

## How bad can a good enough parent be?\*

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### ABSTRACT

Almost everyone accepts that parents must provide a good enough upbringing in order to retain custodial rights over children, but little has been said about how that level should be set. In this paper, I examine ways of specifying a good enough upbringing. I argue that the two dominant ways of setting this level, the Best Interests and Abuse and Neglect Views, are mistaken. I defend the Dual Comparative View, which holds that an upbringing is good enough when shortfalls from the best alternative upbringing in terms of the child's interests are no more significant than the parents' interest.

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### 1. Introduction

In many contemporary societies, some adults, often biological parents, are granted legal rights of custody over particular children. These legal rights are relinquished if the parents fail to provide a certain level of care, which we may refer to as a good enough upbringing. There are many ways that this level might be specified, but it is clear that custodial rights over children should be conditional on the custodian's providing at least some level of care. An account of justice in child-rearing recommending that children remain in the care of

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abusive and neglectful parents when those children could have a very good upbringing with alternative parents is clearly unacceptable. But how demanding should this condition be? What considerations are relevant to determining the good enough upbringing? and when, if ever, is the availability of a superior upbringing relevant to determining whether an upbringing is good enough? These questions are difficult to answer, but it is important that we do so because the answers help us to formulate appropriate policies regarding custodial disputes, adoption and taking children into protective institutions.

In the philosophical literature, there are two approaches to determining a good enough upbringing. The first approach is the *Best Custodian View*, which holds that the good enough upbringing is no worse, with respect to the child's interests, than would be provided by any other willing custodian. This view is *child-centred*, in that it takes only the child's, and not the parents', interests as relevant to determining the good enough upbringing, and it is *comparative*, in that it takes the availability of a comparatively better upbringing for the child to also be relevant to determining whether an upbringing is good enough. The second approach is the *Abuse and Neglect View*. This view is *non-comparative* and holds that so long as there is no abuse and neglect, the availability of a superior upbringing is irrelevant to determining whether the current upbringing is good enough. Non-comparative views, including the *Abuse and Neglect View*, can be either *child-centred*, in that they focus exclusively on the interests of the child, or *dual-interest*, in that they take into account the interests of the parents as well as the children.

A third view, which is more demanding than the *Abuse and Neglect View* but less demanding than the *Best Custodian View*, has been suggested in recent work on justice and child-rearing but little has been said to clarify and defend this view (Brighouse and Swift 2006, 105, 2014; Brighouse 2002; Clayton 2006, 54–68). Harry Brighouse and Adam Swift's *dual-interest view* holds that the right to rear is conditional on the child's interests being met to a 'fairly high threshold'. They reject the *Best Custodian View* for parent-centred reasons (2006, 81, 88, 90). Matthew Clayton, who is also a proponent of a *dual-interest view*, holds that the *Best Custodian View* 'sets the bar for retention of custody too high'. He goes on to say that 'how such a threshold is to be determined is a difficult issue which must be sensitive to the importance we attach to the interests we have as parents and children respectively' adding 'I do not propose to resolve that issue here' (2006, 58).

In this paper, I intend to go some way to resolving the issue of how that threshold should be determined by examining whether we should hold views that are comparative or non-comparative and child-centred or dual-interest. I defend what I term the *Dual Comparative View*, which is dual-interest, unlike the *Best Custodian View*, and comparative, unlike the *Abuse and Neglect View*.

The *Dual Comparative View* holds that an upbringing is good enough when any shortfalls from the best available upbringing are no more significant than

**Table 1.**

	Child-centred	Dual-interest
Comparative	The Best Custodian View	<i>The Dual Comparative View</i>
Non-comparative	Abuse and neglect (or higher threshold)	Abuse and Neglect (or higher threshold)

the parents' interest in parenting. The intuitive idea is that given the relative weight of the interests of the parties, setting the threshold higher would give rise to a valid complaint from the parent who has a weighty interest in retaining custody. But setting the threshold lower would give rise to a valid complaint from the child who would be better off elsewhere. A sound account of justice in child-rearing will not give rise to such complaints. We can map the views that I discuss in terms of the claims they rest on, in the following table (Table 1).

Throughout this paper, I will examine the different spaces on this table and argue that the *Dual Comparative View* occupies the most plausible space on it by arguing for a comparative rather than non-comparative view and a dual-interest rather than child-centred view. In order to achieve this aim, I have structured the paper as follows. In Section 2, I clarify what I mean by the right to rear and how the 'good enough upbringing' is a condition attached to that right. I distinguish this use of the term from other possible uses it may have. In Section 3, I show that the *Best Custodian View* should be rejected because it has deeply counter-intuitive implications leading us to deny custody to some decent parents simply because someone else would do a better job. To explain this intuition, we must reject one of the *Best Custodian View's* two defining claims: the comparative claim and the child-centred claim. To narrow our focus, I first show that a complete rejection of comparisons is not plausible and so we must choose between a moderate rejection of comparisons, only above some threshold, or a fully comparative dual-interest view. In Section 4, I argue for a fully comparative dual-interest view. I begin by examining the moderate rejection of comparisons, which is exemplified by the *Abuse and Neglect View*. I consider dual-interest and child-centred variations of that view but show that even the moderate rejection of comparisons is implausible. Thus, we should accept the view that is both dual-interested and comparative: the *Dual Comparative View*. In Section 5, I consider a number of objections to the *Dual Comparative View* and show that none of these objections are sound. In Section 6, I describe how the *Dual Comparative View* functions. Finally, in Section 7, I draw out some implications of accepting the *Dual Comparative View*.

