

# Children as Projects and Persons: A Liberal Antinomy

Robert S. Taylor

Assistant Professor  
Department of Political Science  
University of California, Davis

## Abstract

I begin the paper by arguing that a liberal antinomy of parenting exists: strong liberal intuitions militate in favor of both *denying* special resources to parenting projects (on grounds of project-neutrality) and *granting* special resources to parenting projects (on grounds of respect for personhood and its development). After investigating and then setting aside a pair of objections to the former of these two claims, I proceed to show that we can reconcile them by rejecting a premise that is common to both—*viz.* that liberalism necessarily involves a commitment to extensive procreative liberties—and endorsing the limitation of both procreation and subsequent parenting to those adult citizens meeting certain psychological and especially financial criteria. I defend this argument against a variety of theoretical and practical concerns and suggest that it provides a Kantian alternative to John Stuart Mill's and Hugh LaFollette's utilitarian arguments for restricting procreation.

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## Contact Information

Department of Political Science  
University of California, Davis  
Davis, CA 95616-8682  
[rstaylor@ucdavis.edu](mailto:rstaylor@ucdavis.edu)  
Phone: (530) 752-0883

**Children as Projects and Persons:  
A Liberal Antinomy**  
*by Robert S. Taylor*

Suppose I said that I had a project, one that required a major investment of time, money, and energy (e.g., climbing Mt. Everest), and that this entitled me to a bigger than usual share of social resources, whether in the form of money (travel grants) or leisure (paid leave from work). Further suppose that I was deeply committed to this project, both intellectually and emotionally, and found it difficult to imagine life without it; the project was not merely something I *chose* but something I *was*—it partly constituted my identity. Under such circumstances, should I be given any special treatment? Specifically, should I be entitled to a greater than normal share of social resources to support my project?

On one standard reading of liberalism, I should not be. Insofar as liberalism is committed to “neutrality” towards “(justice-respecting) conceptions of the good life,” my share of resources should not vary with my plan of life and the particular ends and preferences associated with it, as liberal principles of justice properly take no notice of such variations—be they across persons or with respect to a single person across time—but rather focus on the development and exercise of those common moral powers (*viz.* rationality and reasonableness) that characterize free and equal citizens.<sup>1</sup> In brief, I should adjust my plan of life to accord with my just share of social resources, not the other way around. As Rawls says in *Political Liberalism*:

Given their capacity to assume responsibility for their ends, we do not view citizens as passive carriers of desires. That capacity is part of the moral power to form, to revise, and rationally to pursue a conception of the good; and it is public

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<sup>1</sup> See Will Kymlicka, *Contemporary Political Philosophy: An Introduction* (Oxford: Oxford University Press, 2002), pp. 217-9, for a detailed discussion of liberal (notably Rawlsian) neutrality. Also see Ronald Dworkin, “Liberalism,” in *Public and Private Morality*, ed. Stuart Hampshire (Cambridge: Cambridge University Press, 1978), pp. 113-43, here p. 127, and Charles Larmore, *Patterns of Moral Complexity* (Cambridge: Cambridge University Press, 1987), pp. 44-7.

knowledge conveyed by the political conception [of justice] that citizens are to be held responsible. It is supposed that they have adjusted their likes and dislikes, whatever they are, over the course of their lives to the income and wealth and station in life they could reasonably expect. It is regarded as unfair that they should now have less in order to spare others from the consequences of their lack of foresight or self-discipline.<sup>2</sup>

Unless my preferences, ends, and other features of my plan of life are viewed as “incapacitating” and truly involuntary (in which case they must be treated as a “medical or psychiatric” problem), I am to be held fully responsible for my plan of life and given no special allotments of money or leisure simply because I have chosen an especially expensive or time-consuming project; I must learn to live within the means that liberal justice impartially provides.<sup>3</sup>

Suppose that I now reveal that my project is bearing and raising a child. I would suggest that the intuitions of nearly all liberals—even those firmly committed to neutrality as I described it above—will abruptly switch directions. To say this is not to deny that many liberals would still see child bearing and raising as a project, one implicating parental interests in creatively shaping and directing their progeny in a manner consistent with their own way of life, be it traditional or eclectically modern.<sup>4</sup> Nevertheless, nearly all liberals would now concede that this “project” has a special status requiring a special allocation of social resources, such as money and leisure. The reasons for this special status would vary across different kinds of liberalism, but all would focus on children’s nature as (emergent) persons: Kantians, for example, would argue that children are incipient finite rational beings whom parents and other citizens have an overriding obligation to prepare for cosmopolitan citizenship and moral agency more broadly.<sup>5</sup> In short, once my project is revealed to be a (proto-)person, the liberal commitment to project-neutrality is swiftly eclipsed

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<sup>2</sup> John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), p. 186.

<sup>3</sup> *Ibid.*, p. 185.

<sup>4</sup> For a defense of parental rights grounded on such interests, see Edgar Page, “Parental Rights,” *Journal of Applied Philosophy* 1 (1984): 187-204.

<sup>5</sup> See Immanuel Kant, *Practical Philosophy*, ed. Mary Gregor (Cambridge: Cambridge University Press, 1996), pp. 429-30 (MM 6:280-2), and Tamar Schapiro, “Childhood and Personhood,” *Arizona Law Review* 45 (2003): 575-94.

by the liberal commitment to personhood and its development.

