Parental Partiality: Legitimate and Excessive

Harry Brighouse
Department of Philosophy
University of Wisconsin – Madison

Adam Swift
Department of Politics
University of Oxford - Balliol


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1. Egalitarians claim that resources should be distributed much more equally than currently. But most recognize some limits on what may permissibly be done in pursuit of equality. We can redistribute to achieve a much more equal distribution; but we are barred from achieving full equality of condition by the requirement to respect certain values that are morally more important. Rawls’s version of this view is the priority he accords to the Liberty Principle. The basic liberties guaranteed by the Liberty Principle must be secured, and, in Rawls’s theory, nothing may be done to achieve equality of opportunity or to maximize the benefit of the least advantaged which violates them.

Some of the barriers to permissible redistribution reflect the value of respecting prerogatives people have to favour themselves. Even G.A. Cohen, who argues in a series of papers that the much of the inequality apparently licensed by Rawls’s Difference Principle is illegitimate, grants that some degree of partiality to ourselves is legitimate:

…only an extreme moral rigorist could deny that every person has a right to pursue self-interest to some reasonable extent (even when that makes things worse than they need to be for badly off people). I do not wish to reject the italicized principle, which affirms what Samuel Scheffler has called an ‘agent-centred prerogative’. But a modest right of self-interest seems insufficient to justify the range of inequality, the extremes of wealth and poverty that actually obtain in the society under discussion.¹

But people also have morally weighty prerogatives to be partial toward particular others. The permissibility of partial relationships between individuals is a touchstone of liberal thinking. David Estlund presses the point against Cohen, developing a series of cases of incentive-demanding motives which result in inequality, but which draw only on altruistic concerns -- where the other whose interest is being pursued is near and dear to the incentive-demanding agent.²

But these relationships are also inegalitarian in some deep sense; the parties to partial relationships can exclude others from the mutual benefits their association yields, and if the state is required to give scope to these relationships it is limited in what it may do to pursue equality. Samuel Scheffler calls this observation (when made in an appropriately hostile manner) the ‘distributive objection’ to special responsibilities: ‘the distributive objection asserts that the problem with such responsibilities is not that they may place unfair burdens on their bearers, but rather that they may confer unfair benefits…special responsibilities give the participants in rewarding groups and relationships increased claims to one another’s assistance, while weakening the claims that other people have on them’.³
Participants in these protected relationships benefit twice over. They enjoy the quality of the relationship itself, and they enjoy the claims that the relationship enables them legitimately to make on one another, at the (potential) expense of those excluded from the relationship.

Our particular interest in this paper is the relationship which we take to be the most powerfully protected of all: the relationship between parents and their children. Parents are permitted to be partial to their children in ways that confer significant benefits on those children. When those parents and children are already advantaged over others this permissible partiality has potential to generate highly unequal outcomes, even against a relatively egalitarian background. It is familiar that the family (which we shall understand to be the institution within which parents partially confer benefits on their children) is a barrier to equality. Rawls famously says:

It seems that even when fair opportunity (as it has been defined) is satisfied, the family will lead to unequal chances between individuals (Section 46). Is the family to be abolished then? Taken by itself and given a certain primacy, the idea of equal opportunity inclines in this direction. But within the context of the theory of justice as a whole there is much less urgency to take this course. The acknowledgement of the difference principle redefines the grounds for social inequalities as conceived in the system of liberal equality; and when the principles of fraternity and redress reallowed their appropriate weight, the natural distribution of assets and the contingencies of social circumstances can more easily be accepted. (1999, 448; 1971, 511)

Other theorists talk about the ‘autonomy’ or the ‘integrity’ of the family, or about the right to raise one’s children, as barriers to redistribution. In a recent attempt to reconstruct a moderately perfectionist egalitarianism Richard Miller elaborates a number of values that should constrain egalitarian ambitions, including that ‘the inhibition of parental nurturance is itself a reason against a policy’. The reason that this phrase (and the others mentioned in the previous sentence) can command assent so readily is that there is no consensus on what counts as the proper scope of the autonomy of the family, or the proper extent of parental nurturance. Suppose that some child’s parents take it as their project to invest all possible resources in ensuring that their child will have maximal competitive advantage against other children. They divide their time between earning money for the purpose of investing in a trust fund and in expensive hot-housing private schooling, and spending it pursuing activities designed maximally to develop her human capital. They are promoting her best interests as they conceive them. But is what they are doing within the proper scope of parental nurturance? If so, and if Miller is right, then an egalitarianism that respects the value of parental nurturance will be a tepid egalitarianism.

