light of the available genetic and socio-economic information. But neither source of information should be considered in a vacuum. Prospective parents must be aware of the interplay between these sources of information. That is, they must consider what can reasonably be expected for this potential child (developing fetus), with these genetic traits, in these socio-economic conditions.

Genetic traits that cannot reasonably be expected to render someone incapable of living a good life under one set of socio-economic conditions may do so under another. For example, consider a child born deaf and blind. People who are deaf and blind can live good lives, so there is nothing per se morally indefensible about bringing a deaf and blind child into existence. Whether this child can be reasonably expected to be capable of a good life depends, in part, on the availability of educational resources. Among other things, a good life requires the ability to live with others, to share in their lives, and to reason about one’s life plans—all of which are impossible for a deaf and blind child without education in the broad sense. Whether these necessary resources are available is a part of the relevant socio-economic information.

So when prospective parents know their child will (or is reasonably certain to) be born deaf and blind, their choice to bring the fetus to term is morally indefensible at least where the available socio-economic information indicates that the potential child cannot reasonably be expected to have access to the educational resources necessary to live a good life. But since the availability of neces-

\[69\] In fact, few genetic conditions are so horrifically debilitating that they render a person incapable of living a good life, especially when conditions which make it impossible for someone to live a human life are excluded.
sary educational resources may vary depending on where the prospective parents live or their financial circumstances, it is possible that positive procreative choices concerning potential children with the same genetic conditions can be morally indefensible for some prospective parents but not others. For this reason, prospective parents should make their procreative choices in light of the interaction between the relevant available genetic and socio-economic information.

Responsible Procreation, however, does not obligate prospective parents to consider anything before choosing to terminate a pregnancy. So if any moral obligations govern these choices, they do not follow from the GHL provision. In other words, even if the relevant available information indicates that a potential child is reasonably expected to be capable of living a good life, prospective parents may nevertheless terminate the pregnancy. The GHL provision therefore does not affect a woman’s right to an abortion. But it does obligate prospective parents to terminate pregnancies where the relevant available information reasonably indicates that the potential child cannot reasonably be expected to be capable of living a good life. Of course, this obligation can be overridden—where the means to terminate a pregnancy are unavailable.

What information is available to prospective parents? First, socio-economic information is available. Second, in many cases, genetic information following genetic tests on the potential child will be available. As discussed above, potential parents do not have a prima facie obligation to undergo genetic testing. Prospective parents however do. The GHL provision requires prospective parents to obtain all available genetic information about whether their potential child is reasonably expected to be capable of living a good life—for obvious reasons, prospective parents should obtain the potential child’s available genetic information. And once they do, they must be especially mindful of the interplay between this potential child’s genetic characteristics and the socio-economic information. Yet insofar as the prospective parents’ genetic codes contain information about the sort of life that the potential child can reasonably be expected to be capable of living, then the GHL pro-
vision requires the consideration of this information. This is *a fortiori* the case where genetic testing of the potential child poses an unacceptable risk to either the developing fetus or the prospective mother. Prospective parents therefore should undergo genetic testing to make the information available. The GHL provision therefore requires genetic testing of both prospective parents and potential children, and prospective parents must consider this information in light of the socio-economic conditions.

4. The special case of in vitro fertilization

Potential parents who undergo in vitro fertilization (IVF) must make two preconception positive procreative choices: first, to use IVF as a means of procreation, and second, to implant an embryo. In making their choice concerning whether to undergo IVF, potential parents have the same obligations as any other potential parents—they must make sure that that some possible child they could create could reasonably be born capable of living a good life. Thus, their choice to undergo IVF will almost always be justified.

As for their second choice, potential parents undergoing IVF have markedly different obligations under the GHL provision than other potential parents. Following IVF, the resulting embryos can be tested for certain genetic conditions using preimplantation genetic diagnosis (PGD). Since the GHL provision requires the consideration of relevant available genetic information, potential parents attempting to reproduce using IVF have a moral obligation to use PGD if it is available. Of course, if genetic testing could reveal no further relevant information, then prospective parents need not undergo it.

Prospective mothers may have another moral obligation: to obtain general medical information about their own health, at least insofar as it could potentially affect the developing fetus. After all, medical conditions which affect the prospective mother’s health could potentially affect the developing fetus and thus the reasonable expectation that the potential child will be capable of living a good life. And in principle, this obligation could extend to potential mothers to have preconception well-enough-to-conceive checkups. Whether this obligation falls on potential and prospective mothers under and ethics of procreation or under a more general ethics of parenting is an open question that I do not explore here.

---

70 Of course, if genetic testing could reveal no further relevant information, then prospective parents need not undergo it.

71 Prospective mothers may have another moral obligation: to obtain general medical information about their own health, at least insofar as it could potentially affect the developing fetus. After all, medical conditions which affect the prospective mother’s health could potentially affect the developing fetus and thus the reasonable expectation that the potential child will be capable of living a good life. And in principle, this obligation could extend to potential mothers to have preconception well-enough-to-conceive checkups. Whether this obligation falls on potential and prospective mothers under and ethics of procreation or under a more general ethics of parenting is an open question that I do not explore here.
course, once potential parents receive genetic information from PGD they must consider whether an embryo can be reasonably expected to live a good life in light of the relevant available socio-economic information. In this way, potential parents undergoing IVF have preconception obligations akin to prospective parents. Most importantly, their choice to implant an embryo therefore is morally indefensible at least where based on the PGD and the relevant available socio-economic information an embryo cannot be reasonably expected to live a good life.\textsuperscript{72}

And yet despite their extensive moral preconception moral obligations, RP still requires potential parents attempting to conceive using IVF to make a postconception procreative choice if additional genetic information will become available later during gestation. But it is worth reiterating: genetic information is not available if it cannot be obtained in a (reasonably) safe manner. So if following IVF there are higher risks of pregnancy complications, whether for the developing fetus or the prospective mother, then prospective parents attempting to conceive using IVF are not required to obtain and consider this information. Responsible Procreation’s GHL provision does not to place prospective mothers or potential children at risk unnecessarily. Responsible Procreation also recognizes that most of the physical risks associated with genetic testing will fall on women. And in many cases, women will also share the financial burdens of obtaining this information as well. Put simply: the moral obligations attending procreative choices are more burdensome on women than men. For this reason, in deciding whether to undergo a certain procedure to obtain genetic information, the potential or prospective mother’s subjective safety concerns deserve more than mere respect; they likely deserve extra consideration.