My purpose in this paper is not to say that there is anything necessarily problematic about this abrupt shift in liberal intuitions *in the final analysis*—far from it—but instead to suggest that liberals have generally failed to appreciate the tension between their concurrent commitments to neutrality and personhood here and have consequently given insufficient attention to resolving it. To see this tension more clearly, consider the way the world might look from the perspective of a childless couple who have devoted their lives to mountain-climbing. This joint project, as I noted earlier, might be an expensive one, in terms of both money and commitment of time and energy; moreover, this project might be so important to them that it largely determines their identities as persons, i.e., they find it difficult or even impossible to imagine *their* lives without it. If we were to confront them with another couple who had chosen a different but equivalently expensive and identity-implicating joint project—bearing and raising a child—but who were receiving an array of special resources to support theirs (e.g., tax breaks, educational subsidies, paid leaves, and the like), could they not complain on impeccably liberal grounds that they were being discriminated against, that their childless way of life was being treated as a less valuable one? I don't think we should be so quick to dismiss such complaints as selfish or otherwise anti-social: if special state support is provided for parenting projects but not for other kinds of projects (such as mountain-climbing) that can be just as demanding and all-consuming, then a case can surely be made that such support is nonneutral with respect to “(justice-respecting) conceptions of the good life” and therefore *prima facie* inconsistent with liberal principles of distributive justice.

I did not use the language of “perspective” above accidentally. Liberalism (or at least that subset of liberal theories endorsing neutrality) arguably underwrites claims *both for and against* the special allocation of social resources to parenting projects, but from two distinct perspectives

that are equally valid within liberalism. Viewed from one perspective—that of *project-choosing* adult citizens—the special allocation of resources to parenting projects looks suspect, because it contravenes the liberal prescription of neutrality towards “(justice-respecting) conceptions of the good life.” Viewed from another perspective—that of *person-cultivating* adult citizens—such an allocation looks unproblematic, at least in principle, because of our special obligation to develop children into good citizens and responsible moral agents. Lest these two perspectives seem to be reflections of the rational and the reasonable, respectively—which might suggest the priority of the latter over the former—notice that both perspectives are at base ones of *respect*: the former, of equal respect for project-choosing adult citizens, whose treatment is grounded not upon their varied life plans but upon their common moral capacities; the latter, of respect for the incipient moral and political agency of children.<sup>6</sup>

This tension between the liberal commitments to neutrality and personhood here can be described more formally as an antinomy or dilemma:

- **Thesis (neutrality):** *Parenting projects **should not** receive a special allocation of resources.*
- **Antithesis (personhood):** *Parenting projects **should** receive a special allocation of resources.*

Without making too much of the parallels between this liberal antinomy of parenting and Kant’s own antinomies of reason, I do want to point out a few similarities, ones that will suggest a way forward.<sup>7</sup> First, there appears to be a “conflict of [liberal] reason with itself” here: commitments to neutrality and personhood, both of which have an unimpeachable liberal provenance, seem to

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<sup>6</sup> The tension I’ve identified here is related to one previously identified by Adam Swift, who points out that equality of opportunity for *parents* (getting “an appropriate return to their responsible [parenting] choices” and investments) will most likely yield *inequality* of opportunity for *children* (for whom varied investments mean varied prospects in life). He calls this a “fundamental incoherence in the idea of equality of opportunity.” See his “Justice, Luck, and the Family: The Intergenerational Transmission of Economic Advantage from a Normative Perspective,” in *Unequal Chances: Family Background and Economic Success*, eds. Samuel Bowles, Herbert Gintis, and Melissa Osborne Groves (Princeton: Princeton University Press, 2005), pp. 256-76, here pp. 267-8.

<sup>7</sup> For a brief but very informative discussion of Kant’s antinomies of reason, see Katrin Flikschuh, *Kant and Modern Political Philosophy* (Cambridge: Cambridge University Press, 2000), pp. 58-60.

yield diametrically opposed conclusions regarding special support for parenting.<sup>8</sup> Second, there is every reason to think that the thesis and antithesis “may both be true” in a certain sense, given the powerful arguments for them that we have examined.<sup>9</sup> Lastly, given the preceding, a genuine solution to the antinomy should be synthetic: it should reestablish the unity of liberal reason by a reconciliation of the opposing claims, one which “takes on board aspects of thesis and antithesis without fully endorsing either position,” in the words of Katrin Flikschuh.<sup>10</sup>

In the remainder of the paper, I will try to achieve just such a synthesis, one that pays due respect to the powerful intuitions underlying both thesis and antithesis but that rejects an implicit assumption that both share (or so I shall claim), *viz.* a belief that liberal justice involves extensive procreative liberty. By suggesting that procreation and subsequent parenting should be limited by law to those adult citizens who have demonstrated the relevant parenting capacities—intellectual, emotional, and especially financial—I follow in the footsteps of liberal theorists John Stuart Mill and Hugh LaFollette.<sup>11</sup> Unlike them, however, I argue for such limits not as a way to avert harm to children and third parties but rather as a way to reconcile the divergent liberal intuitions about neutrality and personhood discussed above and thereby restore the unity of liberal reason; I add a Kantian argument, in short, to the existing utilitarian ones in favor of restricting procreation.

Before detailing this solution to the antinomy, though, I should try to respond to two key objections to the thesis and therefore to the very existence of the antinomy. The first of these will claim that parenting projects are *involuntary*, the product of powerful natural instincts, and so we cannot be held responsible for choosing such projects; as a result, the preconditions for neutrality

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<sup>8</sup> Immanuel Kant, *Critique of Pure Reason*, trans. Paul Guyer and Allen Wood (Cambridge: Cambridge University Press, 1998), p. 524 (A516/B544).

<sup>9</sup> *Ibid.*, p. 532 (A532/B560).

<sup>10</sup> Flikschuh, *Kant and Modern Political Philosophy*, p. 124.

