

Chapter 11

Tragic Decisions: Removing Jewish Children from their Christian Guardians in Postwar Europe

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When Jewish parents faced the Nazi occupation in Europe, they first did all they could to protect their children by trying to retain some measure of normalcy; they continued to feed and educate them in the hope that somehow the hard times would pass. But the closer the instruments of the 'Final Solution' drew, the more evident it became that the dangers of starvation, disease and deportation were too imminent and serious to ignore and that the chances of the children surviving if they stayed with their parents were close to nil. Acknowledging this terrible reality, some parents looked for shelters in which to place their children in an attempt to avert their otherwise inevitable fate. Often they turned to non-Jewish friends and asked them to take care of the child. At times, they simply left the child – if young enough – on the doorstep of a monastery or of a non-Jewish family, or sent him or her out of the ghetto with no definite address, in the hope that the child would find some mercy and humanity. At other times, the Gentile caretakers were approached by third parties or themselves volunteered to risk their lives and the lives of their families to shelter one or more Jewish children.¹ Needless to say, such options of rescue were extremely rare and were available to a very limited number of Jews. Most Jews had no non-Jewish friends or connections, or, at any rate, had no practical way of getting to them. For the million and a half Jewish children who perished in the Holocaust no shelter was found, no solace from suffering, no escape from cruelty and murder.

The exact number of Jewish children saved by non-Jewish families and institutions is unknown.² On the basis of research published recently, I would estimate that their number in the whole of Europe did not exceed several thousands. In almost all cases, the parents of these Jewish children did not survive to reclaim their children. Nor did other close relatives, and even when they did so and wanted to find the children, they often had no idea of who had survived or no information about the whereabouts of relatives hidden by Gentiles. Yet, by the end of the war, it became known that a few thousand Jewish children had found shelter in non-Jewish institutions and families, and various Jewish organizations took upon themselves the task of finding these children, of 'rescuing'³ them, and placing them in a Jewish environment, in Israel (then Palestine) and in other countries.

Was this project morally justified? It is easy to see the *prima facie* reasons against it. These children had already undergone one traumatic separation when they were handed over by their parents to these non-Jewish caretakers, and a second separation would double the psychological trauma. Moreover, the non-Jewish caretakers had acted out of genuine humanity and compassion when they risked their lives and the lives of their loved ones to rescue these children, as the Nazis punished by death any attempt to help Jews.⁴ Surely these good souls deserved some consideration. From the point of view of many of these Jewish children, the non-Jewish families were *their* families. How could anybody who cared about these children wish to remove them from these families and send them to orphanages and programs in other countries, to become part of a world that at the time of their removal was so alien to them?

At first sight, this seems just another instance of the well-known problem regarding the best interests of the child, a problem extensively discussed in legal and other literature.⁵ But I believe that, from a philosophical point of view, the issue is more interesting and complex. What makes it so interesting and challenging is the fact that, unlike typical predicaments of this sort, here it was not only the interests of the parents (or other close relatives) that needed to be weighed against those of the child, but also those of the Jewish people, arguably represented by the organizations active in rescuing the children.⁶ Thus one central issue here seems to be the nature and normative status of *collective entities*. On the face of it, if no such entities exist, or if, in any case, no sense can be made of the idea of group rights or entitlements, then the claim of the above organizations over the children is groundless.

The other philosophical issue which is of special interest here is that of *identity*. The children under discussion were born Jewish, but brought up as non-Jewish by their adopting parents. Many of them, who were babies or toddlers when separated from their biological parents, were totally ignorant of their Jewish roots, an ignorance which played a crucial role in keeping them alive. So according to their own self-perception, they were not Jewish. Often they were not Jewish in the eyes of the surrounding Gentile population either, not even in the eyes of (step-)siblings. Thus, we may well ask, *were* they Jewish? Can their removal from Gentile homes to Jewish institutions be considered as returning them to where they, in some significant sense, *really belonged*? Can we make sense of the claim that Jewish children (= children with Jewish 'roots') who grew up as Catholic-Polish, for example, were not really Catholic (by religion) or Polish (by nationality), because they were Jewish?

The third issue I'll be discussing is the normative status of the parents' desires *vis-à-vis* their child once they (the parents) died or were involuntarily separated from their offspring. Hardly anybody disputes the convention that parents are entitled to decide what education their child should receive, which, in effect, means an entitlement to bring up their child to be in many central respects like *them*. Society is not supposed to intervene in this education even if such intervention could be considered to be in the best interests of the child. Does this hold true only when the parents are alive or do their wishes and dreams *vis-à-vis* their child's education and identity carry moral weight even when they are dead? Most of the

Jewish parents probably wouldn't have wanted their children to grow up as Gentiles if they (the parents) had known they would not survive the war. What weight should we assign to their wishes in determining the children's fate after the Holocaust?

Before turning to discuss these questions, I wish to make two clarifications. First, my focus here is on cases in which the job of locating the children and removing them was conducted by Jewish organizations, not by relatives. Second, I am referring to cases in which the children were young enough to have their fate decided by others. Save for exceptional circumstances, if a seventeen-year-old Jewish boy said he preferred to stay with the non-Jewish family that had sheltered him during the war, he ought not to have been (and probably could not have been) forced to leave them.⁷

Like all philosophical discussions, the discussion below tends to be cold and universalistic, thereby veiling the depth of tragedy involved in the cases under discussion. I know of no way to avoid these characteristics of philosophical discussion but only to remind myself and the readers that the problem I attempt to deal with was anything but cold. In the course of working on this essay I read and heard many stories which were deeply moving and often heart-breaking. I feel I owe some kind of an apology to these child survivors, as well as to their generous and brave Gentile caretakers, for turning their tragic stories into an object of abstract philosophical enquiry.

To the best of my knowledge, this is the first philosophical discussion of the topic. Though a huge body of literature exists on child custody in general, none refers to the special question of who should have gotten custody over the Jewish children in the cases under discussion. One or two writers do mention these cases, but do not go into any serious discussion of them.⁸ What literature about child custody does teach us, however, and what seems a good point of departure, is the importance of considering the 'best interests of the child.' As removing a child from his or her home is usually harmful to the child and hence against the child's best interests, there seems to be a strong *prima facie* reason against the project of rescuing the children under discussion from Gentile homes. The *onus*, so it seems, lies on those who want to justify the project.

How can one justify removing a child from home? One line of argument is to show that ultimately, in the long run, such removal serves the best interests of the child, or, at least, does not make the child worse off in comparison to her prospects if left where she is. A different line of argument rejects the idea that the child's interests are the only ones that count and relies on other kinds of considerations to justify the removal of the child, for instance the interests of the parents. This second line of argument does not ignore the interests of the child, but insists that the interests of others also need to be accounted for, and sometimes the latter override the former.

Accordingly, the discussion will proceed as follows. Section 1 deals with arguments concerning the removal of the children from the point of view of the best interests of the children. I seek to show that, ultimately, such removal was for the good of the children, or, at least, that, overall, it caused them no significant harm. In Section 2, I present and defend arguments for the removal of the children based on considerations other than the best interests of the children. These two kinds of

arguments reinforce each other and, if successful, establish the conclusion that the project of relocating the Jewish children after the Holocaust was justified.

1. The Best Interests of the Child

Many legal and moral discussions on child custody take it for granted that custody ought to be determined by the best interests of the child. Any other approach is seen as sacrificing the interests of the child for those of the parents, the nation, the state, or some other powerful entity. The child is supposedly treated then not as an end, but merely as a means towards the gratification of the parents, the honor of the nation or the power of the state. The child's rights are violated and his or her personhood denied.

But what *are* the best interests of a child? Answering this question requires no less than a full account of what the best interests of an *adult* are, since, after all, childhood is only a relatively short period on the way to adulthood. The best interests of the child are those whose fulfillment makes him or her better off (or best off, if that makes any sense) as an adult. What, then, makes one better off as an adult? We can immediately see how difficult it is to answer this question. First, there are problems concerning *value*. Is the poor peasant in China worse off than the rich lawyer in Tokyo? The former surely makes less money than the latter, but would one say that, therefore, he leads a worse, or less worthy, or less happy, life? And would anybody argue that, therefore, it is in a Chinese child's best interests to be brought up in urban Tokyo rather than in rural China? Second, there are problems concerning *knowledge*. To determine that some option is in the child's best interests, we need to know what other options exist and what the possible outcomes of each option are. But such knowledge of the future is not available to us. Hence, as Elster has argued at length,⁹ the standard of the best interests of the child is hopelessly indeterminate. On Susan Wolfson's view, this indeterminacy has led to so much disagreement as 'to render the standard itself meaningless,' a 'virtually empty vessel.'¹⁰ This indeterminacy explains how the standard under discussion has been and is still used to support the social and cultural *status quo*, as argued by many writers.¹¹ If the courts don't like the parents' lifestyle, or their sexual preferences, they can always try to rely on the notion of the child's best interests to deny them custody over their child.¹²

Yet, even if we are at a loss to determine what the *best* interests of the child are, can't we at least determine what is *bad* (or *worse*) for the child? If a father sexually abuses his daughter, we are on firm ground when we argue that removing her from his custody is in her best interest. Below a minimal threshold, comparative statements about the best interests of an individual do seem to make sense. As with other evaluative judgements, it is easier to identify evil than good, easier to know what's bad for one than to know what's good for one. In custody cases, this principle seems to offer rather limited assistance, since most parents pass the above threshold in a way that prevents us from saying that granting them custody would definitely be *bad* for the child. Yet, in the present context, the idea of not *harming* the child might help, as, in regular circumstances, removing a child from his or her parents

does seem to be extremely harmful and traumatic to the child. Hence, there seems to be a strong *prima facie* reason against removing the Jewish children from their Gentile parents.

1.1 How Traumatic was the Removal of the Children from their Gentile Parents?

I will not deny that a presumption against removing the children, based on the above consideration, exists. But I do wish to deny the strength of this presumption, particularly the view that it is so strong as to trump almost any other consideration.

The view that separation at a young age is traumatic and causes significant mental damage both in the short and in the long run is usually connected to the psychological work of John Bowlby and to what is known as 'attachment theory.'¹³ The basic idea of the theory is that the success of primary attachment is crucial to the mental health of the individual. If children suffer various kinds of parental deprivation, or if they are separated from their parents, they suffer from distress and personality disturbances, including anger, anxiety, depression and emotional detachment. In most cases, the object of attachment is the biological parent, but it is not necessarily so. An adopting parent who raises a child from infancy can be just as good as a biological one in providing for the psychological needs of the child. The crucial thing is that the child has at least one adult with whom he or she can create an enduring, trustworthy, emotional bond.