It is important to note at the outset three assumptions of the paper. First, I assume that adults may have some rights, of a familiar kind, to rear children and that such rights are importantly conditional on their providing a good enough upbringing to that child. I do not offer any arguments addressed to child-liberalists in this paper (Cohen 1980; Holt 1974). Nor do I offer arguments to those

who believe that parental rights or custodial rights are unconditional. Second, the *Dual Comparative View*, and the alternatives I consider, are best thought of as operating within a broader theory of justice where other principles and values can defeat or be defeated by that view. As such it is not a counter-example to my view, or any of the rival views that I consider, that it cannot accommodate all of our intuitions about justice or even that it may sometimes require, if taken alone, the violation of apparently more urgent demands, such as basic rights or equality of opportunity. This is because it is not supposed to be taken alone. The place of the good enough upbringing requirement within a complete theory of justice is a separate issue, and one I do not address. Third, no particular account of what is in a child's justice-salient interests or of the precise nature of the parents' interests plays a role in this argument. The view I offer here will be compatible with a number of different accounts of what those interests are. In particular, the account I offer here is compatible with both perfectionist accounts of justice, which accept reasons of well-being as admissible reasons of justice, and anti-perfectionist accounts of justice, which deny that such reasons are admissible reasons of justice (For a discussion of anti-perfectionism as it relates to upbringing see Clayton 2006, 6–46; and Fowler 2014a). To avoid taking a position in this debate, I simply refer to justice-salient interests of parents and children. By justice-salient interests, I do not mean to include only ideas about rational self-interest and preference satisfaction. The category of justice-salient interests can be much broader and, as such, justice salient interests may conflict with interests more generally. Moreover, I do not consider the interests of third parties for reasons of simplicity and the reason that the interests of parents and children are likely to have primary importance and so third party interests can be considered separately later if necessary (Clayton 2006, 60).

## 2. Devising an account of the good enough upbringing

There are several ways in which the phrase 'the good enough upbringing' may be used, but not all are relevant for my purposes. For example, one could argue that the costs of a good enough upbringing might be shared by non-parents as well as parents and one might argue that a parent does not derive any well-being from parenting unless she does so with minimal proficiency, including providing a good enough upbringing (For discussion of sharing the costs of upbringing see Casal and Williams 2004; George 1987; Olsaretti 2013; Tomlin 2015). The account of a good enough upbringing I defend is not intended to play either of these roles, important though they are. Rather, I am concerned with a parent providing an upbringing that is good enough to retain the right to rear that child. Failure to meet this standard does not mean that parents who fail to offer a good enough upbringing should be denied custody. After all, it may be possible to assist the current parent so that she does provide a good enough upbringing. The current parent with support is a relevant alternative to the

current arrangement, just as another parent is a relevant alternative. However, if the standard of parenting cannot improve without denying that particular parent custody, and if there are good enough alternatives, then we would be justified in denying parents custodial rights over their children. Thus, the fact that a parent cannot provide a good enough upbringing is a sound reason to re-configure custodial arrangements, including the legal rights parents have, and this yields a permission for some agent, such as the state, to interfere in the family that would not otherwise be present.

What I have in mind when I use the term 'right to rear', is a bundle of protections against external interference in the parent–child relationship, and it is a moral rather than legal right, though the moral may have implications for the legal. The right to rear entitles the bearer to make certain decisions about what the child does, who the child associates with and where the child lives. The right gives those other than the right-bearer a duty to not interfere in those decisions protected by the right. It is this duty to not interfere which is no longer in place if the upbringing is not good enough. It is possible to define the right more or less extensively (see for example Arneson and Shapiro 1996; Brighthouse and Swift 2006; Callan 2002; Clayton 2012; Fowler 2014b; Lazenby 2010; Macleod 1997; Mason 2011; Segall 2011; Swift 2003). Nothing I say about the conditions of the right to rear is in tension with many plausible ways of defining it. I assume that something like the right to rear includes many of the prerogatives we associate with the practice of parenting and is both limited and conditional in the following ways. The right is limited in that there are some things that parents are not permitted to do with their children. Examples might include denying the child basic education or life-saving health care treatment. The right is conditional on the bearer securing at least a good enough upbringing (Brighthouse and Swift 2006, 105). At the very least this means avoiding abuse and neglect where possible. I will argue that in some contexts it requires much more.

