

DO PROSPECTIVE PARENTS HAVE A DUTY TO ADOPT RATHER THAN PROCREATE?

Erik Magnusson

Is it wrong to bring new children into existence when there are so many existing children in need of parental care? Several philosophers have defended the view that prospective parents have a *pro tanto* duty to adopt rather than procreate as a means of fulfilling their interest in parenting. The most prominent argument for this view in the existing literature is the *rescue-based argument*, which derives an individual duty to adopt rather than procreate from a more general duty to rescue or assist those in need. In this paper, I critically examine the rescue-based argument and explain why it fails. First, I argue that we do not necessarily have a duty to rescue in cases that resemble the global orphan crisis, where one's intervention is merely sufficient to prevent serious harm to a potential victim. Second, I argue that even if we had such a duty, it would not necessarily generate a duty to adopt rather than procreate given the significant financial, emotional, and agency-related costs of adoption, particularly in current, non-ideal conditions. The upshot of these arguments is that the rescue-based argument can only generate a duty to adopt rather than procreate with respect to a relatively small constituency of orphaned children, who are likely to be adopted anyway by willing volunteers. In the vast majority of cases, then, the rescue-based argument does not entail that it is wrong to create new children when there are already existing children in need of parental care.

Keywords: Duty to adopt, rescue-based argument, demandingness, orphan crisis, ethics of procreation.

INTRODUCTION

While a precise number is notoriously difficult to calculate, it is estimated that there are currently over 16 million orphans worldwide, where an orphan is defined as a child who has lost or been relinquished by both of her custodial parents.¹ Of this 16 million, between 2 and 8 million are in the care of institutions, while the remainder float precariously between alternative childrearing arrangements, including group homes, foster homes, and temporary care arrangements with relatives or members of their communities. Notably excluded from these estimates are potentially millions more children for whom there is no reliable documentation, including those in unregistered institutions, those living on the street, and those who are at risk of becoming parentless in the near future due to famine, disease, or political violence. Once we factor these children into our estimate, the total number of children currently or soon to be in need of parental care is potentially in the tens of millions.²

According to Tina Rulli, these numbers are indicative of a *global orphan crisis*.³ This crisis is characterized not only by its great magnitude, in the sense that there are millions of children currently in

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need of parental care, but also by its great severity, in the sense that the cost to children of going without parental care is often devastating.⁴ Children who are living on the street or in institutions often lack access to basic nutrition and medical care, and they normally face a far higher risk of neglect, abuse, and exploitation than children who are living with families. Even children who are raised in seemingly preferable arrangements, such as group homes or foster homes, often suffer a wide range of developmental problems due to a lack of continuous care and attention, including attachment disorders, impaired intelligence, and long-term problems with executive function and social interaction.⁵ Not surprisingly, the future life prospects for many orphaned children are accordingly grim, with many succumbing to a range of deficits by the time they reach adulthood, including poverty, homelessness, and unemployment.

Prospective parents could help to avert this fate by adopting orphans into their families and providing them with long-term parental care, yet most choose to bring new children into existence instead. Is this morally justifiable? Several philosophers have recently considered the claim that it is wrong to create new children when there are so many existing children in need of parental care.⁶ According to this view, we have a significant moral reason to meet the needs of existing children before creating additional needs to be met, and this reason is not easily defeated by competing considerations, including individual preferences for biological children or the substantial costs that are often associated with adopting a child. If sound, this type of argument has significant implications for the morality of procreation, suggesting that as long as there are existing children in need of parental care, it is often morally wrong to bring additional children into existence.

In this paper, I critically examine the most prominent version of this argument in the existing literature, namely, the *rescue-based argument*, which derives an individual duty to adopt from a more general duty to rescue or assist those in need. Despite its initial plausibility and noble intentions, I argue that it rests on two questionable premises, namely, (1) that we are morally obligated to prevent serious harm to others so long as we can do so at comparatively little cost to ourselves, and (2) that prospective parents are able to prevent serious harm to orphaned children at comparatively little cost to themselves by adopting them into their families and providing them with long-term parental care. The first premise is not necessarily

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true in cases that resemble the orphan crisis, where one's intervention is merely sufficient to prevent serious harm to a victim, whereas the second premise is often false given the significant financial, emotional, and agency-related costs of adoption, particularly in current, non-ideal conditions. The upshot of these limitations is that the rescue-based argument can only generate a duty to adopt with respect to a relatively small constituency of orphaned children, who are likely to be adopted anyway by willing volunteers. In the vast majority of cases, then, the rescue-based argument does not entail that it is wrong to create new children when there are already existing children in need of parental care.

1. THE RESCUE-BASED ARGUMENT FOR THE DUTY TO ADOPT

In the existing literature surrounding the ethics of adoption, the duty to adopt has typically been derived from a more general duty to rescue or assist those in need, as famously illustrated in cases like *Shallow Pond*:

Shallow Pond: The path from the library at your university to the humanities lecture hall passes a shallow ornamental pond. On your way to give a lecture, you notice that a small child has fallen in and is in danger of drowning. If you wade in and pull the child out, it will mean getting your clothes muddy and either cancelling your lecture or delaying it until you can find something clean and dry to wear. If you pass by the child, then, while you'll give your lecture on time, the child will die straightaway. You pass by and, as expected, the child dies.⁷

It is clearly wrong for you to proceed to a lecture while a child helplessly drowns in a nearby pond, and the reasoning for this is straightforward: there is a child in danger of losing their life, and this loss can be easily prevented at comparatively little cost to yourself. Peter Singer translates this type of reasoning into a generalized moral principle, which I will paraphrase here as the *duty to rescue*:

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Duty to Rescue: If we can prevent serious harm to others at comparatively little cost to ourselves, we have a moral duty to do so.⁸