If indeed early attachment is so important for future healthy development, then, in disputes over child custody we usually ought to leave the children where they are, to spare them the pain and mental damage of separation. Thus, there is a strong presumption in favor of the *status quo*; wherever the child is, it is in his or her best interests to remain there. In the present context, this view, of course, implies that the Jewish children should have been left with their Gentile parents.

Such views, however, about the conditions for healthy development are not accepted by all psychologists. In particular, it has been argued that children are more adaptable to changes than allowed by attachment theory, including changes in the identity of their caretakers.¹⁴ Relying on various studies in this direction, Arlene Skolnick argues as follows:

Perhaps the most controversial aspect of attachment theory concerns the impact of early relationships on later developments ... Some children manage to overcome adversity and loss, others do poorly in life after promising beginnings. These more recent views are more optimistic than the older assumption that children who experience early insecurity are doomed to later difficulties.¹⁵

If these more recent views are sound, then short of extreme conditions, the loss or separation from a mother or psychological parent may not be a direct cause of later disturbances. Rather 'it may act more like a vulnerability factor, a psychological weak spot, which may make the person more susceptible to later losses.'¹⁶

To illustrate these doubts about the harm of separation, Skolnick refers to the well-known case of Baby Jessica. Jessica was born to Cara Clausen who decided shortly after the birth to give her up for adoption. She signed the adoption papers with the man she had named as the father and Jessica was adopted by Jan and

Roberta DeBoer. Three weeks later Cara Clausen changed her mind and claimed she had named the wrong man. She told her ex-boyfriend that he was the father and the couple married. They then started a long legal struggle to get back their biological daughter, at the end of which the Michigan Supreme Court ruled in their favor and ordered that Jessica be removed from her adopting parents back to her biological ones.¹⁷ The scene of Jessica being taken from the couple that had raised her as their child since shortly after birth was shown on television across the country and aroused intense feelings. Many felt that the separation was cruel both for Jessica and for the DeBoers and that the court's decision was against the best interests of the child.

But, as Skolnick reports, a few months after the separation, a television program presented an interview with the biological parents and with their daughter. The impression a viewer would get was that this was a normal happy child in a normal happy family. At least on the surface, no lasting trauma seemed to have affected Jessica (by then renamed Anna). Was there, however, any deep post-traumatic damage *under* the surface? To this Skolnick replies:

We don't know. It's possible that the first three years of her life made her a resilient child who could bounce back from trauma, or that the removal of a child from one set of loving parents to another is not as upsetting as the other kinds of separations that have been observed. On the other hand ... children who have been exposed to traumatic events ... may also seem to be 'normal,' only to show the effects of trauma years afterward.¹⁸

On a more mundane level, these hesitations about the psychological damage of separation seem to be consistent with the personal experience of many parents. Parents often undergo the unpleasant experience of handing over a crying child to a nanny, a babysitter, or some other caretaker. The first day of school or of kindergarten is full of heart-breaking scenes of this sort, and young parents seeing their first child cry this way and stretch out his hands for succour often feel guilty for what they are doing to the child. But, as most of us learn, these separations are far less cruel than they seem, and in most cases the children adjust very well to the new environment and the new caretakers. Usually the weeping ends very quickly and, by the time the parent gets into his or her car, the child is content and happy in his new environment. Temporal separation for a few hours or a few days is, of course, not the same as permanent separation, but, nevertheless, we might learn from these instances that the weeping and agony at the time of separation is not necessarily a predictor of long-term pain and agony.

That children have a remarkable ability to adjust to painful changes is also evident from cases of divorce. To be sure, in some cases, the separation brought by divorce has serious psychological results for the children. But, in many cases, the damage does not seem so bad and at times the separation seems to leave no negative effects at all. The divorce rate in the West in the last decades has become very high, which means that many children have undergone painful separations from a parent. All of us know examples of such situations. But only a small percentage of the children can be said to be mentally less healthy than their friends. This common-sense view is confirmed by scientific evidence, as shown by Stewart et al.:

Although the experience [of divorce] may have been traumatic in a few cases, mostly it was not ... The children generally showed improved adjustment over time and did not seem to suffer extreme psychological or behavioral disruption.¹⁹

Once again, divorce is not exactly the same as the cases under discussion. In divorce, the child stays with at least one of the parents, often remains at home, in most cases goes on seeing the other parent, and goes on living with (or, at least, meeting) the other siblings, while in the cases under discussion, the Jewish children were separated from both their (Gentile) parents as well as from their (step-) siblings, and moved to a different environment altogether. Still, there is enough in common to make the comparison interesting. In both cases, children are forced to undergo a painful change that has to do with partial or full separation from beloved people. And, in both cases, one would expect that this change would cause severe psychological damage to the children,²⁰ which we now have reason to doubt.

Maybe we can go one step further and learn another lesson from the comparison with divorce. There is, no doubt, a high likelihood that divorce would psychologically damage the children, either severely or moderately. Except for rather extreme circumstances, it is in the children's best interests that the parents do *not* separate, but instead make a much greater effort to stick together.²¹ But very rarely would we morally condemn couples who decide to divorce, and never would we legally ban the divorce on such grounds. The expected psychological damage to the children is not thought to carry too much moral weight, and probably not thought to be too traumatic in any case. If that is so, then maybe a similar (though weaker) conclusion can be deduced regarding the Jewish children under discussion, namely, that the trauma of separation was not so damaging in the long run and that, at any rate, it could be overridden by other considerations.

Let me sum up the argument of this section. Removing a child from his or her home seems so traumatic as to almost silence any other consideration. Regarding the present problem this view would imply that, as a rule, the Jewish children should not have been removed from their Gentile families. The purpose of this section was to start challenging and undermining this view. I argued that, contrary to both popular conceptions and some psychological theories, separation from their parents (biological or adoptive) does not necessarily cause long-term psychological damage to children. Had we really believed in such damage, we would have been far more critical (that is, *morally* critical) of couples getting divorced. That we are not so critical expresses a common belief that either the damage of separation is not so grave, or that, at any rate, the interests of the children can be overridden by those of the parents. To oppose the removal of the Jewish children fiercely on moral grounds is thus inconsistent with the common, lenient (if not encouraging) attitude toward divorce.

The conclusion of this argument is, of course, not that we should be indifferent to removing children from their parents, but that the reason against doing so is not as powerful as we might have thought at the outset. Thus, though I concede that there still exists a presumption against removing the Jewish children from their foster homes, the presumption has gotten weaker, and therefore weaker reasons will suffice to override it. In the next sections, I seek to develop such reasons. Some have to do with the interests of the children and they will be discussed in Sections 1.2 and

1.3, while others have to do with the interests of the parents and of the people, and they will be discussed in Section 2.

1.2 Connecting to One's Roots

Most of the children we are dealing with had no recollection of their biological parents or of their Jewish background and if they did, it faded during the years. As mentioned earlier, such ignorance of their Jewish origins was crucial for the children's survival. Yet, once the war was over and such ignorance was no longer a necessary means for survival, we may well ask could the Jewish origins of these children have been concealed from them for ever? *Ought* they to have been so concealed?

I believe the answer to both questions is negative. First, in many cases, there were Gentile relatives, friends, or neighbors who knew about the Jewish children, and one can assume that such secrets could not be hidden for ever even if that were the intention of the (Gentile) parents. Second, as often the case with adopted children, there was likely to be a perception of physical dissimilarity between the Jewish child and the Gentile parents and siblings, which would eventually make outsiders think 'Hey, this child just can't be their son' and make the child himself suspect that the people he knew as parents were not his 'real' parents. Even more so if the child had a 'Jewish look,' which would not only indicate lack of genetic relation but also raise for the child the possibility of Jewish origin.²⁷ Hence, in those rare cases in which hiding the Jewish origins was practically possible, it must have involved serious self-deception and denial which would probably have had their own damaging effects.

Yet, even if the origins of these children could be hidden, I submit that they ought not to have been. Adoptive parents have a duty to tell their adopted children the truth about themselves, just as they have a duty to tell their biological children the truth about events and biographies relevant to them. The duty to tell the truth is not an absolute one, but one needs a good reason to justify not doing so. Adopted children would normally be furious if they found out that they were deliberately and knowingly deceived about who their real, that is, biological, parents were. So, to conclude this point, after the war the Gentile parents ought to have revealed to their Jewish child the true facts about her tragic biography, and if they didn't do so, often the child would anyway have discovered the story by herself (or alternatively live a life of denial and self-deception).

The argument I would like to present now is that the capacity to connect to one's roots contributes to one's quality of life. We know this from scientific as well as from popular literature (and movies) about adopted children who searched for their biological parents. According to studies of such cases, all the children who had completed a part of the search for a blood relative indicated that the post-search changes 'marked considerable improvement in their lives.' Among other things they referred to

Significant changes in self-esteem, self-confidence, and assertiveness... Many mentioned feeling 'connected,' 'grounded,' or 'belonging' in a way they had never experienced before. Another grouping of responses referred to a sense of 'validation,' feeling 'real,'

and 'authentic'; peace of mind and a sense of calmness was mentioned by several, as was a greater ability to handle and express emotions. Several respondents made extensive references to the effectiveness of the search in breaking an impasse in their development as persons.²⁸

Such responses to the results of the search were not confined to children who for some reason were dissatisfied with their adoptive parents. According to Bertocci and Schechter, the same terms – feeling 'connected,' or feeling 'whole' – were used, regardless of how the adoption experience was evaluated. Not knowing one's 'roots,' that is, one's biological parents and family, often entails a diminished sense of identity and a sense of incompleteness. Reconnecting to them makes one feel whole, integrated, authentic, and, generally speaking, improves one's life. David Archard also suggested that

It could well be that one's genetic nature is crucial to one's sense of identity. Or even, simply, that a sense of affinity, given by biological relations, exerts a very real influence on people's discovery of their 'self.'²⁹

If all this is true, we could assume that, in the case of the Jewish children too, connecting them to their Jewish roots by removing them to a Jewish environment was – in many cases – essential for granting them a better sense of belonging, identity and completeness than they would have had if they had stayed in their non-Jewish families. In this sense, the removal can be said to have been good for the children.²⁵

It is telling to note in this context the recent phenomenon of young Poles of Jewish origins who discovered those origins and decided to return to their Jewishness in various ways. This phenomenon was the topic of a television documentary program entitled *The Secret*, shown on Israel's Channel 8 on 27 August 2001.²⁶ The program tells the story of Poles who had been raised as Catholics but found out that their parents, or at least one of them, were Jews, whose families had perished in the Holocaust. This revelation encouraged them to search for details about their Jewish families, to study Judaism, and in some cases to adopt a religious Jewish way of life. Such stories show the incredible influence the discovery of genetic origins can exert on people's perception of their true 'self.' Indeed, Emunah Nachmany-Gafny reports on many requests to her and to other individuals and organizations by Poles asking for help in finding their Jewish relatives in Israel and in other countries. In her view, expressed in the concluding lines of her study,²⁷ the importance of 'roots' for one's sense of identity is the main reason for saying that the project of removing the Jewish children was justified.