We do not believe that egalitarians are required to permit parents to pursue their children’s best interests, regardless of the consequences that pursuit has regarding their child’s success in the pursuit for competitive advantage. We regard the behaviour we have described as excessive parental partiality, which we distinguish from legitimate parental partiality. Legitimate parental partiality is composed of those partial activities
parents are obliged by their special duty of care to engage in on behalf of their children, and those activities which, though not obligatory, they are permitted to engage in by a set of prerogatives they have regarding their children and their own lives; excessive partiality is simply constituted by activities that promote children’s interests but are not justified as legitimate. In this paper we give an account of how to make this distinction; and argue that the pursuit of equality is constrained by the requirement to permit legitimate, but not excessive, parental partiality.

Some theorists address issue of partiality to particular others in a general way, and the discussion of content of special responsibilities is often left aside or treated only in formal or structural way. Scheffler, for example, is concerned with special responsibilities in general. Like many theorists who have addressed this question in any detail he is more interested in the issue of what our obligations are to compatriots than in family issues. Indeed several theorists invoke family to justify partiality towards compatriots. We want an account, by contrast, that ties the content of the special responsibilities – what it is that you have reason to do for your child, or compatriot but not for others – to the nature of your relationship with them or, more specifically, to the goods realised by that particular relationship. What kinds of partiality is it necessary for you to be permitted to show in order to be enjoying that kind of relationship? We try to derive the content of the reasons for action from the content particular relationship in question.

Our approach, then, does not assume that there is some general problem of partiality which can be solved without exploring the precise character of the relationship within which partiality is claimed to be legitimate. We shall show that particular features of the parent-child relationship legitimize the expression of particular kinds of partiality within the relationship. To demonstrate the legitimacy of partiality among compatriots it is necessary to argue from particular features of that relationship to the legitimacy of particular kinds of partiality within it. As will be obvious from our analysis the compatriot relationship does not contain the partiality legitimizing features that characterize the parent-child relationship, so argument by analogy will always fail.

In section 2 we shall sketch the conflict between the family and egalitarian principles. In section 3 we shall make a first stab at characterizing legitimate partiality, via an account of the value of the family which we call the ‘relationship-goods account’. In section 4 we explore the way that legitimate partiality blocks redistribution; then in 5 and 6 we refine the account of legitimate partiality in the light of some objections. Section 7 examines the extent to which it is legitimate for parents to pursue goods which are valuable for reasons that have bearing on competitive advantage for their children, despite the fact that these goods in fact yield competitive advantages for their children. Section 8 concludes.

We see the paper as a whole as a contribution to the project set out by Estlund in his debate with Cohen over what kinds of motives taint subsequent distributions:
One project this suggests is to do the moral philosophy required to determine just what the relative strengths of the various values and prerogatives are. Another is to determine how much inequality could be produced even if no one transgressed the resulting requirements…The rich variety of considerations of prudence, affection and morality implies an even richer variety of their possible combinations in the context of any given choice. The task of theoretically sorting out what is morally permitted (or at least non-tainting) in all or most real situations is daunting.10

2. It is conventional and convenient to treat family as being in conflict with fair equality of opportunity, as Rawls does.11 Parents do a great deal to benefit or impede their children relative to other children in those arenas where their children compete directly with others. Under some regimes wealthy parents can give their money, or pay for expensive (and somewhat effective) private schooling, so that their children have a competitive edge in competing for expensive goods (like housing), or hard-to-attain positions (like elite university places and the jobs that require them). Parents who are themselves well attuned to the dominant norms and customs of professional life are more likely, and better able, to raise their children so that those norms and customs are first nature; interview success can turn on firm handshakes, looking someone in the eye, and generally seeming comfortable with the interviewer, all of which are easier to achieve if they are part of one’s upbringing. Other familial interactions can help to develop one’s child’s human capital; pervasive home-life bilingualism, for example, improves one’s child’s ability to learn a second language, and reading to one’s child may communicate an enthusiasm for books which will serve her well in the life of the school. An attitude of comfort and familiarity with the school she attends may, similarly, help her to take advantage of the resources it provides better than an attitude of fear and distrust.