\textsuperscript{72} At present, I bracket another question: whether potential parents have any additional obligations in making their preconception choice to implant an embryo. Specifically, whether potential parents can choose to implant any embryo that can be reasonably expected to live a good life based on the relevant available information. This is discussed in the next chapter.
V. Concluding Remarks

This chapter began by defining the sufficient goal for procreative ethics—the good human life. To achieve this goal, Responsible Procreation proposes the GHL provision: potential and prospective parents make morally indefensible positive procreative choices when a possible or potential child cannot be reasonably expected to be capable of living a good life. The GHL provision therefore provides a sufficient condition for when positive procreative choices are morally indefensible. It also imposes moral obligations on potential and prospective parents to consider the relevant available socio-economic and genetic information. This of course means that they must acquire this information. As discussed above, one of the most onerous obligations is that prospective parents undergo genetic testing, if doing so would add to the relevant available genetic information. Yet just because a potential child can reasonably be expected to be capable of living a good life, prospective parents may nevertheless choose to terminate the pregnancy.

This likely frustrates some readers. But as we agreed at the outset of this chapter, it is morally undesirable that so many children are currently born incapable of living a good life. Responsible Procreation addresses this problem head-on. And given the GHL provision, if Responsible Procreation were widely adopted, far fewer children who are incapable of living a good life would be born. This should be the goal for any ethics of procreation. In the next chapter, I argue that Responsible Procreation is superior to other sufficientarian procreative ethics.
CHAPTER 3: RESPONSIBLE PROCREATION’S RATIONALITY REQUIREMENT

In chapter 1, I argued that traditional ethical principles grounded on the standard account of harm are inapplicable to at least preconception procreative choices (and on my view many postconception procreative choices). These traditional ethical principles fall victim to the nonidentity problem. For this reason, I argued that procreative ethics requires a non-person-affecting principle to govern procreative choices. I then discussed both Dan Brock’s Principle N and Bonnie Steinbock and Ron McClamrock’s Principle of Parental Responsibility. Although both make considerable strides toward providing a principle of procreative ethics, in the end each principle had a fatal flaw: They could not account for our moral intuitions that potential or prospective parents do something wrong when they make positive procreative choices knowing that very adverse consequences are likely—in the examples, moderate mental retardation—for counterfactual cases.

This chapter therefore begins by returning to the P1 and P2 cases and considers whether Responsible Procreation though the GHL provision can account for our moral intuitions for counter-

---

73 Principle N: “Individuals are morally required not to let any child or other dependent person for whose welfare they are responsible experience serious suffering or limited opportunity or serious loss of happiness or good, if they can act so that, without affecting the number of persons who will exist and without imposing substantial burdens or costs or loss of benefits on themselves or others, no child or other dependent person for whose welfare they are responsible will experience serious suffering or limited opportunity or serious loss of happiness or good.” Allen Buchanan, Dan W. Brock, Norman Daniels, and Daniel Wikler, *From Chance to Choice: Genetics & Justice*, Cambridge, Cambridge University Press, 2000, 249. As I discussed in chapter 1, since the authors state that Dan Brock is principally responsible for the content of chapter 6, where Principle N is discussed, I refer to this principle as Brock’s for simplicity.

74 The Principle of Parental Responsibility: “[P]rospective parents are morally obligated to consider the kinds of lives their offspring are likely to have, and to refrain from having children if their lives will be sufficiently awful.” Thus, “[t]he basic idea [behind the PPR] is that before embarking on so serious an enterprise as parenthood, people should think about the consequences for their offspring.” Accordingly, “individuals [are required] to refrain, when possible, from having children if they cannot give them a decent chance of a happy life.” An ethics of procreation therefore should not merely focus on lives that are so bad as to not be worth living; rather, it should focus on children who are born without a decent chance at a good life—those born without “the ability to develop or to do any of the things that humans do” or those born with the “deck stacked against them.” Bonnie Steinbock and Ron McClamrock, “When Is Birth Unfair to the Child?,” *Hastings Center Report* 24, no. 6, 1994, 17–20.
factual cases. Perhaps surprisingly, the answer is not only negative for the counterfactual cases but also for the standard P1 and P2 cases. Fortunately, the GHL provision need not be—nor is it—the sole expression of Responsible Procreation. This chapter introduces another sufficient condition for when potential and prospective parents’ positive procreative choices are morally indefensible: the Rationality Requirement. But before we get to the Rationality Requirement, let’s see why the GHL provision fails to account for our moral intuitions about P1 and P2 cases.

I. Applying the GHL provision and coming up short

Consider again these two cases:

P1: Alice visits her doctor and learns that if she conceives in the next month it is highly likely that her possible child will be born with moderate mental retardation. If however she takes a safe, cheap, and effective medicine for one month, then she eliminates this risk and will likely have a normal child. Because her vacation plans are prearranged and changing them is inconvenient (albeit not unreasonable or impossible), she does not take the medicine and becomes pregnant now. Her child, Brent, is born moderately mentally retarded.

P2: The same general scenario but Alice learns of the risk to her potential child after conception. But like the previous case, she can mitigate the risk by taking a safe, cheap, and effective medicine for one month during her pregnancy. She does not take the medicine. Her child, Brent, is born moderately mentally retarded.

So that Alice’s choice in each case as similar as possible, let’s stipulate the following: in P2 the fetus is highly likely to be born or become moderately mentally retarded unless Alice takes or gives the risk-mitigating medicine; Alice does not take the medicine in P2 because doing so inconveniences her in the same way that rescheduling her vacation plans in P1 does. In both cases, Alice

75 As the reader may recall, Dan Brock, from whose work the P1 and P2 cases are drawn, does not consider P2 to be a governed by his procreative principle, Principle N. But as I briefly discussed in chapter 1, I do consider P2 cases to fall within an ethics of procreation for this reason: Alice’s choice affect who comes into existence—either moderately mentally retarded Brent or normal Calvin. See, discussion in chapter 1, Section II, Part A.2. As I pointed out there, even if my account of identity is mistaken, nothing in what follows is substantively undermined. All that follows is that Responsible Procreation only applies to P1 cases.