### 3. Best Custodian View

One influential and compelling view about the allocation of child-rearing rights is the *Best Custodian* (or Best Interests) *View*, which holds that the interested party who is expected to perform better than any other interested party with respect to the child's interests should possess the right to rear (Arneson 2000, 46; Brighthouse 1998, 737; Dwyer 2011; Vallentyne 2003, 998). On this view, an upbringing is good enough when it is no worse than the upbringing that could be secured by other willing parties. The *Best Custodian View* is constituted by the comparative claim, which holds that the child's interest in a better upbringing is stronger the better that upbringing and the child-centred claim, which holds that only the child's interests are relevant to determining the good enough upbringing.

The view may appear attractive because the vulnerability of children and their inability to give consent seems to afford their interests priority.<sup>1</sup> A putative justification of the *Best Custodian View* appeals to the thought that rights over another, much weaker, person, such as a child, can only be justified in the best interests of the weaker party (Valentyne 2003, 1001).

This view permits us to redistribute child-rearing rights to those who will secure the best upbringing for the child and so a parent provides a good enough upbringing only when she will provide the child with no worse an upbringing than any willing alternative. Because there are likely significant costs incurred by children in moving from their current setting, even if that setting is quite bad, this view need not imply that children be moved very regularly. The *Best Custodian View* is concerned with the *net* benefits to the child. Thus, the importance of stability to the child's interests can be seen as generating some presumption against redistribution that is built-in to the *Best Custodian View*, but one that can be overridden in the best interests of the child.

To reject the *Best Custodian View*, we may describe a case where it has implausible implications. Matthew Clayton has offered an example that aims to show that parents do have an interest in retaining custody of their children that is weightier than at least some of the child's interests in the quality of their childhood. The resources used to improve our lives through our upbringing in childhood might be better spent while we are adults and people may willingly forgo benefits in childhood in order to keep open opportunities to parent just in case they are not the best custodian. A principle that maximized investment in childhood at the expense of investment in adulthood would be highly implausible. We might think, for example, of how health care resources are invested in childhood versus adulthood. More specifically, think of a choice between having better resourced parents to provide for your upbringing or having those same resources for your own use upon reaching adulthood. The fact that many of us would prefer some investment in our adulthood instead of maximal investment in our childhood suggests that such a trade-off is reasonable or rational. This may be taken to support the idea that custodial decisions need not promote the child's interests maximally when it has costs for the parental interest. This is an argument offered by Matthew Clayton for rejecting the child-centred claim and instead holding a dual-interest view (2006, 52–58).

However, we do well to note that this counter-example involves an intra-personal trade-off not an inter-personal one. It asks us to consider what costs we would be prepared to bear in one part of our life (childhood) to receive benefits in another part of our life (adulthood). As such, these trade-offs are justified as a rational choice that only affects one person. Since it is sensible to think that the decisions we may make for ourselves (self-regarding) are governed by different norms than the decisions we may make for others (other-regarding), and since the cases we are considering affect different people (a child and a parent), it would be more persuasive if we could show that shortfalls in the child's interests can be justified in an inter-personal example.<sup>2</sup>

Consider a society where the *Best Custodian View* is pursued, parents must meet very demanding standards to retain the right to rear since some prospective parents can offer an excellent upbringing. But we should relax these standards if the benefits to the parents are high and the benefits forgone by the child are small. Consider two examples. First, if, taking into account the costs of transition, children have better prospects if they have siblings then we should take children away from parents who are only prepared to rear one child to give them to those, otherwise identical, parents who already have children. Second, imagine that a certain way of feeding young children is better for their prospects than alternative methods of feeding and that it is very painful and difficult for many parents to feed in this way. In society A, which follows the *Best Custodian View*, parents who are unable to feed their children in this way lose custody of their children just in case others are able and willing to feed those children in that way, and are equally good in other respects. Assume, also, that we have in mind children who are very young and as such are much less sensitive to the costs of instability and transition discussed above. This example shows the plausibility of the claim that a good enough upbringing is not always the best available upbringing and leads us to reject the *Best Custodian View*.

There are two possible explanations of why we should reject the *Best Custodian View*. The first is to reject the child-centred focus of the *Best Custodian View* in favour of a dual-interest focus. On this explanation, the view is counter-intuitive because it overlooks the significant costs to the parent of losing custody. This parental interest has been articulated and defended by several theorists.<sup>3</sup> Although these theorists disagree about how best to characterize the interest in parenting, they agree that parents have a weighty interest in this valuable relationship. It is this interest that would be frustrated for many by implementation of the *Best Custodian View* and this explanation would lead us to endorse a dual-interest view and reject the child-centred claim.

Another explanation of why we should reject the *Best Custodian View* is its focus on comparisons. One could argue that comparisons with the best custodian do not matter and this is why we need not always change custodial arrangements to advance the child's interests, even though those interests should be our exclusive focus. This explanation would lead us to endorse the child-centred claim and the non-comparative claim. This position is worth considering since it underpins the widely held *Abuse and Neglect View*. In the next section, I give full consideration to this explanation, but in the remainder of this section I will show that we cannot entirely reject the relevance of comparisons in determining the good enough upbringing because they are essential to explaining some extreme cases.