Daniel Friedrich and Tina Rulli have independently argued that accepting a duty to rescue in cases like *Shallow Pond* commits us to a strong *pro tanto* duty to adopt, as the features that generate a duty to rescue in *Shallow Pond* are also present in the case of the orphan crisis.⁹ First, like the child in the pond, orphaned children are also at risk of losing what Rulli calls “critical life goods,” or goods that are “necessary for a person to avoid being in a state of critical, absolute harm.”¹⁰ Not every orphan faces an imminent risk of death, though many face a risk of significant physical and psychological harm as a result of lacking continuous and long-term parental care. Common physical harms include malnutrition, poor health, and greater susceptibility to neglect, abuse, and exploitation, while common psychological harms include impaired cognitive and emotional development due to a lack of continuous care and attention.¹¹ Given its detrimental effects on a child’s present well-being and future life prospects, Rulli argues that a childhood bereft of adequate parental care is plausibly characterized as “a severe life disadvantage and impairment.”¹²

Second, the orphan crisis also features numerous potential rescuers—prospective parents—who are able to prevent this harm at comparatively little cost to themselves by adopting orphans into their families and providing them with long-term parental care. This is not to suggest that adopting children is costless, for as proponents of the rescue-based argument fully acknowledge, adoption often involves a range of financial, emotional, and agency-related costs that place considerable burdens on adoptive parents, particularly in current, non-ideal conditions. However, the important point for the analogy is that the orphan crisis exhibits similar *cost comparisons* as standard rescue cases. Whether or not we think it is too costly in absolute terms, the cost to a prospective parent of rescuing an orphan via adoption is far less than the cost to the orphan of *not* being rescued, much like the cost to a passerby of pulling a child out of a pond is far less than the cost to the child of *not* being pulled out. Given these similarities, both Rulli and Friedrich conclude that insofar as we acknowledge a duty to rescue in cases like *Shallow Pond*, we should also acknowledge a duty to adopt in the structurally similar case of the global orphan crisis.

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There are at least two important features of the rescue-based argument that are worth taking note of. First, both Rulli and Friedrich interpret the duty to adopt as a *pro tanto* duty that may be overridden in light of competing moral considerations. One important implication of this interpretation is that the duty itself applies only to *prospective parents*, or those who already have an interest in parenting a child. If applied to prospective *non-parents*, or those who do not have an interest in parenting a child, the duty to adopt would not only involve incurring whatever costs are associated with becoming a parent via adoption rather than procreation, but also whatever costs are associated with becoming a parent rather than remaining childless, including the opportunity costs associated with forgoing other valuable projects and aims. Both Rulli and Friedrich believe that the latter costs are too demanding to be morally required, and hence that the rescue-based argument only generates a duty to adopt among prospective parents. The proposed duty is thus more accurately described as *the duty to adopt rather than procreate as a means of fulfilling one's interest in parenting*, though for the sake of brevity, I will continue to refer to this duty as *the duty to adopt* in the remainder of the paper.

Second, both Rulli and Friedrich also assume that preventing the relevant form of harm to orphaned children can only be achieved by adopting them into families and providing them with long-term parental care. Measures that fall short of this ideal, including the provision of high-quality foster or institutional care, are regarded as insufficient. This assumption is significant because it limits the extent to which the costs associated with harm prevention can be divided and distributed across multiple prospective duty-bearers. In some rescue cases, it is possible to divide the costs of assistance into fair shares that can be distributed across multiple prospective duty-bearers, such as cases of poverty relief in which the relevant form of assistance required is financial.¹³ For Rulli and Friedrich, however, the orphan crisis is not one of these cases. While parenting a child does involve financial costs that can be divided to a certain extent among society's members, the "parental resource," as Rulli calls it, also involves a bundle of goods that are indivisible, such as "long-term commitment, time, effort, and emotional care."¹⁴ As a non-liquid resource, it cannot necessarily be purchased or easily divided among society's members, implying that the costs associated with its provision must primarily be borne by individuals.

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With these clarifications in mind, is the rescue-based argument sound? Consider its structure:

- (1) If we can prevent serious harm to others at comparatively little cost to ourselves, we have a moral duty to do so;
- (2) Orphaned children are at risk of serious harm as a result of lacking access to long-term parental care;
- (3) Prospective parents can prevent this harm at comparatively little cost to themselves by adopting rather than procreating as a means of fulfilling their interest in parenting; therefore,
- (4) Prospective parents have a moral duty to adopt rather than procreate as a means of fulfilling their interest in parenting.

I assume this argument is formally valid, and that premise (2) is uncontroversially true based on the available empirical evidence; thus, the soundness of this argument will ultimately turn on the truth of premises (1) and (3). In what follows, I present objections to both of these premises, which, taken together, place considerable limits on the cases in which prospective parents are under a moral duty to adopt rather than procreate.

2. UNDER WHAT CONDITIONS DO WE HAVE A DUTY TO RESCUE?

If we acknowledge a duty to rescue the child from the pond, then we acknowledge a duty to make *some* personal sacrifice in order to prevent serious harm to others, and hence some version of premise (1) must be true. However, the general plausibility of this premise, as well as its ability to generate a duty to adopt, will depend crucially on the upper limit of the costs we are required to incur in order to prevent serious harm to others, or what is meant by the phrase “at comparatively little cost to ourselves.” It is useful, then, to distinguish between *strong*, *weak*, and *moderate* interpretations:

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Strong: we are morally required to prevent serious harm to others as long as we can do so at a cost that is lower than the harm that is to be prevented by our intervention.

Weak: we are morally required to prevent serious harm to others as long as we can do so at minimal cost to ourselves.