Is it rational to assign such importance to one's biological origins? Is it rational for a happy, adopted child to feel incomplete just because he doesn't know his biological parents? We should be cautious about the use of the notion of rationality here. From a Stoic point of view, it is surely irrational to care about one's genetic roots, but it is just as irrational to care about one's adoptive parents and about family and friends in general. So that concept of rationality would not be of much help here.²⁸ A more helpful sense of rationality here would be what suits one's nature, or what contributes to one's well-being. Thus understood, the questions posed above

amount to asking whether connecting to one's genetic roots is really necessary for leading a 'full' and meaningful life. If it is, then it is rational to seek such a connection and regret its absence. If it's not, it is irrational to do so.

The search of adopted children for their biological parents and family and the search of second-generation clandestine Jews in Poland for their Jewish roots seem to indicate that people do have a genuine interest in connecting to their origins. Against this, it has been argued that the value assigned to one's genetic nature is a mere cultural construct which does not express a truly human need. Skolnick refers in this context to 'new biologism,' the view that 'the essence of a person is rooted in the primordial differences of gender, race, ethnicity, genes,'²⁸ and argues that this view is part of a culture that emphasizes that 'identity and belonging are defined in biological terms.'²⁹ In other cultures, identity is defined (or could be defined) in other ways, implying that nobody would be worse off for not knowing his or her genetic roots. Hence, to conclude this objection, the need of the Jewish children to connect to their Jewishness was not genuine; therefore, in this respect, their removal from the Gentile environment cannot be said to have been for their good.

The question of whether some needs are a matter of nature or of culture and of the significance of this distinction is an old one and discussing it lies beyond the scope of this essay. For the argument of the present section, it suffices to make the following remarks. First, whether natural or cultural, the data about adopted children indicate a strong interest in connecting to the genetic family and a significant improvement in the quality of life for those who did so. This part of the essay focuses on the interests of the children as they actually were, namely on what would have made them better off or worse off given the interests and preferences they had. That different cultures have, or might have, a different view about what constitutes identity is irrelevant to determining the factors influencing the sense of identity in *our* culture and the effects of these factors on the well-being of the individual. Thus, if we care about adopted children's subjective well-being, we will let them connect to their genetic roots, regardless of whether the importance of such a connection is natural or cultural.

Second, it seems to me that there are good reasons to think that the search for one's 'roots' is not as contingent as the objection above suggests. According to one study, 60 percent of the adopted children searching for their biological families indicated that lack of perceived similarities had been a significant factor in their sense of frustration, embarrassment and insecurity. Though the nature of these dissimilarities might differ across cultures, some, such as the color of one's skin, are so visible and manifest that they will be experienced as troubling everywhere. The reason is that self-esteem is tightly connected to a sense of belonging and of being included in the relevant social group. When one senses oneself as deeply different, one's social status is perceived as insecure and a feeling of exclusion is likely to develop.³¹ The relation between humiliation, fall in self-esteem, and sense of social exclusion has been established in various studies, as I have argued elsewhere.³²

That one's sense of identity has to do with awareness of one's genetic nature is also supported by some philosophical views on the nature of personal identity. According to Bernard Williams, what determines personal identity is what he terms

'The Zygotic Principle,' according to which 'a possibility in which a given human being, A, features is one that preserves the identity of the zygote from which A developed.'³³ Why is the zygote so essential in determining identity? Because it helps give substance to the distinction between possible different life stories of two individuals and possible different life stories of the same individual. Had Dan grown up in the UK instead of in Israel, he would have been a very different person, but this would still be a possible life story of Dan, while if Dan's brother, Bob, had grown up in Israel instead of in the UK where he actually grew up, his life would have been very similar to that of Dan, but still it would be a possible life story of Bob, not of Dan. This interest we have in distinguishing between different life stories explains the importance of the zygote as the point from which the story begins. Before the existence of the zygote, no individual exists, and once the zygote does exist, the story begins. Endless paths are open to the individual who develops out of the zygote, and all mark possible stories of *this* individual. If, then, the notion of a life story is so central in understanding the *concept* of personal identity, and if such understanding grants a central role to one's genetic nature, that is, one's original zygote, it is no wonder that one's sense of identity depends on connecting to one's life story and ultimately to one's genetic nature.

It is not only one's genetic origins that one wishes to discover to get a rich and integrated sense of identity, but also one's membership in various groups. Writers on groups have emphasized that, while with some groups, such as the local tennis club, membership is voluntary, with other groups it is different. As Margalit and Raz put it, in these groups 'membership is a matter of belonging, not of achievement ... Qualification for membership is usually determined by nonvoluntary criteria.'³⁴ Membership in a nation is a paradigmatic case of such nonvoluntary belonging, hence getting in touch with one's national roots can enrich or make one's sense of identity more complete. The good of such a connection, of establishing a sense of belonging, is not without qualifications. If the relevant group is immoral, or if connecting to it might damage the individual's life in some respect, then there are good reasons for not doing so. Still, in regular circumstances, one's sense of identity will be positively enriched by connecting to the national and other groups of which one is a member.

To a degree, such enrichment can be gained by the mere *knowledge* of one's roots. Yet I am assuming that knowledge coupled with real, that is, social connection, might be even more conducive to a sense of wholeness and integrity.

In concluding this section, let me make several clarifications about the nature and limits of the argument put forward. First, the general aim of this part of the essay is to evaluate the removal of children from their Gentile foster homes from the point of view of the best interests of the children. To do so, we must look at possible disadvantages the children would have suffered had they stayed in the Gentile homes, and possible gains in the removal. The suggestion made in this section was that one such possible disadvantage is a damaged sense of identity that would result from growing up in a non-Jewish environment. This possible injured sense of identity is definitely not something that all children would have suffered from, nor would it necessarily be an unbearable one. Still, for many of them, it does seem to constitute a reason for bringing them back – for their own good – to the Jewish community.³⁵

Second, as pointed out to me by Eve Garrard, the ideal of complete integration and belongingness seems to be beyond human achievement, at least in industrial societies. All of us, or at least most of us, have diverse and multiple identities such that we never really 'belong' wherever we live. This fundamental incompleteness of modern human existence seems to weaken my argument, for, if nobody can achieve a sense of wholeness, there is not much point in moving people around with this aim in mind. But a sense of wholeness, like most good things, is not a matter of all or nothing, but a matter of degree. Surely some people suffer from it more than others and, in many cases, the suffering can be alleviated by having them connected more significantly to basic elements in their identity. I am not suggesting that the Jewish children under discussion gained a perfect sense of wholeness by being removed to a Jewish environment, only that they gained a better one than they would have had had they stayed in the Gentile environment.

Finally, I should recapitulate that the argument made here does not rely on metaphysical claims regarding the nature of groups or of personal identity, but on psychological claims regarding the source of one's *sense* of identity and the importance of this sense for the well-being of the individual. I shall return to discuss this issue from the metaphysical angle in Section 2.3.

1.3 *Retrospective Justification*

Many, probably most, of the Jewish children were upset when they had to leave their Gentile homes and move to a new life under the supervision of Jewish organizations and institutions. Yet, more than fifty years later, it is hard to find even one who regrets the move. Quite the contrary. Most are explicitly grateful for having been removed from the Gentile homes and for having had the kind of lives they had.³⁶ Doesn't this retroactive assessment provide a decisive argument for justifying the removal (once again: from the point of view of the children's good)?

Some would say 'No.' For them, to show that one is justified in doing *a* is to show that at the time of decision one has, overall, better reasons for doing *a* than for abstaining from doing *a*. If this condition is not fulfilled and the agent, nevertheless, does *a*, then the agent is *unjustified* in doing so, even if, in retrospect, the agent or somebody else judges the act as justified. If I bet on the slowest horse in the race simply because I'm too lazy to enquire about the horses and riders participating, then I'd be behaving stupidly and irresponsibly, even if, by a miracle, this horse ends up winning and I gain a million dollars. Similarly, if I release my son from his safety belt, I am risking his life and thus behaving in an unjustified manner, and this assessment would remain true even if the fact that the child was not buckled in his seat happened to save his life in a car accident (for example by enabling him to escape from the burning car). Hence, to return to the present issue, the fact that, in retrospect, the removal of the children seems to have been good for them provides no basis for saying that the removal project was justified. It might still have been morally unjustified to remove the children from the Gentile families.

In his seminal paper on moral luck and in a later postscript to it, Bernard Williams has shown how this concept of justification is motivated by a desire to make essential parts of our lives immune to luck.³⁷ The desire is most familiar in the

moral sphere, especially in the Kantian tradition, according to which the goodness of an act does not depend on its contingent results. In Kant's famous words:

Even if it should happen that, by a particularly unfortunate fate ... this [good] will should be wholly lacking in power to accomplish its purpose ... it would still sparkle like a jewel in its own right, as something that had its full worth in itself. Usefulness or fruitfulness can neither diminish nor augment this worth.³⁸

This Kantian conception, argues Williams, 'jinks, and affects, a range of notions: morality rationality, justification, and ultimate or supreme value.'³⁹ Indeed, notwithstanding its title, most of his paper is not about morality, but about rational justification, in particular about the reflective self-justification of one's own actions. Williams's main idea is that good deliberation does not make one immune to self-criticism if, in retrospect, it turns out that the decision led to disastrous outcomes. Similarly, bad deliberation does not block the way for retroactive justification if a seemingly wrong decision turns out to have led to great results. Rational justification, whether moral, prudential or other, is (also) a matter of luck.