Imagine that some parent abuses and neglects their child in an extreme fashion and another possible parent only neglects the child in one significant way. Imagine also that these two arrangements exhaust the available alternatives for that child. In this case, the worst parent is not good enough, even though

the child would not receive a particularly good upbringing elsewhere. But if we reject the relevance of all comparisons to determining the good enough upbringing, we cannot explain why the parent providing the relatively better, but still low quality, upbringing may retain the right to rear while the parent providing the relatively worse upbringing would not.

In reply, a proponent of a non-comparative view could claim that in these cases no one meets the condition and so no one has the *right* to rear that child but the better parent(s) have some special privilege to rear the child.<sup>4</sup> However, the privilege that is appealed to in order to get the intuitively correct answer plays exactly the role of the right to rear that we are trying to explain. In this case, the parent(s) providing the best upbringing cannot be denied custody, even when she provides a poor upbringing. As such, we cannot completely reject the relevance of comparisons to determining the good enough upbringing. At most we can take a more moderate stance and reject comparisons above some threshold, such as the *Abuse and Neglect View*. In the next section I examine this possibility.

#### 4. The place of comparisons

In the previous sections, I have shown that we should reject the *Best Custodian View* and that we cannot reject the relevance of comparisons completely in determining the good enough upbringing. We must now choose between a moderate rejection of the relevance of comparisons, in either the dual-interest or child-centred form, and a whole-hearted acceptance of such comparisons in its dual-interest version, exemplified by the *Dual-Comparative View*.

On *Moderate Non-Comparative Views*, comparisons with the best custodian only matter when some threshold of the child's interests is unmet, such as abuse and neglect. If that is our threshold, then a good enough upbringing is one free of abuse and neglect or, where this condition is not met, the best alternative. The existence of alternative parents who are able to offer a much better upbringing than one free of abuse and neglect cannot change that and so the good enough parent is not always the best custodian. The *Moderate Non-Comparative View* can be either child-centred or dual-interest (Hannan 2010). The child-centred version holds that the child does not have an interest in the quality of her upbringing beyond the non-comparative threshold.<sup>5</sup> As such, no interests would be satisfied by the best custodian and not by the current custodian who meets that threshold. The dual-interest version would claim that the parental interest somehow justifies the irrelevance of comparisons beyond a threshold in spite of the existence of further interests that the child has beyond the threshold.

On the *Dual Comparative View*, comparisons with the best custodian always matter, though they are not always decisive because the parents' interests also matter. On this view, it is the parents' interest that explains why the good enough parent is not always the best custodian. I argue that the two *Moderate*



*Non-Comparative Views* lack plausibility and that the *Dual Comparative View* is superior in various ways.

We can raise the following objection to the *Child-Centred Moderate Non-Comparative Views* with a low threshold, perhaps set at the level of abuse and neglect. We can improve a child's upbringing beyond abuse and neglect. We can do so in ways that prepare the child better for adult life and also in ways that promote the child's well-being as a child. We could promote the child's capacities for self-governance, her moral powers and her expected share of resources and primary social goods. There are many ways that we can improve the quality of an upbringing in justice-salient ways. Does the child have an interest in our benefitting them in these ways? To deny this is to commit oneself to the view that when it is possible to improve the lives of all children in these respects no child's interest is served, and that we have no reason to make such improvements even when we can do so costlessly. Proponents of this view must claim that whatever the reasons to improve the lives of children, it is not in the children's interests to do so. Justifying the failure to benefit these children, when there would be little or no cost to others in doing so, would be a very difficult task indeed, so we do well to reject this view.

To avoid this objection, defenders of *Child-Centred Moderate Non-Comparative Views* could instead claim that the threshold is set higher than abuse and neglect. One way to defend a high threshold is to insist that the child's interest in her upbringing is satiable because (children's) well-being or her moral powers, insofar as they are relevant to justice, have an upper-limit. On this view, the good enough level just is the maximum level. It is the satiation point of well-being. As such, it ceases to be non-comparative in any meaningful sense. The threshold was brought in to explain when comparisons cease to matter, but, on this view, they only cease to matter once the child's well-being has been fully satiated. As such, it maximizes whatever interests the child has, like the *Best-Custodian View*, and so falls to the same objections we had to that view in that, it is incapable of explaining why we need not always re-distribute child-rearing rights to better parents. Re-call the feeding and sibling examples above. With either a high or low threshold, the *Child-Centred Moderate Non-Comparative View* must be rejected and this leads us to reject the remaining child-centred views. We must opt for a dual-interest view of some kind.