<sup>11</sup> See J.S. Mill, *On Liberty and Other Essays*, ed. John Gray (Oxford: Oxford University Press, 1991), pp. 117, 120, and Hugh LaFollette, “Licensing Parents,” *Philosophy and Public Affairs* 9 (1980): 182-97.

are not met and the thesis does not hold. The second of these objections will claim that, although parenting projects are voluntary (contra the first objection), they are also *obligatory*, so neutrality towards them is no more appropriate than neutrality towards justice itself—again, the thesis does not hold. Although I will find the first objection to be unconvincing, I will not be able to reply in a definitive way to the second because its underlying assumptions have yet to be defended in any compelling fashion (at least outside a religious framework), though I will cast doubt upon it.

*First Objection to the Thesis: Involuntary Parenting*

One of the most powerful human instincts is the drive to reproduce. Even in Europe, with its extremely low fertility rates, the overwhelming majority of women will bear at least one child during their lifetime: the percentages vary from 74% in Germany to 92% in Russia.<sup>12</sup> Given this strong procreative drive, it seems misleading to say that parenting projects are “voluntary” in the same way, or at least to the same degree, as mountain-climbing projects, for example. Insofar as parenting projects are involuntary, however, neutrality is inappropriate. Recall that neutrality is premised upon our (rational) capacity to assume responsibility for our ends and therefore adjust our plan of life to accord with our just share of social resources, not the other way around. If we are compelled by natural instinct to include parenting in our plan of life, though, our capacity for rationality is being circumvented, and the preconditions for neutrality fail to be met. Parenting is then a circumstance rather than a choice, to use the language of luck egalitarianism, and the state is consequently justified in treating it differently from other, more genuinely voluntary projects.

Reasonable people will disagree in their assessment of the voluntariness of parenting, but

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<sup>12</sup> “Europe’s population: Suddenly, the old world looks younger,” *The Economist*, June 14, 2007. The Mediterranean and central and eastern European countries have especially low fertility rates: they are usually below 1.5 and thus far below the replacement level of 2.1. For comparison’s sake, 85% of American women bear at least one child during their lifetime.

I do not find the claim of involuntariness to be particularly compelling. Human beings struggle to tame a host of powerful natural instincts that are the result of millennia of evolutionary pressure, including those for material acquisition, nepotism, domination, and violence.<sup>13</sup> As a general rule, however, we continue to hold people responsible when these strong drives lead them to infringe principles of justice; exceptions are usually made only when these drives are so “incapacitating” that they constitute a “medical or psychiatric” problem.<sup>14</sup> The procreative drive is no different: it is unclear why individuals cannot rightly be expected to limit their reproduction to be consistent with their just share of social resources—even if this requires them not to reproduce.<sup>15</sup>

Such self-control might at first sight seem possible only for the cloistered or saintly, but a second look at the European statistics I provided earlier suggests otherwise. Anywhere from 8% (Russia) to 26% (Germany) of European women manage to bear no children over their lifetimes, so the idea that the procreative drive circumvents our rational capacities is simply a myth. Were parents to carry the full costs of bearing and raising children, moreover, one would expect these numbers to be even higher. Granted, the German number is unusually high and appears in part to be the result of recently-evolved cultural norms: one survey found that “a fifth of young German women (and even more young men) say that having no children is fine,” indicating a major drop in support for the ideal of the two-child family unit, which had previously remained high despite rapidly declining fertility rates.<sup>16</sup> What this suggests, though, is that the procreative “instinct,” far from being strictly natural, is highly culturally mediated. Were states to reduce or even eliminate support for parenting and engage in educational efforts to make childlessness socially acceptable,

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<sup>13</sup> See E.O. Wilson, *Sociobiology: The New Synthesis* (Cambridge, MA: Harvard University Press, 2000), especially the last chapter, and *On Human Nature* (Cambridge, MA: Harvard University Press, 2004), for a discussion of the evolutionary origins of various human behaviors, including anti-social ones.

<sup>14</sup> Rawls, *Political Liberalism*, p. 185.

<sup>15</sup> I will return to this claim below in discussing “strains of commitment” objections to legal limits on procreation.

<sup>16</sup> “Europe’s population: Suddenly, the old world looks younger,” *The Economist*, June 14, 2007.

the voluntariness of parenting would become increasingly evident.

*Second Objection to the Thesis: Obligatory Parenting*

Even if we assume that the thesis can survive the first objection, it faces another, possibly more fundamental one: the idea that parenting projects are voluntary but also morally obligatory. Weird as the idea may initially appear, suppose for a moment that parenting is not only an ethical duty but also a political one, grounded upon principles of right. Certainly this idea has precedents in the Western tradition, even in democratic polities: in his funeral oration, for example, Pericles treats bearing children to replace those who have fallen in battle as both a personal and a political necessity.<sup>17</sup> If parenting projects are obligatory in this way, then neutral treatment is not required: neutrality applies only to “(*justice-respecting*) conceptions of the good life,” but if procreation is a political duty, then conceptions that exclude it are not justice-respecting and have no legitimate claims to impartial treatment. Under this set of assumptions, neutrality is no more appropriate in the case of parenting than it is in the case of developing and exercising our moral powers.