But discussing the family in the light of its specific conflict with fair equality of opportunity slightly obscures the analytical conflict between partiality and equality (or priority) per se. Fair equality of opportunity, on one reading of it, although it condemns inequalities of prospects that are not consequent on talent and effort, does not comment on the role of the family in developing the capacities and inclinations to exert effort; whereas other conceptions of equality more clearly condemn all inequalities in prospects that are caused by factors over which one has no control.12 Parents do things to, for, and with their children that give them no particular benefit in external competitions with other children but still make them better off than other children are in the sense that they have received the good involved in that interaction and the other children have not. And, of course, by doing these things to for and with their own children, the parents themselves enjoy some benefit that they would not get if they did them to for, or with some strange child.13 To keep the focus on the analytic conflict between partiality and equality we shall focus, here, on the conflict between the family and equality (or priority) more generally.

We assume that family values, and hence the parental partiality justified by family values, are more important than equality, or equality of opportunity, or Rawls’s version of the difference principle. It is, in other words, worth disrupting equality for sake of relationship-goods that the family, and in our view only something relevantly like the
family, provides. A world in which people had equal prospects but lacked the prospect of enjoyable familial relationships and, in particular, parent child relationships, would be a severely diminished world relative to one in which there was a good deal of material (or opportunity-) inequality but plentiful familial life. So we acknowledge the possibility of conflict, and find for family values. But this doesn’t mean that there are no limits on the extent to which people are justified in acting on their partiality to their own children over other children, or on the extent to which they are justified in indulging their preference for spending time in the heart of their family. Providing their children and themselves with these relationship-goods has opportunity costs in terms of goods for others. A full theory of the place of the family in justice would need to say something about how much relationship-goods parents are justified in giving themselves as well as how much and precisely what they are justified in doing to, for and with their children. If, as we believe, family values are very great goods which make a distinctive contribution to human flourishing, a full theory would, furthermore, specify what precisely the state should do to help people realize these values, and how advantaged members of society should balance their own realization of family values against the (indirect) contribution they can make to assisting others in realizing those same values. Our paper has two central aims. First to specify the extent of legitimate partiality of parents toward children, by showing what kinds of partial activities and stances must be allowed in order to realize the value of the family. Second, to show that, despite the conflict between parental partiality and equality (in its various forms) a great deal more than is usually thought can be done to promote equality within the constraints set by the requirement to permit legitimate parental partiality.

We are going to assume for the purpose of the paper that legitimate parental partiality is lexically prior to equality. We have an argument for what constitutes legitimate parental partiality and for giving it considerable weight, but not for giving it such stringent priority as we assume. We make the assumption for the sake of making it harder for ourselves to advocate redistribution, but also to simplify the relationship between the two principles.

3. How do we establish what constitutes legitimate, as opposed to excessive, parental partiality? Think of how we establish what is protected by the Liberty Principle in general. In the narrow context of Rawls’s theory we work out what conditions are needed for the development and exercise of the capacity for a conception of the good and for a sense of justice. Slightly more broadly we might look at the specific goods that a particular liberty facilitates, and which cannot be facilitated any other way. We describe the parameters of the liberty by working out what people need generally to be free to do in order for that specific good to be produced and enjoyed.

We shall take up Rawls’s suggestion in Justice as Fairness that the family should be thought of as an association whose integrity is shaped and protected by the liberty of freedom of association. This is, in one sense, a natural way of thinking about the family: adult members of families, at least, associate with one another on the basis of voluntary and informed decisions. In another sense it is quite unnatural: children do not choose
their parents, and the extent to which they are truly free in association with their parents is usually quite limited even as they reach the cusp of adulthood. That their parents did not exactly choose them (at least, not in anything like the sense that they chose their spouses and friends) and are not morally free to abandon them only exacerbates the strain it places on the idea of ‘free association’ to consider the family under that value. But, for want of a better place to consider it, this is where we shall start.

Rawls says that the family is part of the basic structure in that family members cannot violate the basic freedoms other members have as a matter of membership in a well ordered society. But ‘we wouldn’t want political principles of justice to apply directly to the internal life of the family’. (JF 165). So in order to establish exactly what is protected by freedom of association he says we should follow the general procedure of distinguishing between the point of view of people as citizens and their point of view as members of families and of other association. As citizens we have reasons to impose the constraints specified by the political principles of justice on association; while as members of associations we have reasons for limiting those constraints so that they leave room for a free and flourishing internal life appropriate to the association in question (JF 165).