If Williams is right in his view, as I believe he is, then the above objection can be ignored, and the argument set out above reestablished as follows: at the time of the decision to launch the project of removing the Jewish children, the decision-makers did not have enough resources to guarantee that they were doing the right thing. Like all decisions, certainly significant ones, only the future could determine whether the project could be ultimately justified or not, a justification which would depend on whether the project succeeded or failed.⁴⁰ If we evaluate success or failure in terms of subjective well-being, we are on firm ground to argue that the way the lives of these children turned out retroactively justifies the decision to remove them from the Gentile homes.

Yet, at this stage, readers might feel that I have played some trick on them. To be sure, the Jews under discussion were happy and proud to have led a Jewish life, but that's just because they were brought up as Jews and lived in a Jewish environment from a young age. Had they stayed with their Gentile families and spent all their years as Polish Catholics, they would also have been happy and proud to have led the lives they did. To put it in general terms: the preferences and desires of an adult individual are determined by early decisions made by him or her and by others, so that the late retroactive assessment of life is conditioned by these early decisions. This means that, except for rare cases, we cannot rely on predictions regarding later approval to justify one decision over another.

A similar argument is made by Jon Elster in his attempt to show the indeterminacy of the principle that custody cases should be determined by the best interests of the child. To rely on the child's preferences at the time of decision would be problematic, he argues, as the child 'can be expected to have large gaps in his preference ordering.'⁴¹ To make an informed choice on behalf of the child would almost inescapably engage in objectionable paternalism. Would it help to instruct the judge to make a decision of which the child would approve later, assuming such a prediction to be possible? To this Elster rightly answers, that since the later preferences would depend largely on the decision made, 'the instruction might not discriminate sufficiently between the options.'⁴²

Back to our present problem, then. As retroactive evaluation of the children's whole lives depends on the decision – *any* decision – made for them in their childhood, it could not have been a basis for preferring one decision over the other. Suppose in 1946, we are hesitating about whether or not the best interests of some child, Joseph, entail that we should remove him from his Gentile home. And suppose we gain divine insight into the future and know for sure that if Joseph grows up as a religious Jew in an Israeli kibbutz, he'll be very grateful for our action. But we also have this miraculous knowledge about other possible routes Joseph might take and in many of them he will also feel grateful for the kind of life we gave him as a Catholic priest, as a proud farmer, and so on. Hence, satisfaction with the life a person actually leads does not in any way show that life was better for him than other possible lives he could have had, had his parents, caretakers, state officials, or religious leaders, chosen differently.

But what exactly follows from this argument? True, retroactive satisfaction with the removal of these children does not prove that life as Jews was *better* for the children than life as non-Jews. They would probably have been (retroactively) satisfied with the latter life too.⁴³ But it, at least, shows that life as Jews was not *worse* for them than other alternatives. Comparing possible (or real) life stories is a classic case of comparing incommensurable options.⁴⁴ It is really hard to see how, in terms of the best interests of the child, one can compare his or her possible life as a Jewish-American citizen in New York to the same individual's possible life as a Catholic-Polish citizen in Warsaw. At the very least, the impossibility of making helpful comparisons here means that no option can be said to be better than the other. But if that's the case, then the presumption against removing the children is *weakened*, as we cannot say that removing them was to create a worse life for them than leaving them where they were.

Furthermore, the retroactive approval of their removal provides some support for the assumption that the removal did not have such a traumatic effect on their lives. If the removal had caused severe and lasting psychological damage, it would have affected the children's lives in such a way that they could not look back with content. Of course, the damage might have been repressed and denied, and might have caused unnoticed psychological injury. But we'd need more evidence to show that this was the case. If, on the conscious level, these people were happy with their lives, maybe the lesson to draw (which is not a novel one) is that repression and denial can be very helpful devices in coping with unpleasant experiences, without leaving too painful bruises in the psyche.

Finally, contrary to what is implied by the above objection, it is definitely not the case that, in retrospect, everybody is happy with his or her lot and approves of the decisions – of parents, courts or teachers – that shaped their actual lives. A good example directly relevant to the present case is that of Bruna Vasconcelos. Bruna was born in Brazil in 1986 and kidnapped by her nanny when she was four months old. She was later sold through an adoption agency to the Turgeeman couple in Israel who adopted her, named her Caroline, and raised her with care and love. Two years later the biological parents found out that their daughter was in Israel and claimed her back. The case reached the Supreme Court of Israel, which decided in favor of the Brazilian parents, on the basis of what the court called 'the cry of blood.'⁴⁵ In his

decision, the deputy president of the Supreme Court, Menachem Elon, mentioned the struggle to remove the Jewish children after the Holocaust as a reason why the court ought to be sympathetic to the desire of Bruna's parents to get their daughter back. Many in Israel cried with the Turgemans when their daughter was taken away from them, yet hoped with them that she would, at least, be happy back in Brazil. Unfortunately she was not. Her biological father, who had already been separated from the mother before the trial, left home shortly after their return to Brazil and did not meet his child again until recently. Bruna became pregnant out of wedlock before she had reached her fourteenth year and gave birth to a boy, Daniel. Her mother refused to let them stay at home and they are now staying with the grandmother in very harsh, poor conditions. Bruna says she does not remember her Israeli parents, but she knows they are wonderful people and is sure that, had she stayed with them, her life would have been much better.⁴⁶ Thus, in the case of Bruna, retroactive assessment provides a good reason to think that returning her to the biological parents was not the right thing to do (in terms of the best interests of the child). That very few (if any) of the Jewish children think that they would have been better off had they stayed with their Gentile families is thus not insignificant.

2. The Interests of Others

For those who believe that the child's interests are the only legitimate consideration in deciding custody cases, our discussion could come to an end at this point. But I doubt if anybody holds such an extreme view. Suppose we are 100 percent sure that some newborn baby B would be much better off if raised by some adoptive couple than if raised by its biological family (even after considering the possible unfortunate effects of being adopted). Very few would allow that, in such a case, the child be removed from its biological parents and given for adoption. Notwithstanding the importance of caring for the child, the child is not the only player in the game to merit our care and attention.

The idea of taking a baby from its biological parents and giving it for adoption might seem far-fetched and imaginary. But the opposite situation, which points to the same conclusion, is quite familiar, namely, a case where a child is raised happily by non-biological parents, and then returned to the biological ones. I have already mentioned above the cases of Baby Jessica and of Bruna Vasconcelos. The essential point about such cases is the basis on which the decision was determined. It was not decided that the child should be returned to her biological parents because the court was convinced that the child would be better off with her biological parents, but rather the basis for the decision was the fact that *they were her parents*. In order to get custody over a child, beyond establishing a rather low threshold of parental capability, all one needs to demonstrate is that one is the parent (assuming, of course, that there was no consent to adoption and so on).

Needless to say, the fact that the child's good is not the only consideration in disputes over custody does not mean that it has no or low value. It does, however, mean that the door is open for other interests to be considered and balanced against those of the child. In the words of Jon Elster, 'children do have a need for special

protection, but their interests do not lexicographically dominate those of all other parties.⁴⁷ Let us turn, then, to look at these other interests.⁴⁸

2.1 *The Biological Parents*

In almost all cases, the biological parents of the Jewish children under discussion did not survive. The conflict, therefore, was not between the interests (or rights) of the adoptive parents and those of the biological ones, as in the cases of Baby Jessica and Bruna Vasconcelos. Nevertheless, the Jewish parents must have had wishes *vis-à-vis* their children. Though they were not in a position to leave clear instructions as to what should be done with the children if they (the parents) did not survive, we can speculate about what they *would* have said had they been presented with two fundamental options, namely, for the child to be raised as a Catholic in a Polish family, or for the child to be raised as a Jew. Though I can offer no direct evidence for my own speculation, I am sure that most of the parents would opt for the latter option.⁴⁹

This speculation might be strengthened by the fact that Jewish children who grew up in a non-Jewish environment, in Poland for instance, were in real danger of becoming anti-Semitic, just like their counterparts in that environment.⁵⁰ Indeed strong fear of and hatred towards Jews and Judaism already existed among some of the young children under discussion. Some hated the Jews because they believed that Jews crucified Jesus, and some sincerely believed the Jews used Christian blood to bake unleavened bread at Passover. A girl removed from Poland to a Jewish institute in Lyon wrote the following letter to her former Christian family:

Dear Aunt, why did you hand me to these Jewish murderers, bandits? It would have been better had you handed me to the Germans ... The Germans have killed too few of them ... They [the Jews] are sure that they are taking us to terrible Palestine. When we crossed the Czech border, I started crying. They said: *Oy Vey*, you'll go back to the *goyim* [Gentiles], because they don't say 'Polish', only '*goyim*'. I answered them: You sick Jews, I wish the Germans had killed you.⁵¹

It seems to me reasonable to assume that Jewish parents who had suffered so badly from anti-Semitism in the 1940s would not have wanted to take the chance that their children adopt such views,⁵² and, hence, would have preferred them to be removed from their Gentile homes to a Jewish environment.⁵³

Let's assume, then, that the parents had to make a choice between three options: (a) that their child stays with them and dies; (b) that the child is rescued by Christians and then raised as Christian; (c) that the child is rescued by Christians but after the war returns to a Jewish environment. I contend that almost all Jewish parents would have preferred options (b–c) over option (a).⁵⁴ and – more important for the present argument – most would have preferred option (c) over option (b). The philosophical question now is, does such hypothetical preference carry any moral weight? It is one thing to compromise about the interests of the child for the sake of what the (biological) parents *actually* wish, for example to grant them the autonomy to send the child to what we take to be an awful school. It is quite a different thing to compromise about the child's interests for the sake of what the parents *would have* wished. Or is it? There seem to be two issues here. The first

concerns the hypothetical nature of the wish, the second the fact that its subject is no longer alive. As for the distinction between actual and hypothetical here, it does not seem to carry too much weight. In contract law, in the absence of explicit utterances, it is common to rely on what the parties would have consented to had they been asked. So in the present case too, in the absence of explicit statements, it is reasonable to rely on what the parents would have said had they been asked. Here we would gain knowledge into such preferences is a different problem, but there is no reason to think that an explicit statement is the only way to do so. The parents' attitude to their Jewish identity, as expressed in a multitude of ways in their lives, is a good enough reason to guess what their preferences would be with respect to the present dilemma.