What form might such a political duty to procreate take, and how could it be grounded in a secular-liberal political theory? On the first question, the duty might take strong or weak forms. The strongest form would be an enforceable individual duty to procreate, which might entail any number of policies from denial of family-planning services to coercive insemination. Needless to say, such a duty would be hard to accommodate within a liberal theory, especially a Kantian one like that of Rawls: among the basic liberties protected by his first principle of justice is “freedom of the person, which includes freedom from psychological oppression and physical assault and

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<sup>17</sup> Thucydides, *The Peloponnesian War*, trans. Steven Lattimore (Indianapolis, IN: Hackett Publishing, 1998), p. 96: “On the personal level, those who come later will be a means of forgetting those who are no more, and the city will benefit doubly, both in not being left short and in security; for it is not possible for men to counsel anything fair or just if they are not at risk by staking their sons equally.”

dismemberment (integrity of the person),” and such freedom would certainly require what have been called “negative procreative liberties, or rights not to reproduce.”<sup>18</sup> A weaker form of such a duty—one that allowed negative procreative liberties—might be accommodated, however: the enforceable individual duty to *support* procreation, be it directly (by bearing and raising children oneself) or indirectly (by paying “child-support” levies or providing equivalent personal services in lieu of procreation).<sup>19</sup> One could interpret existing local taxes on childless couples for support of primary and secondary education as an enforcement mechanism for such weak duties. Unless we can explain how these duties flow from a secular-liberal political theory, though, these levies will look like a form of discrimination against the childless and their conception of the good life, just as the thesis maintains.<sup>20</sup>

Turning thus to the second question, let us begin with the following quotation from David Archard and Colin Macleod. After considering the interests of parents and children themselves in parenting, Archard and Macleod ask the following:

But does the state also have an independent set of interests of its own in respect of children? There is one very important reason for thinking that it does. This is that the state should secure the conditions for the reproduction of its institutions and their essential social, political, economic, and cultural preconditions. For instance, the state must surely ensure that the future population size of its citizenry does not become too great *nor so small* as to threaten the continued existence of society.<sup>21</sup>

Insofar as the state in question is a democratic one, however, these interests are best thought of

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<sup>18</sup> John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971), p. 53, and David F. Wolf II, “Negative Procreative Liberties and Liberalism,” *Philosophy and Social Action* 23 (1997): 19-31, here p. 20. Wolf rightly contends that these liberties are prerequisites both for our exercise of rationality in the selection of plans of life and for equality of opportunity, especially with respect to gender (*ibid.*, pp. 20-3).

<sup>19</sup> Compare this duty to weak forms of the duty to defend one’s country in wartime: selective-service systems have often allowed citizens to buy replacements or, in the case of conscientious objectors, to provide support services to combatants (e.g., flying medivac) or do alternative civilian service (e.g., working in a munitions factory).

<sup>20</sup> Religious political theories may have no difficulty grounding such a duty: see, for example, John Finnis, *Natural Law and Natural Rights* (Oxford: Oxford University Press, 1980), pp. 86-7. Such claims may not be endorsable by secular citizens, however, and thus could not serve as part of a political conception of justice for a liberal society.

<sup>21</sup> David Archard and Colin M. Macleod, eds., *The Moral and Political Status of Children* (Oxford: Oxford University Press, 2002), p. 14 (emphasis added).

as the collective interests of the citizenry, parents and nonparents alike. Thus, the preservation of society over time—in fact, beyond our lifetimes—can be seen as a kind of public good benefiting all currently existing citizens. Just as we may have an interest in ensuring that our creative works and other accomplishments survive our deaths, so we may have a superior, even superintending interest in preserving democratic society, that *magnum opus* of the demos, into the far future. If so, then we would have a collective interest in maintaining society's preconditions, including an adequate population, and this interest could underwrite the weak but enforceable duty to support procreation.

Though plausible, these considerations seem too fragile and contingent to do the work of underwriting the political duties in question, whose enforcement, we should recall, is not merely hortatory but physically coercive as well. Many citizens, after all, may care little or not at all for the preservation of political society after their deaths, seeing it solely as a useful mechanism for preserving their liberties and protecting their interests over their lifetime; in fact, this subset of citizens may and probably will overlap considerably with the subset of childless citizens. They may recognize and fully accept their enforceable obligation of justice to sustain present political institutions but fail to see why they should be forced to maintain the conditions that enable these same institutions to survive their deaths. What we need is an argument addressed to such citizens that explains not only why they *should* take an interest in political society's continuation (and its procreative preconditions) after they have had their hour upon the stage, but also why externally enforceable duties of right flow from it.<sup>22</sup>

One approach is to argue that *possible* (i.e., not yet existing) future citizens will need to have these institutions in place to preserve their liberties and protect their interests and that their

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<sup>22</sup> Arguments for unenforceable ethical duties to procreate are therefore insufficient: see, for example, Jeff Mitchell, "Why Have Children?" *Contemporary Philosophy* 24 (2002): 42-6, especially p. 44.

preferences regarding these things should have moral weight for us here and now, leading us to secure the future preconditions for such institutions. Richard Hare has argued that we should, in fact, tend to the interests of possible future citizens, and—usefully for our purposes—he ties this obligation to a duty to support procreation: he states “we ought to have regard to the preferences which those people *would* have, *if they were* brought into existence” (which would surely include preferences for the maintenance of political bodies to defend their interests) and then proceeds to claim that we *should* bring these people into existence, at least insofar as they themselves would have a “preference for existence over non-existence, which we may presume anybody to have who is happy.”<sup>23</sup> His full argument for this claim is deceptively simple. Assume a happy person. Now presume that that person thinks his parents did the morally right thing by bringing him into existence. According to Hare’s theory of “universal prescriptivism,” which says that “one cannot with logical consistency make inconsistent moral statements about...situations which one admits to be qualitatively identical,” this person must “say the same about any situation resembling [his] case in its universal properties.”<sup>24</sup> Therefore, he must say that *any* possible person, if they would be happy, ought to be brought into existence; in sum, we should not only make people happy but also make happy people.<sup>25</sup>

Hare’s argument for a duty to support procreation can be critiqued in many ways, three of which I will mention here. First, it is unclear whether a happy person, even if he prefers his own existence, needs to believe that his parents were morally right in bringing him into the world. He could just believe that his creation was a matter of moral indifference and, if so, no obligation to procreate would follow, as there would be no moral claim to universalize. Hare realizes that such

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<sup>23</sup> Richard M. Hare, “Preferences of Possible People,” in *Preferences*, eds. Christoph Fehige and Ulla Wessels (New York and Berlin: Walter de Gruyter, 1998), pp. 399-405, here p. 401.