A *Dual-Interest Non-Comparative View* can deal with the case of costless benefits to children consistent with a rejection of the claim that the good enough parent is always the best custodian. For defenders of this view, comparisons are irrelevant once a non-comparative threshold has been met *because* the parental interest makes it so, whether that is understood as a unique contribution to well-being or an interest in maintaining certain relationships more generally. But in order to remain distinct from the *Dual Comparative View*, this view must maintain that the parental interest renders irrelevant the child's interests above some threshold, even when the child's interests are weightier than that interest

and even when the child's interests would otherwise be relevant. But this feature renders the *Dual-Interest Non-Comparative View* implausible, for they have no good answer to the question of why the threshold is where it is, rather than higher or lower since it disregards the weight of the child's interests relative to the parental interests leaving open the possibility that a greater sacrifice be borne by parents than children.

One influential defence of an apparently non-comparative threshold has been suggested by Ferdinand Schoeman in his influential paper 'Rights of Children, Rights of Parents, and the Moral Basis of the Family' (1980). Schoeman argues that the nature of the interests parents have in establishing intimate relations with their children requires that the threshold not be set higher than abuse and neglect (1980, 17). Schoeman is not alone in placing a parent's interest in intimacy at the heart of the justification of parents' rights (See also Brighouse and Swift 2009). But it does not follow from the existence of such an important interest that the good enough upbringing level cannot be set higher. There's no reason to think that when the threshold is set above abuse and neglect, parents will be incapable of forming intimate bonds with their children. Intimacy may be formed particularly well where separation is impending, such as cases of falling in love with someone on a temporary visa, facing deportation or even premature death. We know there are cases where surrogacy contracts have been signed but surrogate mothers bond with the child (Gheaus 2012, 446). In such cases, persons might establish deeper and greater intimacy in spite of the context in which they find themselves. Nor is there any reason to think that when the threshold is set below abuse and neglect that intimacy is not impeded. It is perfectly possible that some parents would worry needlessly about state interference and therefore fail to bond with the child in an intimate way under an abuse and neglect regime where parents' rights are conditional. Even if this belief about the value of intimacy is well-founded, it seems that a parent-child bond can be intimate and it is precisely this that must be weighed against the intimacy and non-intimacy interests of the child that could be better met elsewhere. As such, a regard for intimacy cannot explain why abuse and neglect is the correct threshold. We need a deeper explanation of why intimacy requires that the threshold is set where it is, and why weighing of the improvements to the child and the parents' interest in intimacy is not the correct way to go about it.

Schoeman explains that the threshold cannot be set above abuse because 'It must not be up to society in general, without there being some special cause, to decide whom one can relate to and on what terms' (1980, 17). Schoeman seems to think that setting the terms of the relationship is itself a pre-condition of intimacy, describing that choice as 'essential to intimate relationships in general' (1980, 17). However, if we accept that parents' rights are conditional, there must be some term-setting by 'society'. So the remaining question is just what those regulations should be like. In other words, what interests are the regulations supposed to serve?

We can answer this question by identifying and then weighing the relevant interests. If intimacy is among the interests that parents and children have, then it is to be weighed against the other interests the child has, including securing intimacy in an otherwise better setting. It may well be that Schoeman believed that avoiding abuse and neglect is the only interest children have that can outweigh the parents' interest in intimacy, and I will take up this interpretation shortly, but if that is the case then this is no objection to the *Dual Comparative View*. It is to accept the *Dual Comparative View's* way of calculating the threshold as it weighs the child's interest in intimacy against the parents' interests and finds in favour of the child's. To set the threshold elsewhere would impose excessive costs on the parents. Those excessive costs would give rise to legitimate complaints that the best account of the good enough upbringing should not.

The foregoing remarks show that the *Moderate Non-Comparative Views* either collapse into the *Best Custodian View*, rely on implausible claims about children having no interests above a low threshold, or cannot explain why the threshold is to be set where it is. This should lead us to endorse an account of the good enough upbringing that is comparative and since we have already rejected the child-centred comparative view, the *Best Custodian View*, we should endorse the *Dual Comparative View*.

We can note, however, that we could defend something resembling the *Abuse and Neglect View*, as one interpretation of Schoeman's view does, on comparative grounds and that this view might explain the instinct many have to defend a *Non-Comparative View*. This may lead us to worry that the *Dual Comparative View* may not be distinct from the *Abuse and Neglect View* in practice because it is only the child's interest in avoiding abuse and neglect that is weightier than the parents' interest in retaining the right to rear. This could be because the child's interests beyond abuse and neglect are not terribly weighty, though the parental interest is. Thus, the child's interest in her upbringing may get stronger the better off she would be elsewhere but the benefits to a child above the threshold, even when aggregated, are never weighty enough to defeat counter-veiling interests that a parent has in retaining the right over the child. This may be one way of understanding Schoeman's argument, but even if this were true it would still be valuable to know that the *Dual Comparative View* is correct since circumstances change and the implications of the *Dual Comparative View* may become more distinctive. However, there are three reasons for resisting this conclusion anyway.

First, further philosophical work is required to clarify the nature and relative weight of each interest, so it is an open question as to whether, and if so how often, such views will fail to be distinct in practice. We cannot firmly conclude that the view would not be distinctive, even in current circumstances let alone most realistic circumstances.