How do we go about establishing what constitutes the ‘free and flourishing internal life appropriate’ to the family?

We can distinguish three kinds of account of the value of the family

The Child-Centered account: argues that the family is justified solely because of the benefits that it brings to the non-voluntary entrants to the family, the children. It sees the family as the best feasible arrangement for ensuring that children enjoy the conditions necessary for their emotional and cognitive development and, in some versions, for their flourishing within childhood. If some other institution were systematically superior for this purpose, it would be, by virtue of that fact alone, justified.

The Externality-Based account, similarly, views the family as better than other feasible institutions for the rearing of children, but this fact plays a role in the ultimate justification which is that families produce externalities -- goods for non-participants -- that are of paramount value. The basic liberties, for example, are very important, and no institutional guarantees of liberties are reliable in the absence of a citizenry capable of and willing to respect and maintain them. On one version of this account what the family does is rear the kinds of people who are going to be sufficiently morally, emotionally, and cognitively mature to abide by and contribute to the maintenance of these goods.

What these two accounts share is a reluctance to endorse the idea that being in familial relationships is a good for adults sufficiently important that it should play a role in the justification of social institutions. Any viable account of the family is going to have to take a somewhat perfectionist view of what constitutes children’s goods. But these two
views maintain a silence about what is good for adults, because for any such view to play a role in justifying the family violates a certain kind of neutrality. Our account comments on this issue.16

The Relationship-Goods (or Value-of-the-Relationship) account of the family.

Our account claims that the parent-child relationship within a family setting provides certain goods both to children and to parents which goods are pertinent to the justification and critique of social arrangements and, in particular, to justifying the family. We endorse the (relatively uncontroversial) view that all people need to participate in family life in order to become fully flourishing adults. But we shall also endorse the much more controversial view that for many people having a parental relationship with a child makes a distinctive and contribution to their flourishing which is necessary for them to be said to be fully flourishing; in other words a contribution for which no alternative could be an adequate substitute. That is, some (in our view, which we cannot verify scientifically, many) adults need to be parents in order to have the chance to flourish fully. And, most importantly, this fact plays a role in justifying the institution of the family.17 To clarify the kind of role it plays: certainly, if families seriously impeded the flourishing of children relative to some feasible alternative, while contributing in the deep way we suggest to parental flourishing, that would count very strongly against it. But as long as it contributes well enough to the flourishing of children, parent-centered considerations can justify it even if there are feasible alternative which do even better for children (while doing worse for adults). Child-flourishing is an important component of this justification of the family, but it is not the only one.

Which kind of justification of the family we adopt will influence our account of the ‘free and flourishing internal life’ of the family, because the legitimate content of any freedom at hand is described by reference to the reasons it must be protected. For example, imagine a very sparse ‘externalities’ account which justified the family solely on the grounds that it was the institution for childrearing most suited to propelling economic growth. Such an account might make the ability of parents to invest in their children’s education and bequeath to them without restraint an essential part of the ‘freedom and flourishing of the family’ on the grounds that constraining such activity would affect incentives in a way that would diminish the total supply of human capital and hence overall productivity. As we shall see, the relationship-goods account we develop has a much more austere attitude toward such ways of advantaging one’s children, regarding it as part of the free and flourishing life of the family only in so far as permitting it is needed to allow the relationships themselves to flourish.

The account we are developing here -- the relationship-goods account -- justifies the family primarily by appeal to the values it is essential for providing to its members. Our proposal is to explore what it is that the family is valuable for; that is, what the distinctive relationship goods are that it produces.

* Parents oversee and contribute to the emotional development of their children
* Children are provided with a sense of continuity with (or belonging or attachment to) the past, mediated by acquaintance with her own family members.

* Children enjoy the security provided by the presence of someone with a special duty of care for them.

* Parents enjoy a distinctively valuable relationship with their children; one which can be intimate and mutually loving, but in which the parent acts as a fiduciary for her child’s material, emotional, and moral interests.

The first three goods accrue largely to children. It is true that each of these functions could, in principle, be performed by someone other than a parent, and there is no reason to believe that the nuclear family is the only arrangement that could fulfill these interests adequately. But any alternative institution would have to resemble the family in its delivery of these goods and, in particular, there would have to be a parent-like bond between some adult and each child.