Moderate: we are morally required to prevent serious harm to others as long as we can do so without incurring major costs to ourselves.

Each of these interpretations will require us to rescue the child from the pond, though each will have dramatically different implications for other cases in which we can prevent serious harm to others, including the global orphan crisis. Which, then, should proponents of the rescue-based argument endorse? This will depend on both the general plausibility of the principle reflected in each interpretation, as well as its implications in the context of the rescue-based argument.

A *strong* interpretation of premise (1) requires that we prevent serious harm to others as long as we can do so at a cost that is lower than the harm that is to be prevented by our intervention. This is the interpretation favoured by Singer, for example, who argues that we are morally obligated to assist the needy “until we reach the point of marginal utility—that is, the level at which, by giving more, I would cause more suffering to myself or my dependents than I would relieve by my gift.”¹⁵ Not surprisingly, many have objected to the *demandingness* of this requirement, arguing that it is inconsistent with living an autonomous life characterized by valuable projects or relationships.¹⁶ For example, most people would not consider it morally impermissible to play recreational soccer or to save for your children’s education, though both may run afoul of a strong interpretation of the duty to rescue if one’s time and resources could have been used to provide critical benefits to those in need. To the extent that we take this implication to be implausible, we may be led to reject a strong interpretation of premise (1).

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Proponents of a strong interpretation are unlikely to be moved by this objection—Singer’s point, after all, is that morality is more demanding than we think and hence that we often, perhaps usually, fail to live up to its demands. However, in addition to the general problem of demandingness, a strong interpretation of premise (1) also faces a number of more specific problems in the context of the rescue-based argument that should lead proponents to reject it as a tenable interpretation. First, notice that a strong interpretation of premise (1) is inconsistent with restricting the duty to adopt to prospective parents insofar as the cost to a non-parent of becoming a parent is lower than the cost to a child of going without parental care. In this sense, a strong interpretation of premise (1) may end up supporting a moral obligation to *become* a parent, which proponents of the rescue-based argument generally regard as implausible. Second, once there are no more children left to adopt, a strong interpretation of premise (1) may also lead to a limited and conditional form of anti-natalism, for if we are morally obligated to prevent serious harm to others to the point of marginal utility, then it is difficult to see how one could justify investing the significant amount of time and resources required to create and raise new human beings when there are so many existing human beings who could benefit from one’s assistance.¹⁷ Morally permissible procreation would then be limited to whatever level is necessary to prevent serious harm to presently existing people, who depend in various ways on future generations living on after them.¹⁸

A *weak* interpretation of premise (1) avoids these problems by setting a lower upper limit for the costs we are required to incur to prevent serious harm to others, though in so doing, invites its own set of problems. As a general principle, a weak interpretation of premise (1) is vulnerable to the problem of *egoism* by attributing too much weight to an agent’s own self-interest and too little weight to the interests of others. Imagine, for example, that the costs associated with rescuing the child in *Shallow Pond* exceed what we might intuitively regard as a minimal cost threshold: in addition to getting your clothes muddy and missing your lecture, you will also miss out on your \$10,000 speaking fee. A weak interpretation of premise (1) may not recognize a duty to rescue the child in this case, but this is implausible. The child’s interest in being rescued is clearly weightier from a moral point of view than your interest in collecting the speaking fee, and any principle that fails to register this weighting ought to be rejected. Notice, moreover, that a weak

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interpretation of premise (1) is generally unavailable to proponents of the rescue-based argument, for the process of adopting a child is likely to impose a variety of risks, costs, and burdens that exceed a minimal cost threshold, in which case premises (3) and (4) of the rescue-based argument would not follow. In this sense, a weak interpretation of premise (1) will simply not generate a duty to adopt.

We seem to be left, then, with a *moderate* interpretation of premise (1), according to which we are morally required to prevent serious harm to others so long as we can do so without incurring major costs to ourselves. At first glance, a moderate interpretation seems capable of striking an intuitive balance between the excessive demandingness of the strong interpretation and the excessive egoism of the weak interpretation, affirming a duty to rescue in a significant range of cases without requiring us to prevent serious harm to the point of marginal utility. Moreover, within the context of the rescue-based argument, it also seems demanding enough to generate a duty to adopt given the non-negligible costs of adoption, but not so demanding that it commits proponents to claims they might otherwise reject, such as a moral obligation to become a parent or a limited and conditional form of anti-natalism.

Of course, whether the moderate interpretation can actually deliver on these advantages will depend on how we understand the notion of a “major cost.” While it is relatively straightforward (though perhaps not totally uncontroversial) to assess whether a cost is minimal, or comparatively lower than the harm that is to be prevented as a result of its incursion, the notion of a major cost seems considerably less precise. How, then, should this concept be understood? I propose that we understand the concept of a major cost as one whose incursion would significantly impact one’s ability to pursue important life projects or other significant aspects of their conception of the good. This understanding is non-arbitrary, as it follows directly from the demandingness objection raised against the strong interpretation of premise (1). If a strong interpretation is implausible because consistently acting upon it would make it impossible to live an autonomous life characterized by valuable projects and relationships, then the ability to live such a life must factor into the moderate interpretation’s understanding of what constitutes an excessive cost. Of course, there may still be uncertainty about whether the costs in a particular instance are in fact major, and hence not morally required in the service of preventing serious harm to others, though the test for determining this

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is at least clear: we must assess whether incurring those particular costs would prevent one from pursuing an important life project or some other important aspect of one's conception of the good.