Second, if a threshold of abuse and neglect is the correct threshold for some particular context, then it is because it accommodates the interests of parents

and children that it should be favoured. If we accept the framework that the *Dual Comparative View* gives us, it remains an open question as to which of the child's interests, and which combinations of those interests, are sufficient to outweigh the parental interest. This approach to working out a good enough upbringing is very different from the approach recommended by the *Non-Comparative* or *Best Custodian Views* and so the remaining philosophical and practical questions take a distinctive shape.

Third, it is possible to undermine the claim about the relative triviality of benefits to children beyond abuse and neglect. Since a child's upbringing has profound effects on her expected well-being and her capacities and capabilities, it is sensible to think that avoiding abuse and neglect are not the only very weighty claims that a child may be able to press against a regime that regulates the custodial arrangements of children. A child's upbringing can go very much better than meeting the abuse and neglect threshold. Moreover, the aggregation of the further benefits will add weight to that claim, as has been shown by the discussion of comparisons above. A child has an interest in becoming an adult who can have important friendships and intimate relationships, including becoming good parents. This interest can be served better or worse by the type of upbringing received and parents have a crucial role to play in advancing this interest. The interest children have in developing the capacity for intimate relationships is a good approximation to the parental interest, which is at stake for parents. Indeed, it is weightier since it includes not only the interest in being able to be a good parent, but in sustaining romantic and non-romantic relationships, which are also valuable. Moreover, there are further interests that children have and if these interests were not being well-served in addition to the interest in developing relationship capacities, it would appear to be weightier than the parental interest.

For this reason we can say that the child can press claims that are at least as strong as the claims a parent can press against having her children removed when she meets the abuse and neglect threshold (See for example Brighthouse and Swift 2009, 51–56 and Clayton 2006, 59–61). The *Dual Comparative View* is likely to consider failure to prepare children for such relationships as a shortcoming that can typically outweigh the parental interests. As such, we have reason to believe that the *Dual Comparative View* will provide us with distinct verdicts in many cases.

## 5. Objections

Since the *Dual Comparative View* marks a fairly radical departure from dominant ways of thinking about the good enough parent, namely the *Best Custodian* and *Abuse and Neglect Views*, we should consider two forms of objection to that view.

The *Dual Comparative View* holds that at least some of the child's interests and some of the adult's interests are relevant to the determination of a good

enough upbringing. That view also holds that in order to avoid giving rise to valid complaints, grounded in the interests of either party, the good enough upbringing must be determined by carefully weighing the costs to current parents in being denied custody against the possible advancement of the interests of the child under the best alternative custodian. In principle, we should be open to the prospect that even decent parents, who provide an upbringing that avoids abuse and neglect, may justifiably be denied custody where alternative arrangements promote the justice-salient interests of the child in ways that are more significant than the costs to the current parents, taking into account the parents' interests and the costs of transition to the child. This would be the case, for instance, if there were a super-parent who will provide a far better upbringing than anyone has ever had. In light of this, it may be objected that the *Dual Comparative View* unfairly makes a parent's right to retain her children depend on the actions and behaviour of other possible parents. This objection could take two forms, neither of which is ultimately compelling.

The first form of objection is that since the *Dual Comparative View* makes the right to parent insecure, it may lead parents to not invest in their children, and children benefit from this investment and a secure environment. Thus, the *Dual Comparative View* fails to show appropriate concern for the child.<sup>6</sup> The idea underlying this objection might be that willingness to initiate intimacy with the child, or else confer any benefits on the child, requires a much more secure right (Schoeman 1980, 14–15). The *Dual Comparative View* already accounts for any costs instability has for the child's upbringing, even in terms of intimacy, which may be very significant. If the effects of some regime, perhaps through intrusive and regular monitoring, brought about sacrifices to the child in terms of interests more significant than the interest in parenting, then that regime would be condemned by the *Dual Comparative View* itself. The *Dual Comparative View* tells us which regime to use based on the effects on children's interests and to parents' interests when accorded appropriate weight.

The second objection to the *Dual Comparative View* is that since it makes the right to rear depend on factors outside of the parent's control, it is overly or unfairly demanding of the parent. Parents have an interest in being able to plan their lives without capricious outside interference. The first thing to say is that it is implausible to hold that adults who will make terrible parents, perhaps due to some addiction or severe disability and so out of their control, should retain custody of children no matter how bad an upbringing they will give to their child. Not even the *Non-Comparative View* takes this reason seriously. The *Non-Comparative View* makes the right to retain one's children sensitive to the actions of others below the threshold and I have argued above that it is implausible not to extend this concern with comparison above some threshold since the size of the opportunity costs to the child affect the complaint children can have and the condition must be sensitive to such complaints. But our lives are constantly influenced, quite innocently, by the actions of others or their interference in our

lives. For example, when people stop buying coffee from one store and buy it instead from another can mean employees lose jobs and coffee shop owners lose business. It may be possible to assuage the worry, through public policy, by defining a set of criteria for one generation of parents but adjust it in line with the quality of alternatives for the next generation and so on. As such, would-be parents or current parents would be given a particular threshold to meet for their children, but later parents may have to meet a higher or lower one. This movement is only possible on a comparative view, which is what makes it distinctive.