Having established the preference of the parents, the second issue concerns the moral relevance of this preference given that the parents are no longer alive. Why care about what the parents would have wished for their child if the parents are dead, and thus cannot be harmed by what is done to their child? Yet, most of us believe that wills ought to be respected even though their subjects will never know if they are not and, more generally, that one can suffer all kinds of misfortunes after death.⁵⁵ As Nagel explains, the misfortune that befalls an agent need not coincide in time with the agent's life, just as it need not coincide with her spatial location. One can be harmed by events far from one in place, and, similarly, one can be harmed by events far from one in time.⁵⁶ That one knows and feels the pain of an evil can make the evil even worse, as noted rightly by Hamfling,⁵⁷ though its very existence does not depend on such experiences. Hence, *if* a person has a right that her preference be taken into account in some matter, this right does not simply evaporate once she is dead. Back to our problem: *qua* parents, the Jewish parents had a right that their preferences as to how their offspring ought to be brought up be heard. If I am right, in most cases, their preferences would have been in favor of a Jewish upbringing. If so, then, although the parents were dead at the time of the decision, their interests constituted a good reason in favor of removing the children.

Note that for the sake of this argument it makes no difference why (biological) parents have the power to determine their children's lives; that is, why the parents' preferences *vis-à-vis* their children constitute moral reasons for treating the children in various ways. If parents (usually the father in this context) *own* their children, then surely they should have a say about what should be done with the children, just as they have a say in disposing of any other property they own. But very few philosophers hold such a view nowadays.⁵⁸ If parents earn the right to rear the children by committing themselves to taking care of them, then, again, once they have thus committed themselves, their preferences about the children's future ought to be respected. But if this is the model for the parent–child relationship, then it seems to imply that, in the case under discussion, the Gentile parents have priority, since they risked their lives to save the children. Let us, then, turn to discuss their status.

2.2 *The Gentile Parents*

Probably everybody would agree that sperm donors have no rights *vis-à-vis* the

child who is born of their donation. Sheer genetic parenthood is insufficient to grant parental rights. It is not necessary either, as evident from the parental rights we grant adoptive parents. As indicated at the end of the previous section, what is essential for parenthood in the relevant moral and legal sense is an actual commitment to take care of the child, to be responsible for him or her, in short, to treat the child *as one's son or daughter*. This is how David Archard summarizes his view on this:

Biological parenthood is the existence of a blood tie between begetter and offspring. Moral parenthood is the giving to a child a continuous care, concern and affection with the purpose of helping to secure for it the best possible upbringing ... Biological parenthood does not guarantee moral parenthood ... It is rather that those who undertake to discharge the duty to give children the best possible upbringing thereby acquire the right to rear.⁵⁹

This sounds a plausible enough view of (moral) parenthood. What follows from it regarding the problem at hand, however, is unclear. On the one hand, those who undertook the duty to care for the Jewish children and who risked their lives for their sake were the Gentile parents.⁶⁰ Hence, according to Archard's view, these parents acquired the right to rear, hence they had the right to determine whether the children grow up with them or be removed to a Jewish environment. Yet, on the other hand, the Jewish parents, too, had undertaken the duty to care for their (biological) children. They did their best to care for them in their early years, and their handing them to Gentile caretakers was a clear demonstration of their care and love, their attempt to save the lives of their children at all costs. Thus, on the above view, they too had acquired the right to rear, hence their interests *vis-à-vis* the children also ought to be respected.

If moral parenthood were determined by genetic parenthood, then every child could have only two parents, one supplying the sperm, the other supplying the egg. (Things might change with human cloning.) But if it is determined by a commitment to care, children might have fewer or more than two parents: 'Moral parenthood is not restricted to any particular familial form. It is consistent with natural, adoptive, foster or multiple parents, as well as a children's residential institution.'⁶¹ Our tragic cases are ones of *successive parents*: first, the Jewish genetic parents, then the Gentile ones and later the Jewish adoptive family or the relevant Jewish institution. As all of them undertook the duty to care for the children, they all seem to have acquired some right to rear the children, or at least have some say in decisions concerning their lives.

In the case of successive parents, none willingly giving up his or her parental status, how can we balance the possibly conflicting interests of the parents? There is no clear criterion here. The answer would depend on various factors, including the length of time the child spent with each parent, the depth of the commitment to care for it and the nature of the relationship with the child. If these various factors are more or less equal, I would suggest that the interests of the genetic parents be given some priority, as part of a general presumption in favor of genetic parents.⁶²

Moreover, a significant difference exists between our cases and regular cases of adoption (where there are also successive parents). In adoption, the genetic parents give up their right to rear and transfer it to another couple, thereby making their

wishes *vis-à-vis* the child morally irrelevant in determining its future, while, in the cases under discussion, the Jewish parents did not wish to give up their parenthood when they handed their child to the Gentile caretaker. They hoped that, after the war, they, or some relative, would return and take the child. This is supported by the fact that, in most cases, the Jewish parents shared the secret with some other person, in the hope that if they did not survive, there would be somebody else who would know where the child was hidden and who could take custody of him or her. In some cases, the children themselves were given names and addresses to turn to after the war if the parents did not survive.⁶³ Even in hopeless situations, people tend to believe that somehow they, or their dear ones, will survive. Probably most of the Jewish parents who parted from their children in the horrendous circumstances they faced believed and hoped that one day, either they, or some relative, would survive to reclaim the child.⁶⁴

Even more relevant to the present argument is that this view of the Jewish parents regarding the temporary nature of the 'adoption' of their children was implicitly accepted by many of the Gentile parents too. This, I believe, is evident from the fact that most of the Gentile parents handed the children to the various Jewish agents *voluntarily*. Only in a small minority of the cases were they forced to do so by threats, deceit, legal measures, or, in very rare cases, actual kidnapping. In the majority of cases, the Gentile parents were persuaded by the arguments presented to them by the Jewish agents, and were no doubt encouraged by the increasing sums of money they were offered.⁶⁵ It would be a total misconception to deduce from the fact that the Gentile parents demanded increasing sums of money for the children that they treated these children as commodities, that they didn't genuinely care for them. We have unequivocal evidence that they truly cared about the children throughout the war as well as feeling genuine sadness and depression when they had to part from them. What can be deduced from these facts is that, deep in their hearts, many of the Gentile parents too saw their custodianship over the children as temporary. With regard to genetic parents, it is hard to imagine considerations that could persuade them to willingly give up their children. The same holds true for adoptive parents, though in their case maybe such considerations are slightly more imaginable. That most of the Gentile parents in the cases under discussion were persuaded to do so indicates that their perception of their relationship with the Jewish children was different from the common perception of both genetic and adoptive parents towards their children. It is a praiseworthy perception, as – if my former arguments are sound – it reflects an adequate understanding of the unique nature of the 'deposit' with which they had been entrusted. It also seems to confirm the view that the status of the Gentile parents *vis-à-vis* the Jewish children they had sheltered was weaker than that of the Jewish parents and, hence, one that had to give way in case of conflict.

In concluding this section, I would like to reemphasize the extraordinary character of many of the Gentile parents at the price of slightly weakening the position developed above. The behavior of these people was not only morally acceptable, not only a question of 'doing what any decent human being would do' when they gave shelter to the Jewish children. The Gentile caregivers behaved like moral saints, acting well beyond the call of duty, risking their own lives and the lives

of their families. Such saints deserve special consideration, and to denigrate them in any way is particularly troubling. I concede this is a powerful reason for not removing the children, yet I believe that it does not override the other reasons mentioned above. That most of these saints agreed to release the Jewish children they had sheltered attests their recognition that their taking them in did not grant them final custody over the children. The saintliness of their acts cannot void the significance of this recognition.

2.3 *The Jewish People*

As I said at the outset, and as became evident in the course of the discussion, the problem at hand bears many similarities to other problems concerning custody of children, in cases of divorce, adoption and so on. Yet the present problem also has some unique aspects, most notably the fact that the claimant for the children was often not a family relative (not even a remote one), but various organizations that saw themselves, and were seen by others,⁶⁶ as acting on behalf of the Jewish people. Thus understood, the conflict involved not only the interests of individuals (the children, the adoptive and the biological parents), but also those of a *collective* entity, that is, the Jewish people. That being the case, the reasonableness of the claim to remove the children would seem to depend, at least partially, on whether or not an entity like the Jewish people can be said to exist or to have rights. If it can, then it is capable of making all kinds of demands, including demands of the kind discussed here. If it cannot, then the Jewish organizations appear to have had no standing *vis-à-vis* the children and, hence, no right to claim them 'back.'⁶⁷

Yet, surely, this is a rather superficial way of introducing the dilemma. Nobody would deny that collective entities like nations, states, companies, or social classes can be said to act or to have interests ('The Palestinian people has an interest in developing Palestinian culture'; 'The United States has declared war against terrorism'; 'Microsoft is concerned about its future'). The philosophical debate is about the *nature* of such entities, their acts and their normative status. In particular, the debate is about whether collective entities can be said to act and have moral status above and beyond that of the individuals who constitute it at any given time, or whether all claims about collectives must be reduced to claims about individuals. In the present context, the question is: whose interests (or rights) were competing with those of the Gentile parents (and possibly of the children), those of the Jewish *people*, or those of (some?) all? *individual Jews*?

The idea that collectives can act and have rights above the acts and rights of individuals sounds to many people metaphysically dubious and paradoxical. I cannot enter into this large and complex discussion here, though I do wish to say something toward the dismissal of this air of paradox. Opponents of collectives assume that the acts, rights and obligations of collectives must be reduced to the acts, rights and obligations of individuals. They probably rely on some general view about the explanatory power of reduction.⁶⁸ Yet, as argued by Tännsjö, 'if we want reduction, why stop at individual actions? Why not go, say, for sociobiological explanations of social phenomena?'⁶⁹ Since we *are* ready to stop (for many purposes) at individuals, in spite of the fact that we could further reduce them, we

should also be ready to stop (for other purposes) at other entities – such as nations – even if they, too, are susceptible to further reduction. The naturalness of individual existence, argues Noam Zohar, is 'more apparent than real. ... Change and reconstitution over time are the fate not only of nations but also of persons, and critical reflection reveals the difficulties in positing a unified and constant "individual person."⁷⁰ If, nevertheless, we do not give up talk about individuals, we must not shy away from talk about collectives either and should not view it with such suspicion.