A moderate interpretation is therefore the most plausible interpretation of premise (1), and is seemingly the only interpretation available to proponents of the rescue-based argument. But is it true as a general principle? It certainly seems to be true in the cases that are typically appealed to in order to generate a duty to rescue in the first place, such as *Shallow Pond*. In these types of cases, one's intervention is both *necessary* and *sufficient* to save the victim. However, there are other cases in which one's intervention is merely sufficient to save the victim due to the presence of other potential rescuers, and in these cases the general truth of premise (1) is much less apparent. We can distinguish between two types of cases that have this structure:

- (a) The first type includes cases in which there are multiple potential rescuers present who are *identically situated* with respect to the victim, e.g., a version of *Shallow Pond* in which there are multiple strangers present, each of whom as an equal capacity to rescue the child.
- (b) The second type includes cases in which there are multiple potential rescuers present who are *non-identically situated* with respect to the victim due to differences in their personal or relational properties, e.g., a version of *Shallow Pond* in which, of the multiple persons present, each has a different set of capacities and/or connections to the child that may be relevant to the distribution of responsibilities (e.g., one person pushed the child into the pond, one person is a close family member, one person is a professional lifeguard, and so on).

In neither of these cases does the mere capacity to prevent harm at less than major cost *necessarily* generate a moral duty to do so. In cases that resemble (a), the duty to prevent harm is arguably held by the collective and the costs of discharging that duty ought to be distributed fairly between the individuals that compose

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it, either by dividing the costs according to some fair distributive principle, or, if this is not possible due to the nature of the costs involved, by utilizing a fair procedure to determine who must totally incur them. In cases that resemble (b), considerations other than mere capacity may be equally or more relevant for determining who is obligated to render assistance to a victim, such as being morally responsible for the victim's predicament, being in an existing special or associative relationship with the victim, or being in possession of special capacities that enable one to render assistance more effectively or at a comparatively lower cost.¹⁹ Of course, in both types of case, one may end up with a secondary obligation to come to a victim's assistance in the event of non-compliance by the primary duty-bearer(s) (if we accept there are duties to "take up the slack" left by others' non-compliance)²⁰, though notice that this would ground a legitimate complaint about having to incur the costs of assistance and would arguably generate duties of compensation in those who have failed to discharge their duties. These important features of the moral situation are not accounted for by the moderate interpretation of premise (1).

If these remarks are correct, they show that even a moderate interpretation of premise (1) is not generally true: the mere capacity to prevent harm at less than major cost does not necessarily generate a moral duty to do so in cases where one's intervention is merely sufficient to prevent serious harm. This is problematic for the rescue-based argument, as the orphan crisis is clearly a case in which one's intervention is merely sufficient to prevent serious harm. Positing a version of premise (1) that *is* generally true would require specifying the conditions under which the mere capacity to prevent serious harm generates a moral duty to do so, though within the context of the rescue-based argument, this would at best generate a *conditional* duty to adopt, and hence would not support the view that procreation is presumptively impermissible when there are existing children in need of parental care.

3. CAN A MODERATE DUTY TO RESCUE GENERATE A DUTY TO ADOPT?

Even if we accept that the mere capacity to prevent serious harm at less than major cost generates a moral duty to do so—either in general or in cases that meet an additional set of conditions—we still might reject the idea that this principle applies to the orphan crisis on the grounds that adopting a child typically

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involves a variety of costs, risks, and burdens that exceed a major cost threshold. There are in fact two different versions of this objection to premise (3), both of which can be understood as case-specific versions of the demandingness objection: one that focuses on the costs associated with forgoing biological parenthood, which apply to all cases of adopting rather than procreating as a means of satisfying one's interest in parenting, and one that focuses on the significant financial, emotional, and agency-related costs of adoption, many of which apply only contingently given existing social arrangements.

3.1 *The Cost of Forgoing Biological Parenthood*

To set the stage for the first objection, consider Rulli's *Safe Haven* case:

Safe Haven: Imagine that you have just decided to become a parent. You learn that the local fire station, a safe haven, has received a newborn baby in need of a family. You are aware of the research showing that early infant adoptions pose little risk regarding the infant's psychological health and potential for emotional attachment. The urgent need for placement and the lack of administrative costs allow for the baby's adoption with few additional hurdles or financial burdens. You can adopt this child, who will otherwise face a life of uncertainty in various institutions or foster homes. Or you can decline and bring a new child into the world instead.²¹

If the rescue-based argument is sound, then you have a significant moral reason to adopt the baby from the fire station instead of bringing a new child into existence, for in so doing, you will be satisfying your own desire to become a parent *as well as* the baby's need to be parented. Moreover, the socially contingent costs that might have dissuaded you in other circumstances are not present: there are no costly adoption fees, no lengthy wait times, and the baby does not present any behavioral or health-related challenges that would significantly impact on the parenting experience. Despite these considerations weighing in favour of adoption, however, many people believe you are morally permitted to create a new child if doing so is sufficiently important to you. On this view, adopting the baby from the fire station is morally

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supererogatory: it is praiseworthy from a moral point of view, though it is not morally required in light of your strong preference for a biological child.

Can a strong preference for a biological child ground an exemption to the duty to adopt? If the argument in the previous section is correct, then this will depend first on whether the costs associated with forgoing biological parenthood are appropriately considered to be major costs. I suggested earlier that the test for assessing whether a particular set of costs is major, and hence not morally required in the service of preventing serious harm to others, involves determining whether the incursion of those costs would prevent an agent from pursuing an important life project or some other significant aspect of their conception of the good. At first glance, it seems like preferences for biological children might very well pass this test, for many people sincerely regard creating and raising biologically related children as a central component of their conception of the good. In fact, the preference for biological children is so strong among some prospective parents that adoption fails to even register among their childrearing preferences. In other words, the preference ranking for some prospective parents is not (1) create a child, (2) adopt a child, or (3) have no children, but rather (1) create a child or (2) have no children.