76 These examples are based on those in Brock, From Chance to Choice, 244–245. As I noted in chapter 1, for simplicity I refer to these as Brock’s examples. To reduce the potential for confusion, I have modified the terms in these examples to make them consistent with my definitions in chapter 2.
does not take the medicine for the same reason—inconvenience. Yet Alice’s inconvenience does not abrogate our commonsense moral intuitions. For this reason, our considered moral judgment is that Alice’s conduct in both P1 and P2 wrong.\textsuperscript{77}

As discussed in chapter 1, both Principle N and the Principle of Parental Responsibility could account for the wrongfulness of Alice’s conduct in these standard cases. According to Principle N, Alice acts wrongly in P1 by failing to prevent a harmful condition (i.e., moderate mental retardation), which \textit{ex hypothesi} is preventable by substitution, from coming into existence. Under the Principle of Parental Responsibility, Alice acts wrongly because Brent comes into the world with the deck stacked against him. So what about under Responsible Procreation’s GHL provision?

As a reminder, the GHL provision states:

Positive procreative choices are morally indefensible at least where a possible or potential child cannot be reasonably expected to be capable of living a good human life based on the relevant available information.

Since the GHL provision applies only to positive procreative choices, step one is to determine whether Alice makes a positive procreative decision. In both P1 and P2 she does. Since P1 is preconception, so long as Alice’s pregnancy is not accidental (i.e., did not happen despite using contraception), she makes a positive procreative choice—either to attempt to conceive or to have unprotected sex thereby demonstrating indifference to the possibility of pregnancy. In any event, her choice falls within the GHL provision. The same is true in P2. In that case, so long as she does not have an overriding moral commitment against abortion, she makes a positive procreative choice in deciding to carry fetus-Brent to term. The GHL provision therefore also applies to her choice in P2.

The next step is to determine what the relevant available information is. Generally speaking, potential parents are only obligated to consider the available socio-economic information; whereas, prospective parents are obligated to consider the interaction between the available genetic and socio- 

\textsuperscript{77} \textit{Ibid}, 244.
economic information. But in P1 Alice knows that her possible child is highly likely to be born with moderate mental retardation. So since Alice has this information preconception, like potential parents using IVF, she must consider it in light of the available socio-economic information. Unfortunately, these examples do not offer us much insight as to Alice’s socio-economic conditions (other than the fact that she is planning a vacation and does not want to change it). Nor do we know what other possible genetic maladies Alice’s fetus in P2 might possess. So for simplicity, let’s stipulate that in both P1 and P2 Alice’s possible or potential child can be reasonably expected to live a good life based on the available genetic and socio-economic information.

But once this assumption is granted, the GHL provision is powerless to find that Alice’s conduct in the standard P1 and P2 cases is morally wrong—to say nothing of the counterfactual cases. P1 and P2 reveal the weakness in the GHL provision: it does not consider the procreative choices of potential and prospective parents morally indefensible unless a possible or potential child cannot reasonably be expected to be capable of living a good human life. But surely there are many cases in which we have strong moral intuitions that potential or prospective parents make morally indefensible choices, like in P1 and P2, which are unrelated to whether their possible or potential child can be reasonably expected to be capable of living a good life.

As an example, consider two additional scenarios.

---

78 As a potential parent, the GHL provision does not require Alice to obtain genetic information. But simply because she is not required to obtain this information, she cannot ignore it once she has it. In other words, anything that potential or prospective parents know could affect the likelihood of that their possible or potential children will be capable of living a good life is relevant information and thus must be considered under the GHL provision.

79 Among other things, this stipulation entails that being born moderately mentally retarded is not by itself sufficient to preclude someone from being capable of living a good life.

So while, given our assumptions, the GHL provision does not apply here, this does not mean that it could never apply. But in order for the GHL provision to apply, it must be the case that no possible child can be reasonably expected to be capable of living a good life. This could happen in two ways: first, if the reasonably expected genetic condition is so awful that, unlike moderate mental retardation, it would reasonably render any possible child incapable of living a good life, and second, if the reasonably expected genetic condition in light of the prevailing socio-economic conditions in which that possible child would reasonably grow up make it so that any possible child would reasonably be expected to be incapable of living a good life.
Cherry is 14-years old and pregnant. Cherry’s parents struggle to provide for themselves and her and cannot afford to care for an additional child. So if Cherry makes a positive procreative choice to carry the fetus to term, then she must either get a job or receive state assistance in order to defray the costs associated with developing her possible child’s essential human capabilities. But since Cherry has wanted a child for as long as she can remember, she is willing to find a job so that she can take care of her potential child, even if this means dropping out of high school. Based on the relevant available information, Cherry’s potential child is reasonably expected to be capable of living a good life.

Helen and Ian, who are both in their early thirties, really want to have children. But for medical reasons, they cannot conceive without using in vitro fertilization (IVF). After undergoing IVF, Helen and Ian can choose to implant one of two fertilized embryos: A and B. In accordance with the GHL provision, Helen and Ian have the embryos tested using preimplantation genetic diagnosis (PGD) to obtain the relevant available genetic information. The tests reveal that embryos A and B are similar in every way—including their reasonable expectation to be capable of living a good life—except one: Embryo B is genetically predisposed to develop asthma. Helen and Ian nevertheless choose to implant embryo B.

As in the P1 and P2 cases, because it is undisputed that Cherry’s potential child and Helen and Ian’s possible child are reasonably expected to be capable of living good lives, neither Cherry

80 In chapter 2, I articulated the essential human capabilities—the capabilities that are necessary for a good human life. But being born with these capabilities is not enough: they must be developed through, among other things, education in the broad sense. Someone must bear the costs of developing a newborn’s capabilities, including the capabilities to be adequately nourished and sheltered, to the degree necessary so that he or she is actually capable of living a good human life. And while not discussed further here, I consider it a truism that parents are principally and primarily responsible for the costs associated with developing their children’s capabilities.