<sup>24</sup> *Ibid.*

<sup>25</sup> Slogans of this sort can be traced to Jan Narveson, “Utilitarianism and New Generations,” *Mind* 76 (1967): 62-72. To be clear, Narveson himself believes that we have only the former obligation, not the latter one.

a reply is possible and claims that it leads to a more general amoral egoism, but he admits “I am not yet satisfied with this way of dealing with” the reply.<sup>26</sup> Second, Ulla Wessels has shown that Hare’s method here, which infers “whether we ought to bring an individual into existence” from “what ex post an *actual* person rationally wants to have happened,” produces inconsistent moral judgments about possible people and their creation; moreover, the only two ways to avoid these inconsistencies both rely upon a premise (“satisfied preferences ought to exist”) that is “so close to what [Hare himself] wanted to show that, even if we help ourselves to the premise to save the argument, the argument will hardly be of use to us any longer.”<sup>27</sup> Finally, and most importantly, Hare is adamant that his argument generates an ethical not a political duty, one operating within the prior bounds of justice: “if the right population and family planning policy is being followed, the number of children that *ought* to be born *is* born, and the preferences of *those* children are all the preferences that we can satisfy within the limits of the right policy.”<sup>28</sup> Consequently, it could not ground externally enforceable duties to support procreation, at least not without amendment. Given that Hare’s argument for procreative obligations is the only one that is currently available within a (secular) possible-persons framework, they will have to be justified in some other way.<sup>29</sup>

One final possibility, which I can discuss only briefly, is to ground enforceable duties to support procreation on obligations we have to *existing* citizens, whether young or old. Insofar as there is no general difficulty in grounding obligations to these compatriots, one might say that we have an obligation to ensure that *their* liberties and interests will continue to be guarded after our deaths and therefore that we must tend to the procreative preconditions for (near) future political

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<sup>26</sup> Hare, “Preferences of Possible People,” pp. 402-3.

<sup>27</sup> Ulla Wessels, “Procreation,” in *Preferences*, pp. 429-70, here pp. 450-68. Also see Christoph Fehige, “A Pareto Principle for Possible People,” in *Preferences*, pp. 508-43, here pp. 537-8

<sup>28</sup> Hare, “Preferences of Possible People,” p. 402; he also notes here that such policy “depends in turn, on large part, on factors irrelevant to the present argument.”

<sup>29</sup> As Fehige notes, support for procreative duties comes from the Bible and from some people’s intuitions but from only one genuine argument so far: Hare’s argument. See Fehige, “A Pareto Principle for Possible People,” p. 517.

society. This sort of “overlapping generations” approach might do the trick if further developed, but certain ambiguities and difficulties would need to be overcome. To mention just one: if these obligations to our compatriots could be met in some way other than supporting procreation (e.g., securing them visas to another, growing liberal-democratic society or facilitating a transition to a smaller, perhaps more geographically compact polity), then duties to procreate might themselves remain unsupported—once our moral concern is limited to the next few generations, the need for population maintenance might disappear. Regardless, more work on this approach would have to be done before we could reasonably assess its promise.

Some of the arguments surveyed above were plausible, but none were compelling enough to definitively overturn the project-neutrality thesis. Given the current absence of any convincing or even persuasive arguments for enforceable procreative duties, and given the initial plausibility of the thesis, I suggest that we proceed on a provisional basis, *as if* the thesis and the antinomy of which it is part were valid. Future research may admittedly reject both; additionally, once the full implications of the antinomy and its solution have been understood, I think such research may be forthcoming. I will return to these considerations in the paper’s conclusion.

#### *A Solution to the Antinomy: Conditional Parenting*

Assuming that the thesis can survive the preceding pair of objections, we are left with the earlier antinomy of parenting, which pits our liberal commitment to project-neutrality against our liberal commitments to personhood and its development. Can this antinomy be resolved in a way that not only pays due respect to the powerful intuitions lying behind these commitments but also reconciles them, thus restoring the unity of liberal reason? I pointed out particular parallels above between this liberal antinomy of parenting and Kant’s own antinomies of reason, suggesting that

they may reveal a path toward a solution. One further parallel should be mentioned here, one that Katrin Flikschuh emphasizes: “despite their conflicting conclusions, thesis and antithesis in each antinomy share the same underlying premise... The solution to the conflict depends on a rejection of this premise and on the advocacy of a change in philosophical perspective.”<sup>30</sup> I will now argue that both thesis and antithesis of the liberal antinomy of parenting implicitly share a premise that needs to be rejected before a synthesis can be achieved, *viz.* a belief that liberal justice involves extensive procreative liberty.