Both Rulli and Friedrich concede that agents can be exempted from the duty to rescue when discharging that duty would conflict in certain ways with project-related interests—recall that this is precisely why they believe the duty to adopt cannot apply to non-parents. However, in cases where grave harm is at stake, they argue that exemption-grounding projects must also meet additional conditions. For Rulli, exemption-grounding projects must be *objectively valuable*²², whereas for Friedrich they must not be based upon *false beliefs*.²³ These additional conditions seem plausible when applied to standard rescue cases. Imagine, for example, that I refuse to rescue the child in *Shallow Pond* because it conflicts with my “project” of achieving the high score on my smartphone video game, or because I am under the demonstrably false belief that the water in the pond is electrified. Even though both of these excuses appeal to various aspects of my conception of the good, neither seems weighty enough to justify the non-performance of the duty to rescue given its triviality and/or basis in false beliefs.

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According to Rulli and Friedrich, similar reasoning applies with respect to many of the reasons that are commonly offered in favour of preferring biological over adopted children, which either (1) are too trivial to justify the non-performance of the duty to adopt, or (2) are based on false beliefs about adoption and the value of biological connectedness. For example, some people prefer to raise biological children because they want their children to physically resemble them, but this preference seems too trivial to justify the non-performance of a weighty duty.²⁴ Similarly, some people prefer to raise biological children because they are under the impression that they cannot develop intimate bonds with adopted children, but this preference should also be discounted given its basis in false beliefs.²⁵ Both authors go on to make similar arguments with respect to a variety of other reasons commonly offered in favour of preferences for biological children, including the value of creating life, the desire for immortality, and the supposedly greater ease of parenting a child to whom one is biologically related, concluding that most of these reasons cannot ground an exemption to the duty to adopt.

Can this type of argument neutralize the first objection to premise (3), which holds that the cost of forgoing biological parenthood exceeds a major cost threshold and hence is not required by a moderate interpretation of premise (1)? It clearly succeeds in casting aspersions on *some* of the reasons that may be offered in favour of preferences for biological children, though as a general response to the first objection to premise (3), it faces at least two limitations. First, and most obviously, it may be possible to offer reasons in favour of one's preference for biological children that meet the conditions that Rulli and Friedrich set out for exemption-grounding projects, namely, the conditions of being objectively valuable and not based upon false beliefs. Rulli in fact concedes this point, citing the desire to experience pregnancy and childbirth as the type of reason that can ground an exemption to the duty to adopt.²⁶ This is because, unlike other candidate reasons, such as the desire for physical resemblance, the desire to experience pregnancy and childbirth is both non-trivial and non-substitutable, and hence is capable of arising to the level of an exemption-grounding project. For people who have this desire, the cost of forgoing biological parenthood will plausibly exceed a major cost threshold, in which case it would not be required by a moderate interpretation of premise (1). The desire to experience pregnancy is just one such desire, though there may

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be others that also satisfy Rulli and Friedrich's conditions. For example, Luara Ferracioli has argued that an exemption to the duty to adopt may be supported by the desire to experience the uniquely deep and robust love that often accompanies the decision to create a child,²⁷ whereas Elizabeth Brake has argued that such an exemption may be supported by the desire to reproduce valuable genetic traits in the future population.²⁸

Second, there is an unacknowledged cost to the rescue-based argument of insisting that exemption-grounding projects must meet additional conditions beyond being subjectively regarded as an important component of one's conception of the good. Recall that Rulli and Friedrich both argue that non-parents are exempted from the duty to adopt because discharging that duty would conflict with their preference to remain childless. If exemption-grounding projects must also be objectively valuable and not based upon false beliefs, then the preference to remain childless must also meet these conditions. It will sometimes turn out that this preference is informed by morally weighty reasons, such as a desire to engage in a life of public service that is simply incompatible with raising children, but it may also turn out that it is informed by reasons that are trivial and/or based upon false beliefs, such as a desire to sleep-in on the weekends or a belief that parenting a child is always a thankless chore with no compensating benefits. In the latter type of case, both Rulli and Friedrich appear committed to the view that the preference to remain childless cannot in fact ground an exemption to the duty to the adopt, opening the door once again to a moral obligation to become a parent.

3.2 The Financial, Emotional, and Agency-Related Costs of Adoption

Of course, the preference for biological children is not the only consideration dissuading prospective parents from adoption. In justifying their decision to procreate rather than adopt, many prospective parents are just as likely to appeal to the significant financial, emotional, and agency-related costs of adoption. It is no secret that, in many societies, adopting a child remains very expensive. In the United States, for example, the average cost of adopting a child is between \$10,000 and \$15,000, though it is not uncommon for costs to exceed \$40,000 depending on the type of adoption (e.g., domestic or

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international), the type of agency that is facilitating it (e.g., public or private), as well as the age and health status of the prospective adoptee. Some jurisdictions offer income-proportionate tax credits or adoption subsidies to defray some of these costs, though significant credits are often reserved for adoptions involving children with special needs, who also tend to be more expensive to raise.²⁹

The process of adopting a child also involves a number of legal and logistical hurdles that procreative parents do not typically have to overcome. For example, adoptive parents must typically undergo an invasive parental licensing process, which usually involves a comprehensive home study, a requirement to attend parenting classes, and close scrutiny of their personal and family background.³⁰ Many adoptive parents must also endure longer wait times than procreative parents before gaining custody of their child. While a successful pregnancy can be achieved in as little as nine months, a finalized adoption can sometimes take years to complete, during which time adoptive parents can be left in a state of uncertainty about whether their adoption will in fact proceed. These hurdles combine to make the process of adoption a frustrating and emotionally taxing experience, or as Carolyn McLeod and Andrew Botterell have put it, one that is “not for the faint of heart.”³¹