This footnote, however, illuminates an important point: if Responsible Procreation goes well, then the children who subsequently come into existence are not, strictly speaking, born with the capability to live good lives—they are born with the potential to develop the capabilities necessary to live good lives.

81 This example is from Julian Savulescu “Procreative Beneficence: Why We Should Select the Best Children,” Bioethics 15, no. 5/6, 2001, 416-17.
nor Helen and Ian’s positive procreative choices are morally indefensible under the GHL provision. And yet in both cases (as well as in P1 and P2), my considered moral judgment is that these positive procreative choices are wrong.

II. Expanding Responsible Procreation beyond the GHL provision

In order for Responsible Procreation to provide an ethics for procreation preferable to either Principle N or the Principle of Parental Responsibility, it must not only be able to account for our moral intuitions concerning P1 and P2 cases but also the counterfactual P1 and P2 cases. In chapter 1, I argued that Steinbeck’s and McClamrock’s Principle of Parental Responsibility failed because it is essentially a (future)-person-affecting principle. The problem is that for counterfactual cases, where no setbacks actually occur and thus no one’s interests are frustrated (in the future), the potential or prospective parents’ positive procreative choices are not morally wrong. Similarly, although Brock’s Principle N is a non-person-affecting, same-number principle, it fails to account for the wrongfulness of Alice’s conduct in the counterfactual P2 case because of its direct focus on preventing some undesirable state of affairs (e.g., harmful conditions, disabilities, serious suffering, limited opportunities, or loss of happiness or good). But by focusing on preventing undesirable states of affairs, Principle N cannot account for our moral intuitions that Alice’s choices are wrong at the time she makes them—even if against the odds a normal instead of a moderately mentally retarded child is born.

In light of the failures of these principles, a principle of procreative ethics should not only be non-person-affecting but also focus on the potential and prospective parents’ procreative choices directly. Responsible Procreation fulfills both requirements. As discussed above, the first step in analyzing whether the GHL provision applies is determining whether a positive procreative choice has occurred (in after-the-fact cases) or will occur (for forward-looking cases). Far from relying on the
standard account of harm,⁸² the GHL provision focuses on whether a possible or potential child is reasonably expected to be capable of living a good life—so far, so good. But as just discussed, the GHL provision’s reach is more limited than either Principle N or the Principle of Parental Responsibility. For this reason, complying with the GHL provision cannot be the sole obligation that potential and prospective parents have under Responsible Procreation. The next part discusses an additional sufficient condition under which potential and prospective parents’ positive procreative choices are morally indefensible.

A. The Rationality Requirement

Procreative choices are subject to the same constraints as all other moral choices. That is, the morally relevant considerations must justify them. As the GHL provision points out, part of the morally relevant considerations for procreative choices is the availability of socio-economic and genetic information. But these are not the only morally relevant considerations. Whether procreative choices accord with commonsense rationality is also morally relevant. All moral choices—whether concerning procreation, the environment, or duties to other moral agents—are morally indefensible where they are rationally indefensible. Stated another way: procreative choices must be rational to the same extent as any other (moral) choice.

Responsible Procreation imposes a Rationality Requirement on positive procreative choices. As discussed below, conjoining the Rationality Requirement and the GHL provision permits Re-

---

⁸² In chapter 1, I defined the standard account of harm. I first pointed out that our moral intuitions of wrongdoing are often intertwined with our commonsense notions of harm—that “what is bad must be bad for someone.” Derik Parfit, *Reasons and Persons*, Oxford, Oxford University Press, 1987, 363. Following Joel Fienberg, I next distinguished ‘harm’ as a noun from ‘harm’ as a verb—the difference between a *harmful* and a *harmed condition*. A ‘harmful condition’ is “a state in which a person is handicapped or impaired, a condition that has adverse effects on his whole network of interests.” A ‘harmed condition’ is a harmful condition that follows from someone’s prior act (understood broadly to include extended sequences of activity and omissions) of harming. Determining whether A harmed B therefore required asking counterfactually: are B’s interests worse-off or at least not as well-off as they would be if A had not acted as she did? If yes, then A harmed B; if they are not, then A did not harm B. Joel Feinberg, “Wrongful Life and the Counterfactual Element in Harming,” *Social Philosophy and Policy* 4, no. 1, 1986, 148–150.
sponsible Procreation not only to account for the wrongfulness of Alice’s conduct in P1 and P2 case but also in the counterfactual P1 and P2 cases, the 14-year-old procreation case, as well as the embryo selection case.

Stated simply, the Rationality Requirement is:

A positive procreative choice is morally indefensible at least where it is rationally indefensible based on the relevant available information.

A choice is ‘rationally indefensible’ where it cannot be rationally defended—i.e., where it is not open to any principled disagreements. It follows therefore that procreative choices open to principled disagreements are outside the scope of the Rationality Requirement (RR). Like the GHL provision, the RR provides a sufficient condition for when positive procreative choices are morally indefensible. In other words, a positive procreative choice is morally indefensible unless it is capable of principled support in light of the relevant available information.

For purposes of the Rationality Requirement, the “relevant available information” is not limited to whether a possible or potential child can be reasonably expected to be capable of living a good life. Rather, it refers to any information that would be relevant to making a particular decision, including the general rules governing rational decision-making. For this reason, the RR applies to procreative choices that the GHL provision does not—in P1 and P2.

Responsible Procreation therefore requires:

Positive procreative choices are morally indefensible at least where, based on the relevant available information, a possible or potential child cannot reasonably be expected to be capable of living a good human life or they are rationally indefensible.

1. Applying the Rationality Requirement to P1 and P2

In P1 and P2, Alice knows that she will likely have a child with moderate mental retardation unless she takes a risk-mitigating medication (and waits a month to conceive in P1); on the other hand, if she takes the medicine, she will likely have a normal child. But since taking the medicine (and waiting to conceive) is inconvenient, she does not do it (or wait to conceive in P1), despite
knowing that it is safe, cheap, and effective. There is no principled defense for her choice and thus it is rationally indefensible. 83 This is true whether we consider her choice preconception (P1) or post-conception (P2). So while Alice’s choices in P1 and P2 are not morally indefensible under the GHL provision, they are nevertheless morally indefensible under the RR prong of Responsible Procreation.