Having said that, I think that we do not need to decide about the existence of collectives in order to answer the question under discussion. Writers on collective rights have often made a distinction between collective rights that can be reduced to individual rights and those that cannot. To say that Moslems have a right to pray to Allah is to say that each individual Moslem has such a right. But to say that Moslems have a right to political control over the holy places in Saudi Arabia cannot be reduced to saying that each Moslem has such a right. A right for national self-determination is of course of the second type: it is *nations* that have such a right, not any individual.⁷¹ Thus, rights exist, such as the right for self-determination, or the right for preferential treatment, that must be understood as rights of *groups*, rather than as aggregate rights of many individuals. That it makes sense to talk about rights of groups, or of collectives, seems to be accepted by most writers in the field,⁷² notwithstanding disagreements about the nature of and the basis for such rights.

But, as argued by Yvini Haksar, even in the case of irreducible collective rights, 'the ultimate justification could be in terms of the interests of individuals.'⁷³ The bearer of the right for self-determination is a nation, but the justification for it, that is, the justification for the duties imposed upon others, is grounded in the interests of individual members of the nation. Similarly, to use another of Haksar's examples, it is a group, not its individual members, that might have a right to a certain quota of the relevant jobs, though the justification for giving certain disadvantaged groups quotas lies in the promotion of the interests of their members. This view is entitled by Michael Hartney 'value individualism,' which is defined as follows: 'Only the lives of individual human beings have ultimate value, and collective entities derive their value from their contribution to the lives of individual human beings.'⁷⁴ It is contrasted with 'value collectivism,' according to which a collective entity can have value independently of its contribution to the lives of individual human beings.⁷⁵

Suppose now that the Jewish people did have a (*prima facie*) right to remove the children from their Gentile homes and bring them up as Jews. Could this right be reducible to the right of each individual Jew to do so, like the right to raise one's own children as Jews, or the right to eat *kosher* food? That would sound rather odd. While eating *kosher* food might be viewed as a right for any individual Jew, this could not be said about removing the children. Surely not every Jew had a right to removing the children under discussion from their Gentile homes.

Thus, assuming that the Jewish people had a right to remove the children, it was an irreducible collective one. As explained above, this still leaves us with two ways of justifying this right: one in terms of the interests of the collective itself ('value collectivism'), the other in terms of the interests of its individual members ('value

individualism'). But first we must ask, individual or collective, *what* interests were there to be protected by the removal? Why would the Jewish people, or individual Jews, have an interest in removing the children from their Gentile parents'?

Think of the following case. Suppose some extreme missionary Catholic group kidnaps a four-month-old Jewish boy, baptizes him and sends him to some remote monastery to be brought up as a Christian. The entire Jewish world protests and demands that the child be returned to his home. What interests of the Jewish people are hurt by the kidnapping, or by the fact that the child is not returned home? One answer might be the survival of the group. If Jewish children are kidnapped and brought up as non-Jews, then the existence of the Jewish people is threatened. The fewer Jews there are, the weaker the Jewish collective. But the protest would be loud even if only one Jewish child were kidnapped, an act which, by itself, would definitely not threaten the very existence of the Jewish people. Hence, the explanation seems to do with the troubling *message* of such an act, that is, that Jews are weak, vulnerable, and incapable of protecting their children. Such a message both undermines the Jews' sense of honor and self-respect and also fosters fear and uncertainty regarding the security and future of the Jewish people. In these senses, attacks against individual members of a group are quite similar to minor bodily assaults on one individual. The injury caused by such assaults is not to be measured merely by the bodily harm, but by the message conveyed by it and by the psychological (and social) results that tend to follow. Such a kidnapping has a significant *symbolic* meaning which would explain the rage and protest of the Jewish people in this imaginary scenario and their attempts to make the kidnappers return the child.

For the sake of argument, I have assumed that the kidnapped child is happy and content in this monastery, and have argued that, nevertheless, the Jewish people have a right to claim him back. Of course, if the child is unhappy there, an even stronger reason exists for the claim, and deep interest in the good of the child comes into play. To be a member of a collective is to feel solidarity with other members and to care about their good more than about the good of non-members. It is to have an interest in promoting the welfare of other members of the collective and in reducing their pain and misery.

But can this child be said to be a member of the Jewish collective? For all *he* knows – assuming he is kept in that monastery for several years – he is Christian. In what sense are we justified in saying that he is Jewish nevertheless? I mentioned earlier Margalit and Raz's claim that membership in collectives is not a voluntary matter, nor one of achievement, but a matter of belonging. Essential to this belonging is a mutual recognition of one as member. Other conditions underlie such recognition, such as birth, but none suffices by itself for membership, unless supplemented by mutual recognition. In the imagined case under discussion, the boy was *born* as Jewish and definitely recognized as such by his family and everybody else who knew him. The kidnappers too acknowledged his Jewishness; that was precisely why they kidnapped him. Even if he grew up all his life as Christian, it would make perfect sense if some priests were to refer to him behind his back as 'the Jew,' and if, upon revealing his true biography at the age of seventy, he himself said, 'Wow, so I am a Jew.' This would not be a mere subjective feeling, nor a matter

of identifying with the Jewish people. What he would be discovering in this imaginary scenario is a true fact about himself, namely, his belonging – in some sense – to the Jewish people.

Let us return now to the issue of removing the Jewish children. Not removing the children would not have caused anything close to a threat to the existence of the Jewish people. Still, the Jewish people did have an interest in removing the children because of the symbolic meaning of doing so (and the symbolic meaning of *not* having done so), particularly after the Holocaust. By bringing these children back to a Jewish environment, their survival was to be made meaningful to the Jewish people and to the world at large. After having lost a third of its members, the Jewish people had a strong interest in recovering and getting back on its feet. Removing the children was instrumental in sending forth and encouraging a message of survival, rebirth and hope. It also expressed the Jewish people's renewed ability to take care of its members and to fight for them, an ability which had been crushed during the Holocaust. This expression too was instrumental in assuring its members, as well as non-Jews, of the worth of the Jewish people.

Given this understanding of the relevant interests, for the sake of the present issue, I see no need to decide between value individualism and value collectivism. If we adopt the latter, then clearly the Jewish people, *qua* collective, had an interest in encouraging the above messages and in caring about the thousands of its members who were handed over to non-Jewish guardians under terrible circumstances. If we adopt the former, then plainly it was in the interest of individual Jews, too, to advance these goals. The above messages and the welfare of the Jewish children were collective goods that they had an interest in promoting.

But there was another message to be sent through the removal of the children, a message that had meaning not only for Jews but for humankind in general. This is the message that power ought not to prevail. In most cases, the children under discussion would have been brought up as Jews by their parents, had the latter not been forced by the most dreadful and cruel circumstances to seek shelter for their children in non-Jewish homes. That a person voluntarily chooses to exit from his or her community – be it nation, religion or culture – might be regrettable for other members, but, surely, the decision must be respected by anybody with even minimum respect for human autonomy. But if a person is forced to exit, it is important to undo the consequences of force, thereby proclaiming a universal message against violence and terror.

Finally, from the Nazi point of view, the best 'solution' for the 'Jewish problem' was the death of the Jews. But if this could not be achieved for some reason, surely they would concede and accept a 'second-best' solution, namely, the complete destruction of Jewish identity. In the Nazi evil mind, this would at least partially reduce, and in the course of time eliminate, the poisonous influences of Jewish blood. From this point of view, the Nazis would have viewed the Christianization of the Jewish children as at least partial success of their Satanic plan. And that is precisely why the children ought to have been removed from their Christian homes, namely, in order not to let evil prevail, not to let the Nazi ideology triumph.

Liberals are often suspicious about collective rights because of the threat such rights pose to the rights of individuals. In the present case, one could worry about

the Jewish children being viewed as mere instruments for the benefit of the people.⁷⁶ Yet I believe this suspicion is warranted only when collective rights are granted privileged status as reasons for action, not if they are regarded as one kind of reason among others, as they were here. For anyone who concedes that the interests of individuals in general, and children in particular, might be overridden by other considerations, there is nothing unreasonable or even surprising about this conclusion. As David Archard correctly explains, we ought not to accept the idea of a sharp contrast between an extreme individualism which leaves no room for collective considerations and an extreme, Platonic-like collectivism, that leaves no room for the individual.⁷⁷

3. Summary and Conclusions

Moral dilemmas are situations in which, though there might be a right answer to the question of what, all things considered, the agents ought to do, they must still incur an irreparable moral loss and, hence, they cannot escape feelings of guilt and remorse.⁷⁸ The problem at hand definitely belongs to this category. In most cases, the removal of the children was unfair to the Gentile parents and often must have caused them deep pain. In some cases, it also caused damage to the children, an additional hurt to the scars they were already carrying with them from the time of the forced separation from their parents and family. But not removing the children would have also claimed its (moral) price. It would have been unfair to the (biological) parents, it would have ignored the interests of the Jewish people and, in some cases, would have been bad for the children too. There was no 'clean' solution to the problem at hand.

Nevertheless, in spite of the moral cost involved in it, I think the project was justified. Let me try to tie together the various threads of the argument that lead to this conclusion. In the first section, I discussed various considerations from the point of view of the best interests of the child. My aim was to weaken the presumption that removing the children was traumatic, causing everlasting damage to the children. I relied on psychological literature that casts doubt on the traumatic effect of early separations, and points to the remarkable ability of children to adapt to new circumstances and new frameworks. I also referred to research on children of divorced parents, showing that divorce does not cause extreme psychological or behavioral disruption and that, over time, adaptation to the new situation improves. At any rate, very few people would suggest banning divorce because of the psychological injury caused to the children, and most people would find it inappropriate even to condemn the parents for this reason on moral grounds.

I then argued that, generally speaking, it is better for people to live where they belong, in terms of the relevant nation, race or culture. Here I relied on literature about adopted children and their search for their roots, as well as on the voyages of second- or third-generation hidden Jews in Poland back to their Jewishness.

Finally, to reinforce these two lines of argument, I mentioned the fact that the great majority of children retroactively approved of the removal in their adulthood. Had the removal caused such severe and enduring psychological effects, it should

have damaged the children's lives in a way that would make such positive assessment impossible. That it is possible shows that the trauma of the removal was not so crushing to them or, in any case, that it was (partially) compensated for by a feeling of connection to their roots and of living among their own.