The thesis treats parenting projects as essentially similar to other personal projects, which explains in part why neutrality is demanded: a liberal state must treat all just life plans as equally deserving of respect and equally worthy of choice by its adult citizens. Choice has preconditions, however, and in order for that choice to be autonomous, those preconditions must include a set of basic liberties.<sup>31</sup> If parenting projects are no different from other projects, then the preconditions for their autonomous choice must be recognized and protected by a liberal state, and these would presumably include not just the negative procreative liberties that were discussed earlier but also *positive* ones, *i.e.*, rights to reproduce. Preventing certain citizens from exercising these rights to reproduce on the grounds that they would do so incompetently would be no more justifiable—if you accept the claim of similarity—than denying free-speech rights for similar reasons.<sup>32</sup> So the thesis implicitly supports extensive procreative liberties.

The antithesis rejects the claim of similarity, of course, because the project of creating an autonomous being has an entirely different status than other personal projects; in this regard, the

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<sup>30</sup> Flikschuh, *Kant and Modern Political Philosophy*, pp. 59-60: thesis and antithesis of Kant’s antinomies of reason “each treat the world as an ‘existing whole,’ *i.e.*, as a thing-in-itself,” a premise that transcendental idealism rejects.

<sup>31</sup> For a defense of this proposition in a Rawlsian context, see Robert S. Taylor, “Rawls’s Defense of the Priority of Liberty: A Kantian Reconstruction,” *Philosophy and Public Affairs* 31 (2003): 246-71.

<sup>32</sup> As Hugh LaFollette has opponents of parental licensing argue, “people have a right to have children, *just as* they have rights to free speech and free religious expression” (“Licensing Parents,” p. 186 [emphasis added]).

thesis appears to be morally obtuse. In fact, the special status of this project, as we saw earlier, is what explains the special allocation of social resources to it. Why would this special allocation of social resources be necessary, however, given that parents could simply pay for the project out of their own pockets? The antithesis apparently *anticipates* that a subset of adults will bear children without being able to pay for them; given the overriding moral imperative to defend and cultivate children as incipient rational agents, the liberal state will have to make good the financial deficit when presented with such a *fait accompli*. The antithesis, in short, makes the same presumption that the thesis does: procreative liberties will be so extensive, heedless of the financial capacities of potential parents, that special allocations of social resources will prove necessary.

By denying this shared premise of extensive procreative liberty—specifically, by limiting procreation and subsequent parenting to those adult citizens who have demonstrated the relevant parenting capacities, intellectual, emotional, and especially financial—we may be able to satisfy the concerns of both “horns” of the antinomy, though not without modest modifications to them. The main concern of the thesis can be met if the liberal state requires its adult citizens to pay for their parenting projects out of pocket; in this way a level playing field is created among personal projects, so to speak, thereby satisfying the criterion of project-neutrality. The claim of similarity among projects made by the thesis cannot be sustained, however, given the very special status of the parenting project. One implication of this status is that extensive (positive) procreative liberty cannot be granted: were it granted without regard to financial capacity, the state would be forced to step in with financial support for low-income parents, but this would violate project-neutrality. Thus, to maintain the conditions of neutrality demanded by the thesis, its implicit commitment to extensive procreative liberty will have to be weakened, perhaps substantially.

The main concern of the antithesis can be met if the liberal state acts as a final guarantor

of the child's survival (e.g., adequate nutrition and shelter) and development (e.g., education and emotional support). The antithesis's proposed means for doing this—*viz.* the special allocation of social resources—is difficult to square, however, with the project-neutrality to which the thesis is committed. Fortunately, another means is available: instead of allocating extra social resources to parenting projects, the state can screen those who intend to undertake such projects to guarantee that they have the requisite parental capacities, financial and otherwise, so that the liberal state is not forced to remedy any deficits after the fact in violation of project-neutrality. To accomplish this end, however, procreative liberty will have to be restricted to qualified adult citizens.

How might such a screening process work in practice? Hugh LaFollette has proposed that we license parents, granting reproductive rights only if they meet “certain minimal standards of child rearing. Parents [ $\alpha$ ] must not abuse or neglect their children and [ $\beta$ ] must also provide for the basic needs of their children.”<sup>33</sup> Prospective parents would be given psychological tests *inter alia* to determine whether they would be likely to abandon or abuse their children; those who had especially bad scores would be refused a license.<sup>34</sup> Given the high probability of deception on the part of applicants, less manipulable measures might also be used, such as records of past criminal activity, institutionalization for mental-health problems, etc. Such screenings would make it less likely that the state would have to carry out expensive interventions at a later date.

Virtually all of LaFollette's discussion focuses on the [ $\alpha$ ] criterion and on ways to ensure that prospective parents are likely to meet it. The [ $\beta$ ] criterion is equally important, however, for the reasons sketched above: parents with inadequate financial resources will become a burden on the state, forcing it to violate project-neutrality. Accordingly, prospective parents will have to be screened not merely for propensity to “abuse or neglect” but also for financial incapacities. John

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<sup>33</sup> LaFollette, “Licensing Parents,” p. 187.

<sup>34</sup> *Ibid.*, pp. 190-2.