But what if the risk-mitigating medication posed a significant risk to Alice’s health or was prohibitively expensive to purchase, would Alice be required to never attempt to conceive in P1 or terminate her pregnancy in P2? If the medication is unavailable in P1, a prima facie case could be made that any positive procreative choice she makes is morally indefensible. After all, the unavailability of risk-mitigating medication in P1 seems roughly analogous to the unavailability of contraception that Nick and Ophelia faced in Chapter 2. In Nick and Ophelia’s case, however, they could not reasonably expect that any possible child would be capable of living a good life based on the prevailing socio-economic conditions. Thus, unless they had some overriding moral commitment, the GHL provision required them to remain abstinent. 84

But it is not obvious that the risk-mitigating medicine’s unavailability should require Alice to forgo making any positive procreative choices in P1. After all, we assumed that possible-child-Brent in P1 could be reasonably expected to be capable of living a good life, even with moderate mental retardation. Remembering that one of the overriding goals for an ethics of procreation was to limit the number of children who were born incapable of living good lives, then Alice’s choice to bring possible-child-Brent into existence does not run afoul of this goal. So unless we are committed to

83 By saying that “no principled defense for her choice” exists, I mean that there is no objectively reasonable defense for her choice. Consequently, the RR is an objective rather than a subjective evaluation of Alice’s choice. This fits with our intuitions. Our intuition is that it is wrong for Alice to knowingly bring a child into existence with moderate mental retardation, no matter how subjectively inconvenient it is for Alice to reschedule her vacation.

84 See discussion in chapter 2, Section III, Part B.1.
the position that any positive procreative choice Alice makes in P1 is rationally indefensible—which I take to be a step too far—then her choice is capable of principled support. And if this is true in P1, it is *a fortiori* true in P2, where Alice’s alternative procreative choice is to terminate the pregnancy.

In other words, unlike the unavailability of contraception in the Nick and Ophelia example, the unavailability of risk-mitigating medicine in this case renders Alice incapable of making *any* choice at all. As a consequence, she has no moral obligation to make a rationally defensible choice. Thus, the RR does not apply unless potential and prospective parents can make a choice. And because the rational defensibility of Alice’s choices in P2 (and likely in P1) cannot be determined, principled arguments could be marshaled in support of Alice’s positive procreative choices; principled disagreement about whether her choice is rational is possible. And where principled disagreements exist, the RR does not apply. At the same time, just because a possible or potential child could be reasonably expected to be capable of living a good life, potential and prospective parents can still make morally indefensible positive procreative choices—when Alice fails to take the available risk-mitigating medicine in P1.

Therefore, unlike Principle N or the Principle of Parental Responsibility that do not focus directly on Alice’s procreative choices, Responsible Procreation is able to account for our intuition that her conduct is wrong even in the counterfactual P1 and P2 cases. In other words, Responsible Procreation can account for our moral intuitions that Alice’s conduct is wrong *at the time it occurs*—whether the child who is ultimately born is moderately mentally retarded or not. Under Responsible Procreation, the moral defensibility of potential and prospective parents’ positive procreative choices is evaluated in light of the relevant available information at the time when these choices are made. Thus, Alice’s choices in counterfactual P1 and P2 cases are wrong whether possible- or potential-child-Brent is born normal and even if future-Brent is thankful his life.
Put simply: Responsible Procreation obligates potential and prospective parents to make good, well-informed positive procreative choices. Once potential and prospective parents have considered the relevant available information and therefore are well-informed, they fail to make a good positive procreative choices unless their choices are both capable of rational support and a possible or potential child can reasonably be expected to be capable of living a good human life. Given RR’s ability to account for the wrongfulness of Alice’s conduct in the standard P1 and P2 as well as the counterfactual P1 and P2 cases, we have a strong reason to prefer Responsible Procreation to either Principle N or the Principle of Parental Responsibility.

2. Choosing between almost identical embryos following IVF and PGD

Under the GHL provision, Helen and Ian’s choice to implant embryo B, even with its predisposition to develop asthma, is not morally indefensible because embryo B can be reasonably expected to be capable of living a good life. But the same is not true under the Rationality Requirement. In Helen and Ian’s case, the “relevant available information” is that embryo B, unlike embryo A, has something that can be said against it—its predisposition to develop asthma. Given this information, Helen and Ian’s choice to implant embryo B cannot be rationally defended. So while the GHL provision does not capture the wrongness of Helen and Ian’s choice, the RR does.

This is important for two reasons. First, it means that Responsible Procreation is able to account of our moral intuitions that Helen and Ian’s choice is wrong. Second, and perhaps more importantly, Responsible Procreation’s ability to account for the wrongfulness of Helen and Ian’s choice to implant embryo B answers a criticism that some procreative ethicists, like Julian Savulescu, level against sufficientarian procreative principles. I shall say more on this in part B below.
3. When pregnant 14-year-olds want to have children

Is it always rationally indefensible for 14-year-olds to have children? The short answer is—no. Depending on where 14-year-old potential or prospective parents live, it may be rational for them to have children. And historically speaking, 14-year-olds often were expected to have children. But these facts alone do not mean that it is never rationally indefensible for 14-year-old potential and prospective parents to have children—even if their possible or potential children can be reasonably expected to be capable of living good lives. And as with any procreative choice, we can evaluate the rational defensibility of 14-year-old procreative choices both pre- and postconception.

In the Cherry hypothetical, she is already pregnant. Obviously she made a preconception positive procreative choice—to attempt to procreate, in her case. So before considering whether it is rationally defensible for Cherry to carry her fetus to term, let’s consider whether her choice to attempt to procreate was rationally defensible. Under the RR, the moral defensibility of potential parents’ positive procreative choices—no matter their age—turns on whether their choice was rationally defensible given the relevant available information. What information, therefore, is relevant to Cherry’s positive procreative choice?