Finally, adoptive parents may also face a unique set of challenges in raising the children they successfully adopt into their families. In contrast to Rulli’s *Safe Haven* case, the majority of children available for adoption are not healthy newborns, but are rather children over the age of five who may have spent significant amounts of time in institutional or foster care settings.³² This is important for at least two reasons. First, children who have spent significant time in institutional care are more likely to present a range of developmental and behavioural problems that create additional challenges for adoptive parents and that qualitatively impact on the parenting experience. Some prospective parents may be prepared to undertake these challenges, though others may find them too demanding, preferring to forgo parenthood altogether. Second, the fact that the majority of children available for adoption are over the age of five means that, by adopting rather than procreating as a means of fulfilling their interest in parenting, many prospective parents must forgo the experience of raising a child from its infancy. This may plausibly register

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as a major cost insofar as the experience of raising a child from its infancy is a non-trivial and non-substitutable element of one's conception of the good.

The significant financial, emotional, and agency-related costs of adoption form the basis of a second type of objection to premise (3). Even if we do not assign any weight to individual preferences for biological children, it still might be the case that the various other costs associated with adoption in existing social circumstances are too high to be morally required. To get a sense of the intuitive plausibility of this objection, consider a modified version of Rulli's *Safe Haven* case that accounts for some of the socially contingent costs of adoption:

International Adoption: Imagine that you have just decided to become a parent. You learn of an orphanage in an overseas country that has several children available for adoption. The ages of these children range between 5-14 and their physical and psychological health status is uncertain. After conducting some research, you learn that adopting one of these children may take up to two years, cost between \$25,000 - \$40,000 in fees and travel costs, and will involve navigating a complicated international adoption bureaucracy with no guarantee of success. You can initiate the process of adopting one of these children, who will otherwise face a life of uncertainty in various institutions or foster homes, or you can decline and bring a new child into the world instead.

It is far less certain whether you have a duty to adopt in *International Adoption*. Even if you attribute no significance to biological parenthood, there are many other reasons you might appeal to in order to justify procreation over adoption, including the significant financial implications of pursuing adoption, the emotional burden of the administrative process, or your strong desire to experience parenting a child from its infancy. On this view, while you may have a duty to adopt in idealized cases like *Safe Haven*, you do not necessarily have such a duty in real-world contexts where the costs of adoption are often considerably higher and more multifaceted.

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Is this second objection to premise (3) sound? Some theorists have expressed their doubts.³³ Friedrich, for example, has argued that objections to the duty to adopt based on financial costs are often overstated, as they tend to ignore the costs associated with procreation that are avoided through adoption. For instance, he notes that the “medical costs of pregnancy, childbirth, and infant care are often significant and the costs of raising a child through its first year or two of life (including opportunity costs of missed wage income) are also substantial.”³⁴ He notes further that these costs can expand considerably in cases where prospective parents require access to assisted reproductive technologies (ARTs) like *in vitro* fertilization (IVF). In the United States, for example, where IVF treatment is rarely subsidized, the cost per live birth (which includes the cost of unsuccessful cycles) can easily exceed \$45,000, particularly for women over the age of 40 who may be required to undergo multiple cycles.³⁵ The case of IVF is particularly significant in this context, for it not only reveals that procreation can involve financial costs that are comparable to those associated with adoption, but also that there are many prospective parents who are willing to incur them.

We might add to Friedrich’s point about financial costs the fact that procreation can also involve a host of additional burdens and frustrations that are not dissimilar to those faced by adoptive parents. For example, while the process of adoption can involve false starts and excessive wait times, so too can the process of procreation: it can sometimes take couples months or even years to conceive a child, and many must endure the pain and worry associated with miscarriage and other pregnancy-related complications. Moreover, while some adoptive children may pose a higher risk of developmental problems due to post-institutional trauma, procreation may also result in children with congenital disabilities or other health-related problems that present significant challenges for their biological parents. When we take into account the burdens and risks associated with procreation, we begin to see that it is parenthood in general that is a demanding enterprise, and that the differences between parenting via procreation and parenting via adoption are sometimes differences of degree rather than type.

These are valid points we must consider when assessing the overall costs of adoption. However, as I argued previously, the true test for whether these costs can be appealed to as an objection to premise (3)

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is whether they exceed a major cost threshold by preventing an agent from pursuing an important life project or other significant aspect of their conception of the good. There are at least two ways in which they might. First, the financial and emotional costs of adoption may be so burdensome for some prospective parents that incurring those costs would preclude the pursuit of other significant aspects of their conceptions of the good. Of course, whether this is true will depend on the costs associated with adoption and the financial and emotional capacities of prospective parents, both of which can vary significantly by context, though for some prospective parents, they will plausibly ground an exemption to the duty to adopt. Second, many and perhaps most prospective parents do have strong preferences for raising *infants* from the earliest stages of their lives, though the majority of adoptable children are older children whose infancy is already behind them. The preference for experiencing parenthood throughout a child's infancy is non-trivial and arguably non-substitutable: it is a unique period of dependency and vulnerability characterized by the formation of strong attachments, the witnessing of important developmental milestones, and the development of parental capacities and dispositions that contribute in significant ways to parents' well-being, including the special qualities of care, attention, and keen sensitivity to need that accompanies caring for a vulnerable infant. In forgoing this experience by adopting an older child rather than procreating, many prospective parents would be sacrificing an important component of their conception of the good.