Stuart Mill defended such vetting as within the purview of a liberal state:

It still remains unrecognized, that to bring a child into existence without a fair prospect of being able, not only to provide food for its body, but instruction and training for its mind, is a moral crime, both against the unfortunate offspring and against society.... The laws which, in many countries on the Continent, forbid marriage unless the parties can show that they have the means of supporting a family, do not exceed the legitimate powers of the State: and whether such laws be expedient or not (a question mainly dependent on local circumstances and feelings), they are not objectionable as violations of liberty.<sup>35</sup>

I will return below to Mill's reasons for thinking such limitations consistent with liberty. For the moment, note that financial tests would likely be more objective and reliable (because less liable to manipulation) than psychological ones, assuming that income-tax records, etc., are accessible. Prospective parents' financial fortunes may change after the birth of their child, of course, which might expose the state to the very financial liability it sought to avoid by screening. Performance bonds compulsorily purchased by qualified parents could help to insulate the state from (most of) this liability, though: candidate parents who met the psychological and financial criteria could be required in addition to make a payment to a "surety" (whether a private insurer or the state itself) to guarantee performance of parental duties, with the surety assuming responsibility in case of an unexpected financial catastrophe; payments would vary according to risk criteria, as in insurance contracts generally.<sup>36</sup>

These proposals may have an air of unreality about them given current practices in liberal societies, and no doubt their adoption would initially face fierce resistance. This resistance would originate in large part from the widely-held belief that reproduction is a fundamental human right

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<sup>35</sup> Mill, *On Liberty*, pp. 117, 120.

<sup>36</sup> The requirement of posting a performance bond might substitute completely for other financial criteria. Religious groups, for example, might be willing to assume a great deal of financial responsibility for members' children; if so, additional financial criteria (e.g., income thresholds) might not be needed, which would allow poor but communally-rooted adults to reproduce. The best mix of financial criteria for securing children's survival and development would vary by time and place, naturally, and would have to be discovered through experimentation and the accumulation of institutional experience.

and that its denial would be despotic. This belief is even enshrined in U.S. constitutional law: in *Skinner v. Oklahoma*, which addressed sterilization of the mentally retarded, the Supreme Court declared procreation to be “one of the basic civil rights of man.”<sup>37</sup> LaFollette and Mill both reject this belief on utilitarian grounds: procreation has the potential to cause immense harm to both the children thereby created and the larger society, and it can therefore be reasonably regulated, even denied to certain classes of citizens, just like any other dangerous activity.<sup>38</sup> Such a conclusion is unsurprising, of course, as utilitarianism is not renowned as a rights-respecting moral theory, and any rights recognized by utilitarians are also “subject...to the calculus of social interests.”<sup>39</sup>

Kantian theories like Rawls’s justice as fairness might seem more inclined to recognize extensive procreative liberties, given both the priority assigned to liberty and the tight connection between these liberties and others explicitly included among the basic liberties (e.g., “integrity of the person”).<sup>40</sup> As noted earlier, however, parenting projects and those liberties associated with it have a unique status in a Kantian framework because they involve the creation of incipient finite rational beings—i.e., children—and therefore impose enforceable duties of right on both parents and the larger society; any rights that parents thereby gain over their offspring (e.g., to “manage and develop” them) derive entirely from these duties.<sup>41</sup> No other projects or liberties have these features, which is why lumping them together with projects like mountain-climbing or liberties like free speech—as both the thesis and constitutional law do—is simply a category mistake.

As for the alleged tight connection between positive procreative liberties and other basic liberties plus related worries about government intrusion into the private sphere of sexuality, we

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<sup>37</sup> *Skinner v. Oklahoma ex rel. Williamson*, 316 U.S. 535 (1942), here p. 541.

<sup>38</sup> Mill, *On Liberty*, pp. 14, 120; LaFollette, “Licensing Parents,” pp. 186-7. LaFollette’s comparison of the harm-based reasons for licensing drivers and doctors versus parents is highly illuminating—see *ibid.*, p. 182-6.

<sup>39</sup> Rawls, *A Theory of Justice*, p. 4.

<sup>40</sup> *Ibid.*, p. 53.

<sup>41</sup> Kant, *Practical Philosophy*, pp. 429-30 (MM 6:280-1).

should note that much depends on the way the proposed restrictions on procreation are enforced. If coercive contraception, sterilization, and abortion or related measures were being considered, then we might reasonably ask whether procreative liberties lay within the shadow of other, more basic liberties. No liberal state, though, could rightly contemplate utilizing these methods. If less personally-intrusive techniques were used, on the other hand, it is unclear that any basic liberties would be implicated: for example, fines; placing noncompliant households under supervision (in order to ensure proper treatment of the children and impose additional labor on adult members to defray its costs); or, as a last resort, removing children from the homes of unlicensed parents and putting them up for adoption.<sup>42</sup> Some combination of these methods and others could maintain a reasonably high level of compliance without jeopardizing central personal liberties.

Some may doubt the prospect of widespread compliance without draconian enforcement measures, however. As noted earlier in the paper, the procreative instinct is a strong one, and the emotional tie between parents and their offspring is even stronger. Preventing procreation by the mentally and emotionally disturbed would be difficult enough, but trying to do so with the poor would be doubly so, given the potentially large class of citizens involved. In the adoption of any policy, such as parent licensing, we must consider what Rawls calls the “strains of commitment”: we must avoid committing to political principles and laws that, given our “general knowledge of human psychology,” we realize will be extremely difficult if not impossible for a substantial part of the population to comply with.<sup>43</sup> The concern here is that the licensing of parents might be just this sort of law, one that fails to generate the common and willing compliance needed by a liberal

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<sup>42</sup> LaFollette, “Licensing Parents,” p. 193.

<sup>43</sup> Rawls, *A Theory of Justice*, pp. 126, 153. These “strains,” as Rawls explains elsewhere, can take both strong and weak forms: the strong form is for us to become “sullen and resentful,” leading perhaps to “violent action in protest against our condition,” whereas the weak form is for us to become “withdrawn and cynical,” not able to “affirm the principles of justice in our thought and conduct.... Though we are not hostile or rebellious, those principles are not ours and fail to engage our moral sensibility.” See John Rawls, *Justice as Fairness: A Restatement* (Cambridge MA: Harvard University Press, 2001), p. 128.

state and that therefore requires harsh enforcement measures inconsistent with liberal principles.