In addition to socio-economic information, it also seems appropriate to consider what procreative advice should be given to 14-year-olds. My intuition is that absent extraordinary circumstances 14-year-olds should not have children. Raising a child always changes the parents’ lives. And even though this change is often for the better, this does not mean that potential parents should seek it out as soon as possible. Nor does it mean that having a child is always rationally defensible, even if the child can reasonably be expected to be capable of living a good life. Having a child introduces an additional layer of complexity into parents’ lives, and this is certainly true for 14-year-old parents. For this reason, I take the appropriate procreative advice for 14-year-olds to be that they should remain abstinent. But even if this is not so, it is surely the case that 14-year-olds should be
advised, other things being equal, to avoid pregnancy—meaning that at a minimum 14-year-olds should always use contraception. And if this is the proper procreative advice, then there is a strong prima facie case that it is rationally indefensible for 14-year-olds, like Cherry, to not only choose to attempt to conceive but also to have unprotected sex. At the same time, a principled argument might still be made that it is rational for 14-year-olds to engage in unprotected sex or to attempt to conceive in some special circumstances. Where these principled arguments are possible, 14-year-olds who make positive preconception procreative choices would not violate their moral obligations under the RR.

If it is rationally indefensible for the typical 14-year-old to make positive procreative choices preconception, it is difficult to see why the same irrationality should not attach to their positive postconception procreative choices. My intuition is that it is rationally indefensible for 14-year-olds to make any positive procreative choices—whether pre- or postconception. And yet, unlike my intuition that it is rationally indefensible for 14-year-olds to make positive procreative choices preconception, I doubt that my postconception intuition is as broadly accepted. The reason is simple: if Cherry’s postconception choice to carry the fetus to term is rationally indefensible, then the RR obligates Cherry to terminate her pregnancy—even though we stipulated that her potential child was reasonably expected to be capable of living a good life.

Until now, I intentionally avoided discussing abortion. Even setting aside the potential political and legal questions it raises, abortion is a toxic moral issue with well-established and entrenched positions on both sides. Discussing it—to say nothing of advocating in favor of its use—threatens to obscure the larger purpose of procreative ethics: limiting the number of children who are born incapable of living good lives. For this reason, it made sense to sidestep this issue when discussing the GHL provision. Prospective parents for whom abortion is not a live option are not obligated to terminate their pregnancies under the GHL provision. Nor are they obligated to do so under the RR. Responsible Procreation therefore can never override these prospective parents’ prior moral
commitments; they are exempt from its postconception moral obligations. On the other hand, for prospective parents who are not morally opposed to abortion, no principled argument against terminating a pregnancy is possible as long as they accept the GHL provision and their potential child cannot reasonably be expected to be capable of living a good life. Thus, discussing abortion in the context of the GHL provision made little sense.

But Cherry’s case is different. Unlike cases where the GHL provision applies, her child is reasonably expected to be capable of living a good life. And even though she has “wanted to have a child for as long as she can remember,” the psychological and physical burdens that follow from a moral obligation to remain abstinent or always use contraception are substantially different from those associated with undergoing an abortion.85 Given these differences, a plausible argument could be made that it is not rationally indefensible for Cherry to carry her fetus to term—even if abortion is a live procreative choice for her. Thus, despite my personal intuition, Responsible Procreation does not obligate Cherry (or any prospective parents whose potential child is reasonably expected to be capable of living a good life) to terminate her pregnancy unless the potential child cannot reasonably be expected to be capable of living a good life.

B. Is a sufficientarian principle appropriate for procreative ethics?

Julian Savulescu has argued that sufficientarian procreative principles, like Responsible Procreation, are “implausible.”86 In contrast to sufficientarian principles, Savulescu embraces a principle of procreative ethics that Matthew Liao describes as “perfectionist.” According to Liao, the perfectionist view is:

85 This is also doubtlessly true where the GHL provision applies. In general, there is no reason to deny that the psychological and physical burdens of complying with the moral obligations of Responsible Procreation are likely greater for prospective parents who are obligated to terminate their pregnancy. To the contrary, this offers a compelling reason for potential parents to make well-informed preconception procreative choices.

Given a choice between selecting a being that will have the best chance of having the best life and a different being that will not have the best chance of having the best life, it is morally obligatory to select the former.  

Savulescu first presented his procreative principle, the Principle of Procreative Beneficence (PB), in 2001. At that time, it stated:

Couples (or single reproducers) should select the child, of the possible children they could have, who is expected to have the best life, or at least as good a life as the others, based on the relevant, available information.

In a recent article co-written with Guy Kahane, Savulescu states PB as:

If couples (or single reproducers) have decided to have a child, and selection is possible, then they have a significant moral reason to select the child, of the possible children they could have, whose life can be expected, in light of the relevant available information, to go best or at least not worse than any of the others.

Although stated somewhat differently, I do not believe that Savulescu’s position has materially changed. For this reason, I move between the arguments offered in both the 2001 and 2009 articles in favor of PB. Notice, however, that if PB is an appropriate principle for procreative ethics, then potential and prospective parents have a positive moral obligation “to select” the best child, provided that “selection” is possible.

88 Julian Savulescu, “Procreative Beneficence: Why We Should Select the Best Children,” Bioethics 15, no. 5/6, 2001, 413.
89 Savulescu and Kahane, “The Moral Obligation ,” 274.
90 In fact, Savulescu’s 2009 reformulation seems inspired by confusion among his critics about what the 2001 formulation requires.
91 Although Savulescu uses the term “couples (or single reproducers),” for purposes of consistency, I use “potential and prospective parents” instead.
92 Savulescu uses “selection” (and its variants) very loosely. ‘Selecting’ clearly refers to choosing which embryo to implant following PGD. Savulescu, “Procreative Beneficence,” 416. But it also seems to apply to any time potential parents do not conceive: “In waiting to have a family, [couples] are selecting a child who will have a better life.” Savulescu and Kahane, “The Moral Obligation,” 276 (emphasis added). Potential parents who use contraception are therefore presumably “selecting” by not bringing any children into the world (at this time). Additionally, potential parents engage in ‘selection’ when they choose to conceive in this month rather than that month. Ibid. Finally, ‘selection’ is, in principle, applicable to abortion. Savulescu, “Procreative Beneficence,” 421. Savulescu also acknowledges that the psychological costs of using abortion as a means of selecting are considerably higher than discarding embryos following PGD. Ibid.
1. Savulescu’s argument against sufficientarian procreative principles

Even assuming that the concept of a “best child” is coherent, does it follow that potential and prospective parents have a moral obligation to aim at bringing this (and only this) child into existence? Savulescu clearly thinks so. For Savulescu, the argument in favor of PB has a lot to do with commonsense rationality and morality. For example, he begins from this intuition:

Most people will agree that there is a moral defect in parents who intend to conceive a child but are indifferent to whether their future child will be born with the potential for a *good life*.