To see why this feature makes it distinctively attractive rather than unattractive, consider that at different levels of socio-economic and technological development it may be easier to secure higher quality upbringing. As society's knowledge of health, child-psychology, brain development and education accumulates, and as technological achievements enable us to act on this increasing knowledge, what was once an appropriate threshold in one time will seem incredibly low in some later time. Evidence of the use of this form of reasoning could come from seeing what we now count as abuse or neglect as being much more demanding than it would have been 100 or even 50 years ago and rightly so, on the *Dual Comparative View* (Consider, for example Section 58 of the Children Act, 2004 and Smoking in Cars Set to Become Illegal, 2015). Non-Comparative Views cannot explain why the standard might move up or down as time passes and average upbringing quality changes. Only the *Dual Comparative View* can explain it and this interest in relatively fixed standards will itself enter into our calculation in choosing the best policy.

We can observe that each of these forms of objection share a common motivation. The *Non-Comparative View* is motivated to reject comparisons by the thought that the conditions of the right to rear children should not be so demanding as to make the parent vulnerable to redistribution due to factors outside her control. This motivation is explicit in the *dual interest views*, though I think it is implicitly behind the instinct of many who reject comparisons. Insofar as this motivation is worthy, however, it suggests that at least some of the parents' interests are very important and their rights of custody should be secure because of this. If this is so, then we should accept that there may be difficult trade-offs to make between the child and parent interests, neither of which can plausibly be given absolute or lexical priority, when making custodial decisions. In other words, this motivation for a *Moderate Non-Comparative View* actually better supports a *Dual Comparative View*, which takes seriously both the parental and the child's interests.

## 6. How might the Dual Comparative View work?

The *Non-Comparative View* might appear clearer or more straightforward for the reason that it requires only that we address a list of needs that the good enough upbringing contains, such as the need to avoid abuse and neglect. We can

imagine these needs being ticked off by social workers. The *Dual Comparative View* relies on comparisons between the current parent and alternatives and not simply with respect to meeting needs or avoiding abuse and neglect. The focus of the *Dual Comparative View* is always on the extent of shortfalls from the best custodian, rather than some absolute level of achievement. Since the best custodian and the current custodian can occupy any level on the continuum of quality of upbringing, this view seems more complicated.

However, the *Dual Comparative View* may not be problematically more complicated than other views. This can be illustrated by categorization of the child's interests, much like the categorization required for the *Abuse and Neglect View*. The *Dual Comparative View* provides a way of thinking about trade-offs between these interests for the purposes of evaluating upbringing settings and determining a good enough upbringing that is at odds with the two dominant views. Some recent work on children and child-rearing has helped to clarify the importance of parenting for parents as well as the intrinsic goods of childhood, children's autonomy and other interests children have (For discussion of a child's putative right to be loved see Cowden 2012; Liao 2006). These interests may give content to our threshold in the following way. For the *Dual Comparative View*, whether the shortfalls are too great or not great enough depends on the significance of what the child misses out on relative to the interest parents have in parenting.

When the child misses out on something more important than the interest parents have in parenting then this shortfall is too great and the upbringing being provided is not good enough. However, when the child misses out only on goods that are less important than the interest parents have in parenting, then this shortfall is consistent with a good enough upbringing. Determining whether an upbringing is good enough can be carried out by categorizing the various interests where shortfalls with respect to some are too great and shortfalls with respect to others are not. Thus, a complete *Dual Comparative View* of the good enough upbringing will require an account of the child's interests, categorized in order of importance, an account of the parents' interest in retaining the right to rear and an account of what category that interest is likely to fall in to whether they are essential, conducive or tangentially related to the good life, for instance.

To make trade-offs, we would need to capture the weight of the parental interests and identify those of the child's interests that are of great weight. I have already suggested that focusing on a child's interest in developing relationship capacities, and its prerequisites, seem a good candidate for a weightier interest. Building on work on the intrinsic goods of childhood, we can identify another category of goods children have an interest in securing and that may help us resolve trade-offs. These are the goods that are especially important to get in childhood or are unique to childhood. This category is distinguished from the increasingly discussed intrinsic goods of childhood, which pick out goods that contribute to the quality of a childhood only, and includes those goods that

can only be secured in childhood or else are far better secured in childhood (On intrinsic goods of childhood see, Brennan 2014; Gheaus 2015; Macleod 2010; Tomlin *forthcoming*). The main distinction between what I am calling the 'goods unique to childhood' and the increasingly discussed 'intrinsic goods of childhood' is that the former may be purely developmental goods that are only or best secured in childhood while the latter are goods that, while only or best secured in childhood, are non-developmental and so only contribute to the quality of your childhood. Unique goods of childhood can contribute to the good of your adulthood too. Sufficient nutrition would be a good example of a unique good of childhood that isn't an intrinsic good of childhood. If you are malnourished as a child, it is very difficult to make up for that disadvantage later in life. The unique goods of childhood get their priority from their time-sensitive nature and the fact that it is impossible or difficult to compensate for those goods later in life. Alongside concerns about abuse and neglect, the categories of goods 'unique to childhood' and goods 'important for the capacity to have successful relationships' may help us make trade-offs. I cannot here provide an account of these interests as I wish to remain neutral on the specific interests that children and parents have in upbringing, but this provides some idea as to how we can begin to set the threshold on the *Dual Comparative View*, a view which is not problematically complicated.