The first section of the essay might have been sufficient to establish that the removal was morally legitimate. But, in disputes about child custody, it is never only the interests of the child that matter. There are also the interests of the parents and even those of the public.⁷⁹ So in the present case too, we had to continue and discuss the interests of others, which was the aim of the second section. I started with the interests of the biological parents: I tried to show (a) that their preferences for their children had moral weight, and (b) that, in most cases, the parents would have supported the removal of the children from the Gentile families. I then turned to the Gentile parents and argued that their preferences definitely carried moral weight, but that when balanced against the preferences of the biological parents, in most cases, the latter prevail. I relied on a general presumption in favor of biological parenthood and also on the fact that most Gentile parents were not forced to agree to the removal, hence their doing so expressed their tacit understanding that the children were put in their custody only temporarily. Finally, I argued that the Jewish people can be said to have had an interest in removing the children, mainly as a symbolic way of affirming its existence after the Holocaust and of spreading a message of survival, hope, and resistance to evil.

The bottom line, therefore, is that the project was morally justified. Of course, this conclusion has exceptions, cases where the price of removing the child turned out to be too high for him or her. In these cases, the Jewish organizations, acting out of good will, added unnecessary distress to lives which had already experienced so much pain. That the Jewish people had to face such tragic dilemmas and that it must have erred in deciding some of them is yet a further painful consequence of the Holocaust.

Notes

- * For helpful comments on earlier drafts, I am greatly indebted to Shulamit Almog, Eve Garrard, Emmunah Nachmany-Gafny and Saul Smilansky. Special thanks to Eve Garrard for her constant encouragement in the writing of this essay.
1. For the historical facts relevant to this topic, I will be relying primarily on a recent dissertation by Emmunah Nachmany-Gafny, *The Removal of Jewish Children from Gentile Families in Poland in the Immediate Post Holocaust Years*. Bar-Ilan University, Israel, 2000 (in Hebrew – English version forthcoming by Yad Vashem, Jerusalem), and also on Nachum Bogner, *At the Mercy of Strangers: The Rescue of Jewish Children with Assumed Identities in Poland*. Jerusalem: Yad Vashem, 2001 (in Hebrew). I wish to thank Emmunah Nachmany-Gafny for kindly providing me with a copy of her study while it was still under review and for patiently clarifying many crucial points in conversation. I shall refer to them throughout the essay as 'the Jewish children.' I refer to the Gentile rescuers as 'caretakers,' or simply as 'the Gentile parents.'
2. To 'save,' to 'rescue,' or to 'redeem' were some of the terms used by these organizations to describe their activities. I will use the neutral term 'to remove,' in order not to beg the question in favor of the project under discussion.
- 3.

4. For the heroic dedication of the Gentile parents, see, for example, Nachmany-Gafny, *Removal of Jewish Children*, pp. 34–5, and Bogner, *At the Mercy of Strangers*, pp. 72–8. That the caretakers were moved by humanity and mercy does not mean that such moral emotions were the only source of motivation for their deeds. At times other motives existed too, such as having another pair of hands to help on the farm, or converting the Jewish child to Christianity. The desire to convert the children to Christianity was especially relevant with regard to children hidden in monasteries. See Bogner, p. 286.
5. See, for instance, Laura M. Purdy, *In Their Best Interest?*, Ithaca, NY: Cornell University Press, 1992; Michael Freeman and Philip Veerman (eds), *The Ideologies of Children's Rights*, The Netherlands: Martinus Nijhoff, 1992; Jon Elster, *Solomonic Judgments: Studies in the Limitations of Rationality*, New York: Cambridge University Press, 1989, pp. 134–9.
6. The involvement of relatives was often problematic in the rescue efforts; see Nachmany-Gafny, *Removal of Jewish Children*, p. 169.
7. Some indeed chose to do so, see Nachmany-Gafny, *Removal of Jewish Children*, pp. 162–4.
8. See Arlene Skolnick, 'Solomon's Children,' in M.A. Mason, A. Skolnick and S.D. Sugerian (eds), *All Our Families: New Policies for a New Century*, New York: Oxford University Press, 1998, p. 238 (on political refugees who have to flee their country, leave their baby with neighbors and come back ten years later to claim it) and p. 245 (on a child of Holocaust survivors raised by another family as an exception to the rule formulated by Goldstein et al. that children ought to be left with their adoptive parents).
9. Elster, *Solomonic Judgments*.
10. Susan Wolfson, 'Children's Rights: the Theoretical Underpinning of the "Best Interests of the Child,"' in Freeman and Veerman, *Ideologies of Children's Rights*, p. 7.
11. See especially Janet Dolgin, *Defining the Family: Law, Technology and Reproduction in an Uneasy Age*, New York: New York University Press, 1997, who shows at length how the idea of the best interests of the child 'has supported society's continuing nostalgia for the way families were thought once to have been.' Her main concern is to show how this nostalgia underlies much of the opposition to new methods of reproduction and new forms of family.
12. See, for instance, the Virginia Supreme Court decision in *Bottoms v. Bottoms*, in 1995, granting custody of a young boy to the grandmother rather than to the mother, essentially on the grounds that the child's best interests would not be served by residence with his lesbian mother. Referred to by Dolgin, *Defining the Family*, p. 220.
13. See John Bowlby's three-volume *Attachment and Loss*, London: Hogarth Press, 1965, 1973 and 1980.
14. For some of the critical, 'revisionist' views, see the references mentioned by David Archard, *Children: Rights and Childhood*, London: Routledge, 1993, p. 174, n. 7, esp. A.B. and C.B. Clarke (eds), *Early Experience: Myth and Evidence*, Harmondsworth, UK: Penguin, 1972.
15. Skolnick, 'Solomon's Children,' p. 249.
16. *Ibid.*, p. 246.
17. 442 Mich. 648; 502 N.W. 2d 649, 1993 Mich. LEXIS 1659.
18. Skolnick, 'Solomon's Children,' p. 251.
19. A.J. Stewart, A.P. Copeland, N.L. Chester, J.E. Malley and N.B. Barenbaum, *Separating Together: How Divorce Transforms Families*, New York: The Guilford Press, 1997, p. 90.
20. My concern with long-term psychological damage does not deny the pain of separation as harm in itself, regardless of such damage. Yet, if only short-term pain is involved, pain which is soon forgotten and which leaves no scars, the onus on those removing the children is much lighter.

21. It might be relevant to note that the overwhelming majority of children in divorced families say that they would have preferred the unhappy marriage to the divorce. Quoted by Elster, *Solomonic Judgments*, p. 124, n. 3.
22. Personally, as I grew up in Israel, I find it almost impossible to identify Jews from non-Jews just by their physical appearance. But I know that Jews who live for long enough among non-Jews are pretty good at doing so, and (unfortunately in most cases) non-Jews are rather good at it too. I was recently told by a non-Jewish philosopher that, due to the way he looks and talks, he had been often taken to be Jewish and more than once was beaten because of this false identification.
23. Marshall D. Schechter and Doris Bertocci, 'The Meaning of the Search,' in David Brodzinsky and Marshall Schechter (eds), *The Psychology of Adoption*, New York: Oxford University Press, 1990, p. 71.
24. Archard, *Children*, p. 104.
25. Like most arguments of this essay, I'm assuming that this argument holds true for most children, though not for all of them. If revealing to the children their Jewishness had caused severe pain and instability and if it could have been concealed from them successfully, then obviously they would have felt no lack in 'wholeness' or 'authenticity' growing up as Catholic Poles.
26. See also 'The New Jews,' *Ha'aretz*, 17 August 2001, Supplement, pp. 60–65 (in Hebrew).
27. Nachmany-Gafny, *Removal of Jewish Children*.
28. For a deep moral criticism of the Stoic ideal, see George Harris, *Dignity and Vulnerability*, Berkeley: University of California Press, 1996.
29. Skolnick, 'Solomon's Children,' p. 240.
30. *Ibid.*, p. 241.
31. This seems to establish an argument against cross-cultural adoption, an issue being hotly disputed in the UK in recent years. But it is only a *prima facie* reason against such adoption, which can be rebutted by stronger ones. As, in most cases, the alternative to cross-cultural adoption is institutional care, it is almost always better for the child to be adopted – at the risk of suffering from some feelings of exclusion and so on – than to be left in some institution.
32. Daniel Statman, 'Humiliation, Dignity and Self-Respect,' *Philosophical Psychology* 13 (2000), section IV ('humiliation and the fear of exclusion'). Apparently, the sense of security gained by inclusion in a social group that one usually gets from one's (biological or adoptive) parents is not strong enough to make one immune to painful messages of exclusion coming from larger social circles.
33. Bernard Williams, *Making Sense of Humanity and Other Philosophical Papers*, Cambridge: Cambridge University Press, 1995, p. 224.
34. Avishai Margalit and Joseph Raz, 'National Self-Determination,' *Journal of Philosophy* 87 (1990), pp. 439–61.
35. Michael Hartney objects to the view 'that ceasing to belong to the community one was born into would have disastrous effects on one's "identity" and would leave one an impoverished individual.' In his opinion, such a thesis is 'surely false,' as it flies in the face of the fact that many people experience the change to the new culture as liberating and as making them better off ('Some Confusions Concerning Collective Rights,' in James Crawford (ed.), *The Rights of Peoples*, New York: Oxford University Press, 1987, p. 297). But the thesis under discussion does not argue that exiting from one's community always has 'disastrous' effects on one's identity, only that, in typical cases, and other things being equal, it has some negative effect of this kind. That this is so is confirmed by the experience of millions of immigrants all over the world who might be happy with their immigration for all kinds of reasons, but still regret it because of its effects on their sense of identity and belonging.