From this moral intuition, Savulescu argues that if there are moral reasons for potential and prospective parents to be concerned with the well-being of their child, then there is also a *prima facie* obligation for them to *aim* at having children who are more advantaged rather than leaving the matter to chance. But Savulescu’s argument goes beyond the claim that potential and prospective parents have a moral obligation to aim for a child who has a good chance at a *good life*. Rather, his claim is that potential and prospective parents have a moral obligation to aim for the child with “who is expected to have the best life” or the child whose life is expected “to go best.”

For Savulescu, the ‘best life’ means the life with the most well-being. PB, however, is not indexed to any particular theory of well-being and therefore applies irrespective of an agent’s par-

---

I, however, find “selection” (and its variants) unnecessarily awkward. For this reason, I shall refer to “selection” as a choice by potential and prospective parents to *aim* for a given outcome.

---


94 *Ibid.* At the same time, he acknowledges that our moral intuitions concerning aiming for advantage may be weaker than our intuitions concerning preventing serious disadvantage. But this does not mean that a moral obligation to aim for the most advantaged child is precluded. *Ibid*, 277.

95 *Ibid*, 413.


97 Savulescu, “Procreative Beneficence,” 419.
ticular theory of well-being. This means that, like Responsible Procreation, PB imposes only *prima facie* moral obligations on potential and prospective parents, and Savulescu admits as much.\(^{98}\) And while not indexed to a particular theory of well-being, Savulescu contends that PB can nevertheless be used to evaluate all potential and prospective parents’ procreative choices. As Savulescu puts it, PB concerns the content of our reasons for making procreative choices and not the ground for them.\(^{99}\) So if he is correct, then potential and prospective parents have a *prima facie* moral reason to aim at having the child, of the possible children they could have, who is likely to have the best life.

Savulescu’s principle argument in favor of PB is logical consistency. Roughly stated: if potential and prospective parents have moral reasons to choose the good over the worse, they have moral reasons to prefer the better to the good.\(^{100}\) To see how his argument works, let’s reconsider the Helen and Ian example, which Savulescu posed, from above. In this case, two embryos, A and B, are identical in all respects except one, and where the embryos are different, A is superior to B. Setting aside whether procreative choices are (or could be) ever this simplistic, Savulescu suggests that on pain of irrationality prospective parents have a compelling reason to choose embryo A. When we considered this example in the previous section, I stipulated that both A and B were reasonably expected to be capable of living a good life—the worst-case scenario for sufficientarian procreative principles like Responsible Procreation. According to Savulescu, since both embryos are reasonably expected to be capable of living good lives, the moral inquiry for sufficientarian principles ends. But if this is true, then the fact that A is may live a better life than B provides “no moral reason to choose A rather than B, even when there’s no reason not to choose A. This is implausible.”\(^{101}\)


\(^{100}\) Savulescu and Kahane, “The Moral Obligation,” 280.

\(^{101}\) *Ibid*. I have slightly modified Savulescu’s example.
I agree with Savulescu that the potential parents in this example should implant embryo A. And given what they know, if they choose to implant embryo B, then their choice is morally indefensible. I also agree that the GHL provision does not provide them with a moral reason to implant embryo A. But this should not be unexpected. First, the express purpose of the GHL provision is to provide a sufficient condition for when the procreative choices of potential and prospective parents are morally indefensible. Second, the GHL provision is not the sole moral obligation under Responsible Procreation—potential and prospective parents also have moral obligations based on the Rationality Requirement. In fact, it was on the basis of the RR that we concluded that Helen and Ian’s choice to implant embryo B was wrong. So while Savulescu’s criticism of sufficientarian principles may not be unwarranted, it is nevertheless inapplicable to Responsible Procreation.

2. Sufficientarian procreative principles are superior to perfectionist principles

An appropriate principle governing procreation should acknowledge the inherent difficulties in procreative decision-making that hypotheticals in essays on procreative ethics tend to overlook. As a sufficientarian procreative principle, Responsible Procreation does not place a positive moral obligation on potential and prospective parents; instead, it provides sufficient conditions for when their positive procreative choices will be morally indefensible. Responsible Procreation therefore allows at least most potential and prospective parents to exercise their procreative autonomy to a greater extent than a perfectionist principle, like PB, which requires them to aim at bringing about the “best” child (of the possible children they could have). As a consequence, Responsible Procreation is responsive to the different values that potential and prospective parents have about what makes a life go well.

Although I am also not convinced that the concept of a “best child,” as Savulescu uses the term, is coherent, I am more troubled by the fact that Savulescu never attempts to clarify what he means by the phrase “of the possible children [that the potential and prospective parents] could
have.” What does this mean? For instance, does this require potential and prospective parents to aim for the best child simpliciter that they could produce over the course of their lifetime or once they have decided to conceive? Suppose that a couple undergo IVF but following PGD they learn that all of the embryos are less than the best—something that they know because they have analyzed their own genetic codes and determined what the most advantageous possible configuration for their offspring would be. Following PB in this case means that the potential parents have a strong moral reason to discard all of the embryos and try again—even if several of the embryos are, so to speak, second-best. Can this be right? What if instead of using IVF, potential parents conceive using coital reproduction? And here again the best possible child’s genetic make-up is known, but the potential child developing within the prospective mother is not this child? Under PB, these prospective parents have a strong moral reason to abort the fetus in this case—even if this potential child were the second-best possible child of all of the possible children these prospective parents could have. Again, can this be right? I doubt it.

PB however can do something that Responsible Procreation cannot do: account for my personal moral intuition that it is wrong for 14-year-old Cherry to carry her potential child to term (provided, of course, that she could have a child later in life whose well-being would be greater than the child she has at 14). But at the same time, PB would not necessary give Nick and Ophelia a strong moral reason to not bring a child into existence—even when the socio-economic circumstances are so awful that no possible child can be reasonably expected to be capable of living a good human life—provided that this is the best possible child that they could have. I find this not only unbelievable but also a good reason to reject PB, notwithstanding its potential to account for my moral intuition that it is wrong for Cherry to carry her child to term.