If this second objection to premise (3) is sound, it reveals that unless we endorse a strong interpretation of premise (1), according to which we are morally required to prevent serious harm to others to the point of marginal utility, the rescue-based argument will only reliably generate a duty to adopt in a limited range of cases, that is, cases in which prospective parents are able to adopt a healthy infant without incurring excessive financial, emotional, or agency-related costs in the process. This is problematic for at least two reasons. First, as Matthew Liao has pointed out, such a duty appears to be of little significance given that there is no shortage of parents who are already willing to adopt healthy infants.³⁶ Data from the Population Division of the UN Department of Social and Economic Affairs suggests that, since the 1970s, there has been a widening gap between the number of families wishing to adopt and the number of babies waiting to be adopted, particularly in the context of domestic adoptions. In the United States, for example,

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it is estimated that there are at least three prospective families for every domestic baby available for adoption, with even wider gaps found in other countries for which there is available data, including Italy, France, and Singapore.³⁷ In cases like these, where the children to whom a duty to adopt applies are likely to be adopted anyway by willing volunteers, the duty itself disappears and there are no longer any adoption-related objections to procreation.

The picture becomes more complicated when we include the possibility of international adoption, for while there are likely to be more prospective adoptees relative to the number of families willing to adopt, the costs are also much higher and hence affordable to fewer prospective parents. There are also additional moral hazards in the context of international adoption that complicate matters further given significant financial incentives to service Western demand for adoptable children. For example, Kathryn Joyce has documented a troubling trend of children in developing countries being separated from their parents and funnelled illegitimately into the adoption system as a result of child trafficking or temporary relinquishment due to poverty.³⁸ Preventing serious harm to these children would not entail adopting them, but rather equipping their parents with the resources to adequately support them within their existing family arrangements. Despite these complications, however, the general point remains and can simply be reframed conditionally: the rescue-based argument will only reliably generate a duty to adopt if (a) one is able to adopt a healthy and legitimately adoptable infant without incurring excessive financial, emotional, or agency-related costs in the process, and (b) this infant is not likely to be adopted anyway by a willing volunteer.³⁹

The second problem with the limited applicability of a rescue-based duty to adopt is that it will simply not apply to most orphaned children, the majority of whom are estimated to be over the age of five, and many of whom are likely to have special needs related to post-institutional trauma that may fundamentally impact the parenting experience in ways that are morally significant.⁴⁰ This seems unsatisfactory. After all, it was the great magnitude of the global orphan crisis that prompted the development of the rescue-based argument in the first place, though the most defensible interpretation of that argument seems unable to generate duties with respect to the majority of those children.

4. CONCLUSION

In this paper I have presented two arguments against the rescue-based argument for the duty to adopt. The first argument challenged premise (1) on the grounds that the mere capacity to prevent serious harm at less than major cost does not necessarily generate a moral duty to do so in cases where one's intervention is merely sufficient to prevent serious harm. If there are others available who (a) have sufficient capacity to prevent serious harm to a victim, and/or (b) have additional moral reasons to come to a victim's assistance in virtue of some relevant personal or relational property, then one may only be required to come to the victim's assistance if one is allocated that responsibility through a fair distributive procedure or if one is otherwise required to do so in the event of non-compliance by the primary duty-bearer(s). The second argument challenged premise (3) by pointing to the significant costs that are associated with adopting children in current, non-ideal conditions, with a special emphasis placed on the costs associated with forgoing the opportunity to parent a child from its infancy. I suggested that these costs will often exceed a major cost threshold, and hence would not be morally required by a moderate interpretation of premise (1). This significantly limits the constituency of children to whom a rescue-based duty to adopt applies, with many of those children likely to be adopted anyway be willing volunteers.

What should we conclude on the basis of these arguments? One conclusion we can draw is that the rescue-based argument fails to establish that procreation is wrong in cases where there are already existing children in need of parental care. A token instance of procreation *may* be impermissible on the terms of the rescue-based argument, but this will depend on a number of variables, including the presence and characteristics of other potential adopters, the preferences and capacities of the procreators themselves, and the costs that are associated with adopting a child in that particular circumstance. It will sometimes turn out that these variables support a duty to adopt rather than procreate, though it will also and perhaps more often turn out that they support an exemption to that duty.

A second conclusion we can draw is that, despite its noble intentions, the rescue-based argument actually seems like a poor foundation of our moral obligations to orphaned children. The most plausible interpretation of that argument restricts the duty to adopt to prospective parents who are able to adopt

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orphaned children at less than major cost to themselves, though this accounts for only a portion of the total number of children in need of parental care, leaving the remainder outside the scope of the duty. It also appears to place a disproportionate burden on prospective parents for resolving the orphan crisis, understating both the costs to prospective parents of doing so (even if this is limited to sacrificing what amounts to a discretionary preference for biological children) as well as the capacity of non-parents to shoulder some of the costs associated with adoption. Thus, advocates of adoption ought to look beyond the duty to rescue to ground our moral obligations to orphaned children. As Rulli herself has suggested, one promising way forward may be to shift our focus from individual duties to adopt to collective obligations to facilitate adoption and to otherwise improve the lives of orphaned children, though a full consideration of the grounds and content of these obligations must await another occasion.⁴¹

Erik Magnusson
221A Education Building
71 Curry Place
University of Manitoba
Winnipeg, MB R3T 2N2
erik.magnusson@umanitoba.ca

For helpful comments and discussion on previous drafts, I am grateful to Stephanie Frosh, Sarah Hannan, RJ Leland, Rob Shaver, participants of the University of Manitoba Moral and Political Philosophy Workshop, and an anonymous reviewer for this journal.

¹ UNAIDS, UNICEF, and USAID, *Children on the Brink*, 4. The precise number of orphans is notoriously difficult to calculate not only due to factors like chronic underreporting and the hidden nature of child abandonment, but also to the fact that the definition of “orphan” varies according to context. The magnitude of the global orphan crisis is sometimes grossly exaggerated by commentators who appeal to statistics based on a more expansive definition of an orphan, e.g., as a child who has lost one or more parents, of which there are currently over 132 million.