## 7. Practical implications

Accepting the *Dual Comparative View*, we must keep in mind a number of issues. Our fundamental focus should not only be on the popular abuse and neglect thresholds. In addition to being concerned with abuse and neglect, as evidence of insufficiently good parenting, we should focus on how bad the parenting arrangement is *relative* to alternative available parents or a caring institution, such as a foster home, the most common destination for children removed from their parents. There is no justification for removing children from bad homes if we have nowhere better for them to go to. This is not a factor captured by non-comparative views.

Though it is unlikely that they would be very good policies if they were in constant flux, our reluctance to alter policy regularly should not lead us to stick with a faulty threshold. Holding the current policy perennially fixed on abuse and neglect will impose excessive opportunity costs on children, when they can do sufficiently better elsewhere, and excessive opportunity costs on their parents, when they are not doing sufficiently worse than the best alternative. As I have said earlier, this may be due to technological, economic or scientific advances. A failure to move the threshold will give rise to legitimate complaints that the best account of justice in child-rearing will avoid.

Accepting the *Dual Comparative View* means that as child-rearing arrangements change, hopefully improving, we should change the content, though



not the structure, of the good enough level. If child-rearing institutions, such as foster homes and candidate adoptive parents, improve then we should revise our policy because the child's claim to be removed becomes stronger under such changes. Thus, we should pay close attention to changes in the quality of upbringing available since this affects the numbers of children we would be justified in redistributing. We should take a dynamic approach to the criteria used to justify intervention in the family. The criteria used to judge whether parents are good enough should keep pace with changes in the quality of alternative custodial arrangements though, for reasons grounded in the interests of parents and children we should not change the policy every day. This is arguably the most important way in which the *Dual-Comparative View* is practically distinctive from simple threshold views. It has the capacity to adjust over time whereas the simple threshold views must stay constant whether we live in times where the average parent is very poor or very good at parenting or whether the average foster home or child-rearing institutions are very good or very poor. These considerations must bear on custodial decisions and the *Dual-Comparative View* is best placed to account for them.

## 8. Conclusion

In this paper, I have argued that an account of the good enough upbringing is essential if we are to address one set of theoretical and practical debates about children and justice, those pertaining to the custodial arrangements of children. I have explored different approaches to specifying the good enough upbringing condition, and specifically the two important questions about the relevance of comparisons of upbringing quality and the relevance of parent's interests to the good enough upbringing condition. I have shown that there are distinct advantages to the *Dual Comparative View* over the *Best Custodian View* and the *Non-Comparative Views*, of which abuse and neglect is a version. I have also tried to assuage worries about the implications of the view and have suggested ways that trade-offs might be made. I hope to have made it easier to specify a complete and sound account of the good enough parent and to address the important practical issues related to children and justice. It remains, however, for us to characterize and weigh the justice-salient interests of children and parents that will flesh out the account of the good enough upbringing.

## Notes

1. I am grateful to an anonymous reviewer for stressing the non-voluntary nature of the child's position and its possible implications regarding the priority of their interests.
2. I am grateful to Rebecca Reilly-Cooper for stressing this point to me.
3. The best developed account of what is at stake for parents can be found in the work of Brighouse and Swift (2006), (2009). They hold that parenting makes a

unique, non-substitutable, contribution to the flourishing of some adults and should be accorded significant weight (2006, 96; for its application to parental licensing see De Wispelaere and Weinstock 2012). Matthew Clayton has offered an anti-perfectionist account of that interest, stating that 'the interest in parenting is a particular instantiation of the interest each of us has in maintaining an intimate relationship with particular dependent others' (2006, 60). Colin Macleod's account stresses the valuable opportunities parenting provides for creative self-extension, stating that parents 'are also people for whom creating a family is a project from which they may derive substantial value. They have an interest in the family as a vehicle through which some of their own distinctive commitments and convictions can be realized and perpetuated' and 'One of the projects that many adults greatly prize is creating a family. As a corollary of their interest in pursuing their own conception of the good, parents have an interest in including their children in some or all of the elements that constitute their conception of the good' (1997, 119, 121).

4. I am grateful to Mark Budolfson for pressing me on this point.
5. One possible reason for this would be that such interests are not 'political' in the correct sense. Such interests may be perfectionist and therefore, according to anti-perfectionists, irrelevant to state decision-making.
6. I am grateful to Debra Satz for raising this objection.

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