The first thing to note about this concern is that much hinges on the condition of the poor. I have been operating under the assumption that parental licensing would be carried out against a background of economic egalitarianism, under which the poorest members of a society would be guaranteed at least a decent social minimum income, perhaps a maximized one as consistent with Rawls's difference principle. With good financial planning and frugality, such a social minimum would allow many if not most "poor" citizens to become parents, though other personal projects might have to be curtailed or dropped as a consequence. With the realistic prospect of becoming parents, lower-income citizens would be more likely to comply with the licensing provisions, on the understanding that even if they could not qualify now, they might be able to at some point in the future with discipline, hard work, and general (i.e., project-insensitive) income supplements from the state.

I think it is fair to say that these background conditions fail to hold in U.S. today: we are under nonideal conditions due to a failure of our distributive institutions to comply with liberal-egalitarian principles of justice on virtually any understanding of those principles. Consequently, a nontrivial segment of the population lacks any realistic prospect of being able to self-finance a parenting project, no matter how hard they work and how much they save. Under such nonideal conditions, the special allocation of social resources to parenting (such as tax breaks, educational subsidies, and paid leaves) might be viewed as a second- or third-best approach to redistribution, regrettable due to its violation of project-neutrality but perhaps unavoidable given existing public sentiments against general income supplements but in favor of parenting supplements. I concede that the policy conclusions of my paper may be contingent on the presence of certain (admittedly counterfactual) background conditions, though nonideal theory is not so developed here that we

can make any claims with great confidence.

Assume for a moment, however, that these background conditions exist, at least in some approximate way, in certain countries in the world today (e.g., Scandinavian nations) and might exist in the U.S. in the medium- to long-term. Under such (near) ideal conditions, would strains of commitment still rule out licensing parents? I doubt it, though again reasonable people might disagree. The enforcement burden under these conditions would be much more manageable, and though the mentally and emotionally disturbed would continue to present a problem, the poorer members of society could be expected to comply willingly, especially if cultural norms evolved in a reinforcing manner. As I discussed above in the involuntary-parenting section, there is some evidence from Germany that the procreative drive is at least in part culturally mediated. If this is the case, then educational efforts by the liberal state to render childlessness a socially acceptable lifestyle alternative rather than a perceived misfortune or even a curse would lessen the pressure to reproduce and thereby enhance compliance. Such educational efforts might themselves seem to be an example of nonneutrality, with the state promoting a particular conception of the good life, but given that most liberal-democratic states have long promoted parenting with both their words and deeds, they are better seen as a way to neutralize existing state-induced biases.

### *Conclusion*

I began this paper by arguing that a liberal antinomy of parenting existed: strong liberal intuitions militate in favor of both *denying* special resources to parenting projects (on grounds of project-neutrality) and *granting* special resources to parenting projects (on grounds of respect for personhood and its development). After investigating and then setting aside a pair of objections to the first of these two claims, I proceeded to argue that they could be reconciled by rejecting a

premise that is common to both—that liberalism necessarily involves a commitment to extensive procreative liberties—and endorsing the limitation of both procreation and subsequent parenting to those adult citizens meeting certain psychological and especially financial criteria. I defended this argument against a variety of theoretical and practical concerns and suggested that it offered a Kantian alternative to Mill’s and LaFollette’s utilitarian arguments for restricting procreation.

Given that parental licensing will conflict with many people’s considered convictions of justice, I will draw the paper to a close by reviewing three possible ways to avoid the force of its central argument. First, one might reject the thesis and the antinomy of which it is part by simply disavowing liberal neutrality itself. As I noted early in the paper, not all species of liberalism are committed to neutrality (e.g., utilitarian liberalism or the plural-perfectionist liberalism of Joseph Raz), and insofar as such a commitment leads to unpalatable policy conclusions such as parental licensing, one might be inclined to abandon it. Rather than rehearsing the arguments in favor of liberal neutrality, I will merely point out that while abandoning neutrality might be necessary to avoid the paper’s conclusions, it is insufficient, as the utilitarian arguments for licensing remain. The fact that both utilitarian and Kantian forms of liberalism can be used to support the licensing of parents suggests that it might be a robust policy conclusion; those resistant to licensing should at least consider revising their policy convictions instead of giving up on liberal neutrality.

Second, one could recur to my earlier concession that state support for parenting projects might be seen as a second- or third-best kind of redistribution given conditions of noncompliance with liberal-egalitarian principles of justice. If the poor are denied reasonable income supports by the state, then to deny them procreative liberties as well on the grounds that they cannot afford to raise children would be to add insult to injury. I find this kind of argument to be persuasive, but I would add that it fails to deflect much of my argument’s force, because background conditions of

distributive justice are arguably present in some countries in Europe and could be present in ours given the political will, and once those conditions are present the argument then applies with full force. In short, pointing out the existence of economic injustice here or anywhere else can at best *delay* implementation of parental licensing; it does nothing to overturn the idea that it is a policy ideal towards which we should work politically.

Finally—and I think most promisingly—one could try to establish theoretical support for an enforceable individual duty to support procreation. As I noted in my discussion of the second, “obligatory-parenting” objection to the thesis, some variety of overlapping-generations argument might ground this duty, though numerous details would need to be fleshed out, including why we have an enforceable duty to our contemporaries to make sure that political society will outlive us *in its current form*. If such a duty to support parenting could be persuasively defended, the thesis would fall and the antinomy of which it is a part would vanish. Again, though, the utilitarian case for licensing parents would remain. Disconcerting as it might be, parental licensing is not an idea that will go quietly.