² Barholet, “International Adoption,” 95.

³ Rulli, “Preferring a Genetically-Related Child.”

⁴ Rulli, “Preferring a Genetically-Related Child,” 674.

⁵ For an overview of the empirical literature on the developmental consequences of institutional and foster care, see Barholet, *Nobody’s Children*, especially chapters 3 and 4.

⁶ See Friedrich, “A Duty to Adopt?”, de Wispeleare and Weinstock, “State Regulation and Assisted Reproduction,” and “Privileging Adoption Over Sexual Reproduction?”, Petersen, “The Claim from Adoption”, Rieder, “Procreation, Adoption, and the Contours of Obligation,” and Rulli, “Preferring a Genetically-Related Child,” “The Duty to Adopt” “Unique Value of Adoption,” and “Ethics of Procreation and Adoption.”

⁷ This is a version of Peter Singer’s *Shallow Pond* case presented by Peter Unger in *Living High and Letting Die*, 9. For Singer’s original case, see his “Famine, Affluence, and Morality,” 231.

⁸ Singer, "Famine, Affluence, and Morality," 231. Singer's original claim is that "if it is in our power to prevent something bad from happening, without thereby sacrificing anything of comparable moral importance, we ought, morally, to do it."

⁹ Friedrich, "A Duty to Adopt?" 25-26; Rulli, "The Duty to Adopt," chapter 2 and "Preferring a Genetically-Related Child," 672-678. For a more recent exploration of Friedrich and Rulli's rescue-based arguments, see also Rieder, "Contours of Obligation."

¹⁰ Rulli, "The Duty to Adopt," 71.

¹¹ Rulli, "The Duty to Adopt," 55-63. See also Bartholet, *Nobody's Children*, chapters 3 and 4.

¹² Rulli, "The Duty to Adopt," 62.

¹³ For a prominent defense of this view, see Murphy, "The Demands of Beneficence."

¹⁴ Rulli, "Preferring a Genetically-Related Child," 8.

¹⁵ Singer, "Famine, Affluence, and Morality," 241.

¹⁶ See, for example, Scheffler, *The Rejection of Consequentialism*, Williams, "A Critique of Utilitarianism," and Wolf, "Moral Saints," *Journal of Philosophy*, 79(8) (1982), pp. 419-439.

¹⁷ The anti-natal implications of a strong interpretation of the duty to rescue have been explored previously in Rachels, "The Immorality of Having Children," and Benatar, "Famine, Affluence, and Procreation."

¹⁸ Presently existing people depend on subsequent generations to support the social and economic institutions they will depend on in old age, though they may also depend on them in a deeper sense to the extent that the value of our life projects is dependent on the assumption of a "collective afterlife" in which others will live on after we die. For a prominent defense of the latter view, see Scheffler, *Death and the Afterlife*.

¹⁹ For a discussion of the various grounds beyond capacity on which duties of assistance might be assigned, see David Miller's connection theory of remedial responsibility, presented in Miller, "Distributing Responsibilities."

²⁰ For a defense of these duties, see Stemplowska, "Doing More than One's Fair Share."

²¹ Rulli, "Preferring a Genetically-Related Child," 669-670.

²² Rulli, "Preferring a Genetically-Related Child," 677-678.

²³ Friedrich, "A Duty to Adopt?" 28-30.

²⁴ Rulli, "Preferring a Genetically-Related Child," 679-680.

²⁵ Friedrich, "A Duty to Adopt?" 29-30.

²⁶ Rulli, "Preferring a Genetically-Related Child," 696.

²⁷ Ferracioli, "Procreative-Parenting." As an anonymous reviewer pointed out, this is not to suggest that a deep and robust love cannot also accompany the decision to adopt a child. Ferracioli's account succeeds in grounding an exemption to the duty to adopt only to the extent that it draws a meaningful qualitative distinction between the two cases.

²⁸ Brake, "Creation Theory."

²⁹ Child Welfare Information Gateway, *Costs of Adopting*, 6-7.

³⁰ Botterell and MacLeod, "Not for the Faint of Heart," 153.

³¹ Botterell and MacLeod, "Not for the Faint of Heart," 151.

³² Graff, "The Lie We Love."

³³ See, for example, Friedrich, "A Duty to Adopt?" 31-32, and Rieder, "Procreation, Adoption, and the Contours of Obligation," 300-301.

³⁴ Friedrich, "A Duty to Adopt?" 32.

³⁵ Friedrich, "A Duty to Adopt?" 32.

³⁶ Liao, *The Right to Be Loved*, 186-187.

³⁷ United Nations Department of Social and Economic Affairs (Population Division), *Child Adoption*, 108.

³⁸ Joyce, *The Child Catchers*.

³⁹ An anonymous reviewer made the important point that this statement of the conditions under which the rescue-based argument reliably generates a duty to adopt assumes that prospective parents have a preference for raising healthy infants, and that this preference is both objectively valuable and not based upon false beliefs. There will obviously be exceptions to this assumption in cases where prospective parents do not have this preference, or where the preference itself is based on trivial reasons or false beliefs, in which case those persons may be under a rescue-based duty to adopt. However, I assume that most prospective parents *do* in fact have a preference for raising healthy infants and they are normally justified in holding this preference given the distinctive values that are stake in the experience of parenting a child from its infancy. Thus, I believe the conclusion holds that the rescue-based argument applies in much narrower range of cases than is typically acknowledged.

⁴⁰ Graff, "The Lie We Love."

⁴¹ Rulli, "Preferring a Genetically-Related Child," 697-698.

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