36. I am relying here on conversations with Nachmany-Gafny, who has interviewed dozens of survivors about their experiences and feelings.
37. Both papers, 'Moral Luck,' and 'Postscript,' appear in D. Statman (ed.), *Moral Luck*, Albany, NY: SUNY Press, 1993, chs 2 and 14, respectively.
38. *Foundations of the Metaphysics of Morals*, 1st section, 3rd paragraph.
39. Williams, 'Moral Luck,' p. 36.
40. More accurately, according to Williams there are two kinds of failure, 'intrinsic' and 'extrinsic,' and only the former is relevant to proving the project unjustified. In the celebrated example of Gauguin, who deserted his family to paint in Tahiti, an intrinsic failure would be getting injured in a road accident on the way to Tahiti, while an intrinsic failure would be a failure in his artistic enterprise.
41. Elster, *Solomonic Judgements*, p. 136.
42. *Ibid.*, p. 137.
43. At the end of 2001, Emmunah Nachmany-Gafny launched a quantitative research in Poland to examine precisely this point, namely, to see how Jewish children who, for various reasons, were not removed from their Gentile families retroactively assess their lives. This is the first empirical study of the topic, and it is hoped it will shed light on the possibility of making meaningful comparisons between the lives of children who were removed and those who were not.
44. See, for instance, Joseph Raz, *The Morality of Freedom*, Oxford: Oxford University Press, 1986, ch. 13, esp. the example of the choice between a career in law and a career as a clarinetist. I'm not arguing that different life stories can never be compared. Surely it is better to live with non-abusive parents than with abusive ones. That incommensurability does not necessarily exclude comparability is a central point in chapter three of my *Moral Dilemmas*, Amsterdam: Rodopi, 1995.
45. *Vasconcelos v. Turgeman* (1988) 45(iii) P.D. 626.
46. Bruna was interviewed by an Israeli journalist who visited her in Brazil. See Uri Misgav and Hilitt Yanay, 'Remember Bruna-Caroline?', Magazine *HA'IR*, Tel-Aviv, 2 August 2001, pp. 46-51 (in Hebrew).
47. Elster, *Solomonic Judgements*, p. 127.
48. One kind of arguments for removing the children that will not be discussed here are religious ones. These can be of two main kinds: arguments claiming that for the sake of the children they ought to be raised as Jews (for example because otherwise their souls would be ruined); and arguments claiming that such rescue was a religious duty incumbent upon the parents. To properly evaluate such arguments, much needs to be said about the role of religious arguments in moral and political debate, a topic that goes beyond the scope of the present essay. See, just as a start, A. Saggi and D. Statman, *Religion and Morality*, Amsterdam: Rodopi, 1995.
49. Indeed those executing the project expressed their feeling that they were carrying out the parents' will. See Nachmany-Gafny, *Removal of Jewish Children*, pp. 99, 125, 251.
50. Anti-Semitism was deeply rooted in Polish culture and expressed itself in numerous ways during the Holocaust. It has received new attention recently following the revelations about the massacre in Jedwabne. See Jan Gross, *Neighbors: The Destruction of the Jewish Community in Jedwabne, Poland*, Princeton, NJ: Princeton University Press, 2000. According to Gross, the massacre of the 1,600 Jews of Jedwabne was not carried out by the Germans, but by the Polish neighbors of the victims. After the war, such pogroms flared up again against survivors of the camps who tried to return to their homes. More relevant to the present study: in most cases, it was a Polish informer who told the Nazis about Jewish children hidden in the neighborhood or in the village, thereby leading to the death of the children together with their guardians. See Bogner, *At the Mercy of Strangers*, p. 45.

51. Nachmany-Gafny, *Removal of Jewish Children*, p. 237. As a policy, the organizations that dealt with these children did not forward the letters to the Gentile families, to expedite the children's adjustment to their new environment. So quite a number of such letters remained in the archives and are a good source of information.
52. For Jewish children becoming anti-Semitic in their Gentile families, see also Bogner, *At the Mercy of Strangers*, p. 72. Bogner tells the story of a Jewish girl hidden by the former housemaid of her parents. The girl, Martha, celebrated with her friends in the street the news about the final destruction of the Warsaw ghetto. When she returned home joyfully, her Catholic rescuer beat her up and said to her: 'In the street you may behave like everybody else. But in this home remember that the Jews are good people.' The fear that the Jewish children, victims of anti-Semitism, would become anti-Semitic themselves was an explicit motive of many Jewish agents active in the removal project. See Nachmany-Gafny, *Removal of Jewish Children*, p. 251.
53. Some orthodox parents might have preferred their child to die than to risk having him or her brought up as a Christian, or even living temporarily in what they perceived as an idolatrous environment. Whether or not Jews ought to let their children die, or, to take a more extreme position, ought to actually kill them in order to save them from converting to Christianity, is an issue under dispute in Jewish law. The dispute arose in Europe during the period of the Crusades, when Jews at times killed their own children and then killed themselves to prevent forced conversion. On this tragic chapter in Jewish history, see Israel Jacob Yuval, *Two Nations in Your Womb: Perceptions of Jews and Christians*, Tel Aviv: Am Oved Publishers, 2000 (in Hebrew), ch. 4.
54. Cf. Aristotle, *Nicomachean Ethics*, bk 1, chs 10-11.
55. Thomas Nagel, 'Death,' in *Mortal Questions*, Cambridge: Cambridge University Press, 1979, p. 6.
56. Oswald Hanfling, *The Quest for Meaning*, Oxford: Blackwell, 1987, p. 67: 'If there are unexperienced evils, they are not as bad as those within our experience.'
57. An exception is Jan Narveson, *The Libertarian Idea*, Philadelphia, PA: Temple University Press, 1988, pp. 269-74. For a rejection of the ownership model, see, for example, Archard, *Children*, ch. 8.
58. Archard, *Children*, p. 109.
59. Those who agreed to take care of the children only for money tried to get rid of the risky deposit sooner or later. See Nachmany-Gafny, *Removal of Jewish Children*, p. 28.
60. Archard, *Children*, p. 109.
61. For such a presumption, cf. *ibid.*, p. 104.
62. Nachmany-Gafny, *Removal of Jewish Children*, p. 24, n. 67 tells the story of a girl whose mother asked her to learn by heart two addresses in Canada and in New York before handing her to the Polish caretakers, then asked her to forget the addresses and her Jewishness, telling her that her life depended on it.
63. Whether handing over the Jewish children was intended for good or only for a limited period was a question discussed by a Polish court in 1946. The Foxbergs handed their daughter to a Gentile family. The parents were killed during the war, but an aunt survived and claimed the girl. In the trial, the lawyer representing the aunt argued that no parent gives away his or her child as a gift and when Foxberg handed the girl to the non-Jewish family, he surely believed that one day he would get her back. See Nachmany-Gafny, *Removal of Jewish Children*, p. 194.
64. In the months immediately following the end of the war, on their own initiative, some Polish guardians brought the Jewish children they had sheltered to Jewish organizations and asked for no compensation. Only later, when it became known that these organizations were willing to pay for the children, did the Polish caretakers ask for money. See Bogner, *At the Mercy of Strangers*, p. 198.

66. Even legally, these organizations were allowed to appear in court (at least in Poland) as representing the interests of the Jewish people.
67. The Holocaust has been a focus of many discussions regarding collective rights, responsibilities and emotions. Regarding the Jews, it has been disputed whether, as a people, they have a collective right to demand compensation from the Nazis. Regarding the Germans, whether they bear collective responsibility for what the Nazis did, whether they have an obligation to the victims and whether they should feel collective shame or collective remorse has been recurring topics. The literature on these questions is extensive. See recently Aleksander Jokic (ed.), *War Crimes and Collective Wrongdoing*, Oxford: Blackwell, 2001.
68. See, for example, Jon Elster: *Making Sense of Marx*. Cambridge: Cambridge University Press, 1985, p. 5, quoted by Torbjörn Tännsjö, 'Methodological Individualism,' *Inquiry* 33 (1990), p. 73.
69. Tännsjö, 'Methodological Individualism.' Tännsjö's paper is a strong attack on methodological individualism and concludes by suggesting that, in our best explanations of some social phenomena, we may well need to have recourse to collective entities.
70. Noam Zohar, 'Collective War and Individual Ethics,' *Political Theory* 21 (1993), p. 617. Zohar claims to be relying on the works of Eddy Zennach and Derek Parfit.
71. See Raz, *Morality of Freedom*, pp. 207–8 and Vint Haksar, 'Collective Rights and the Value of Groups,' *Inquiry* 41 (1998), p. 31.
72. Here are some references: David Makinson, 'Rights of Peoples: Point of View of a Logician,' in James Grawford (ed.), *The Rights of Peoples*, New York: Oxford University Press, 1987, p. 83 ('There is no self-contradiction in the very idea of rights or obligations attaching to an abstract or collective bearer, such as a people ... Neither the step to the collective, nor the step to the abstract character of the bearer is in itself incoherent'); Raz, *Morality of Freedom*, pp. 207–9; Virginia Held, *Rights and Goods*, Chicago: University of Chicago Press, 1984, p. 255; R. W. Brimlow, 'On Groups, Group Action and Preferential Treatment,' *Journal of Philosophical Research* 21 (1996), pp. 341–76.
73. Haksar, 'Collective Rights', p. 31.
74. Raz expresses a strong version of value individualism when he says that 'rights, even collective rights, can only be there if they serve the interests of individuals. In that sense, collective interests are a mere *façon de parler*' (*Morality of Freedom*, p. 208).
75. Hartney, 'Some Confusions,' p. 297.
76. Such a concern was voiced by those carrying out the project of removing the children. One said he felt at times that he was 'stealing the child from his parents and making him a child of the public,' see Nachmann-Gafny, *Removal of Jewish Children*, p. 241. But most of the time they believed that the removal was not only in the interests of the Jewish people, but would work out for the personal good of the children too.
77. Archard, *Children*, ch. 13, especially pp. 164–5.
78. I defend this conception of dilemmas in *Moral Dilemmas*. This is a kind of a middle-ground position between those who argue that in dilemmas no right answer as to what ought to be done exists and those who argue that if such an answer exists, the dilemma is unreal.
79. For the claim that public interest can override the best interests of the child, see Elster, *Solomonic Judgments*, pp. 148–50. Sometimes there is a general moral principle that is thought to override the interests of the child, as in the following case. A married, forty-year-old man, whose wife could not conceive, seduced his fifteen-year-old neighbor with the intention of raising the baby that would be born out of the relationship. When the baby was born, the girl immediately gave up her parental rights and the biological father demanded that he and his wife get custody over the child. The case reached the

Supreme Court of Israel that decided against the biological father. Most of the judges argued that, in the circumstances, letting the child grow up with his biological father (and his wife) would run against the child's best interests, hence he would be better off with adoptive parents. But one judge, Justice Heshin, argued convincingly that there was no serious basis to thinking that the child would be better off with some adoptive parent than with his biological father. The real basis for not letting the father have the child, he argued, was the principle that evildoers ought not to be allowed to benefit from their evil deeds. See 3798/94, P.D. 20 (3) 133.