At bottom, the logic supporting PB is this: if some is good, more is better. Clearly in many areas of our moral lives this is not necessarily true. And while I admit that this reasoning carries
strong intuitive appeal in the area of procreation (especially if we supplemented PB with a require-
ment that the possible child had to at least be capable of living a good human life), I believe that the
crux of PB’s intuitive force derives from using unrealistic and overly simplistic examples. The truth
is that procreative choices are made under considerable uncertainty. Sufficientarian principles, like
Responsible Procreation, which establish an objective goal for procreative decision-making, are
therefore preferable to perfectionist principles, like PB.

III. Conclusion

In this chapter, I argued that it is not enough for potential and prospective parents to make
their positive procreative choices with an eye toward securing good human lives for their possible or
potential children. They must also make choices that are rationally defensible. Taken together, these
requirements become jointly necessary conditions for morally defensible positive procreative choic-
es. And while it may be advantageous to define when procreative choices are morally defensible, this
project has focused instead on defining a moral principle that reduces the number of children who
are born incapable of living a good life. For this reason, Responsible Procreation does not provide
necessary and sufficient conditions for morally defensible procreative choices. Rather, Responsible
Procreation offers two sufficient conditions for when positive procreative choices are morally inde-
defensible: the GHL provision and Rationality Requirement. Given the stakes involved in procreative
decision-making, these do not seem too high of a hurdle to require potential and prospective parents
to surmount.
As with most projects, my work on an ethics of procreation is not as much finished as it is ended. For this reason, I want to point to a few unresolved questions or concerns.

First, Responsible Procreation concerns only positive procreative choices. As a consequence, it imposes no moral obligations on negative procreative choices or how they should be made. Since these choices are like other moral choices, they must be rationally defensible. But beyond this, my discussions here shed little, if any, light on how these should be made. And yet surely much could be said. For example, is there a difference between a preconception negative procreative choice to remain abstinent as opposed to always using contraception? Not for purposes of Responsible Procreation. But as my discussion about the appropriate procreative advice to give to 14-year-olds suggests, some potential parents may have moral obligations to remain abstinent. If this is so, then more needs to be said about when this obligation obtains. Some other open questions about negative procreative choices include: 1) what should be done with fertilized embryos that were not implanted following IVF and 2) at what point, if any, should a fetus be treated as (or considered) human? Certainly a fair amount of literature already addresses these last two questions; however, answers to these questions must still be harmonized with my account concerning when it is morally indefensible for potential and prospective parents to make positive procreative choices.

Second, if all goes well, then positive procreative choices should lead to the birth of a child who is capable of living a good life. But in order for this to happen, his or her basic human capabilities must be developed—no one is born with the actual ability to live a good life. Capabilities development however can be costly, and there is good reason to think that a child’s parents are principally responsible for paying for it. Yet in the event that they are incapable of meeting all of the costs asso-
associated with developing their child’s capabilities, this obligation will likely fall upon the state—other members of society. If this is the case, should potential and prospective parents consider the degree to which the costs of developing their child’s capabilities will fall on the other members of society when they make their positive procreative choices? And at the same time, should the state do anything to protect other members of society from having to shoulder the costs of children that parents cannot afford? In other words, more attention is needed on the role of procreation in theories of justice.

Third, Responsible Procreation requires potential and prospective parents to make their procreative choices in light of the relevant available information. Of course, the availability of genetic information depends on the affordability and reliability of safe genetic testing. To this end, what, if anything, should be done to improve the quality and decrease the costliness of genetic testing? Is this an area where the state should take a more active role, especially if it ultimately bears the burdens of paying for many children’s capabilities development? Should the state require health insurers to cover genetic tests? Should it increase its funding of genetic research? Should, and perhaps more importantly, could it require prospective parents to consider the available genetic information? Here again, procreative issues interact with political theory.

Fourth, assuming that it is not rationally indefensible to create a potential child with a disability, then Responsible Procreation cannot account for our moral intuitions that there is something amiss with potential parents who intentionally try to bring children with certain setback (e.g., deafness) into existence. Doubtlessly, many would consider this a significant drawback to Responsible Procreation. I share the intuition that there is something morally suspect about potential parents who intentionally try to conceive a deaf child or a child with one arm.

But I am not sure that capturing what is wrong with these choices should fall within an ethics of procreation. Responsible Procreation is a limited moral principle that applies only to procrea-
tive choices—choices about who will exist. Of course, at first blush choosing to intentionally create a disabled child appears to be a choice about who will exist. And perhaps it is. (It could also be a choice about how someone exists.) The problem is that children who are born deaf or with only one arm can still live good lives as long as they live under socio-economic conditions that will allow them to develop their essential human capabilities. This means that the GHL provision will be satisfied for at least some intentionally disabled children. And since we assumed that it is not rationally indefensible for parents to make such a choice, then the RR is not implicated. In other words, intentionally creating a disabled child is not per se violation of Responsible Procreation.

Of course, Responsible Procreation is not offered as an all-encompassing moral theory. In fact, given the remaining unanswered questions, it clearly does not even encompass all of the moral questions that relate to procreation. Just how broad an ethics of procreation should be is an open question. And perhaps Responsible Procreation needs additional sufficient conditions for when it is morally indefensible for potential and prospective parents to make positive procreative choices. On the other hand, perhaps what is needed is a robust account of Parental Responsibility. After all, I began chapter 2 by noting that Responsible Procreation was a subspecies of Parental Responsibility, which I take to be a part of a general moral theory. I would account for the wrongfulness of intentionally creating a disabled child within an ethics of parenting by focusing on the motivations of the potential parents. Or one could argue that there is not objectively reasonable argument in favor of creating an intentionally disabled child. I however do not believe that such an argument will succeed.

Whatever the right approach turns out to be, this and the other questions need answers—even if the answer is that question is invalid. I however leave the answers to these questions to others or another day.
BIBLIOGRAPHY