The fourth good accrues to the parent. The institution of the family allows them to have a relationship of a kind that cannot be substituted for by relationship with other adults, for example. They are intimate with the child in a way that is not symmetrical; the child is unable fully to understand or know the parent in the early years, and is entirely dependent on the parent in the earliest years. The parent is the decision-maker for the child, and even as the child comes to be a decision-maker herself the parent determines the context in which decisions are made. The parent has a special duty to promote the child’s interests including the interest most children have in becoming someone who has no need of a parent’s special duty of care. Fulfilling this role is a distinctive source of flourishing in the sense that it is unavailable through other relationships. In order to provide this good the institution for child-rearing needs to be the family, or something that mimics the family very closely.

Let’s call this the relationship-goods account of family values. Is it a correct account of the goods that the family provides? According to some historical accounts parents in some cultures at some points in history have not valued their children in the ways suggested by the above account. In some societies there is a powerful economic imperative to have children, and incentives provided by the social and economic structures affect the way that parents treat children. In early mediaeval Europe, for example, children were effectively slaves in law; parents sought to have sufficient children to serve their economic interests, and if they had more than they could provide for, infanticide was a legal solution (if, it appears, one rarely practiced) and abandonment a common one. In rural India it is common for parents to refrain from investing in the education of their female children, from whose human capital they cannot expect to enjoy a return, because it is traditional for girls to leave their homes at marriage, and devote their work to maintaining their husband’s family. So if the relationship-goods account is morally correct, it seems to fly in the face of the experience of many people in many eras.
Our response to this irrefutable data is to say that in those cases described the parents in particular are simply failing to enjoy the distinctive goods provided by a parent-child relationship. This may be compensated for by other goods in those circumstances, of course. In early mediaeval Europe the rate of child abandonment seems to have varied largely with the health of the economy, and abandonment seems to have been in large part a response to fear of starvation.\textsuperscript{21} It is also striking that children were almost exclusively abandoned, as they are today, in public places where they would be likely to be found by responsible adults, and childless couples frequently took abandoned children as their own. A sense that one is complying with long-established traditions or, perhaps, the absence of a sense that one is breaking with them, may compensate Indian parents who systematically favour their sons over their daughters (and may even compensate the daughters, though we find that rather unlikely) for the absence of the kind of flourishing yielded by a relationship of the kind we’ve described. We are not arguing here that the relationship goods account of the value of the family is the one to which parents have always adhered or on which they have acted. We are claiming that it gives an account of the distinctive goods for which the family is indispensable, and which therefore justifies it (if the goods are important enough), and that this account grounds a view about the extent and ways in which partiality toward one’s children is justified.

The relationship-goods account of the value of the family helps us work out what room is necessary for the free and flourishing internal life appropriate to the family. We shall render this more precisely in section 5, but the initial thought is that there must be ample space for those activities and interactions between parents and children that are essential to, and realize, the value of the family; that is, the interactions which produce the goods specified in the sentimental account. Obviously we cannot give an exhaustive list of such activities. We assume that in the early years of a child’s life this account justifies parents having very considerable latitude over how their children are raised, including how their children are fed, whether they spend their waking hours at home or in daycare, whether the mother, father, or some other designated adult should be the primary caretaker of the child, whether the young child is nursed or bottle-fed, whether she sleeps in her own room, or with siblings, or in the parental room, etc. The parental duty of care constrains the parent from neglecting the child, exposing her to excessive risk of injury illness or death, or abusing the child.\textsuperscript{22} In later years the relationship justifies less parental latitude; the parental special duty of care commands parents to ensure that their children receive an education consistent with the demands of the kind of society the child is liable to enter, and (in our view) that they ensure an environment that facilitates the child’s development into an autonomous agent capable of reflecting rationally upon and revising or rejecting the values of the parental home and those that she confronts in her emergence into the wider world. So it is legitimate, and does not interfere with the ability of the family to deliver the goods specific to it, for governments to make schooling compulsory and levy taxes to pay for it. However, it is worth noting that there is a limit even here to what the government may do. At the limit, a compulsory school year of 12 hours a day, 7 days a week, 50 weeks of the year would indeed interfere with the ability of parents and children to enjoy the freely flourishing internal life of the family; and a curriculum or school ethos designed to induce in children contempt for their parents way of life, or simply for their parents, would again constitute interference.
We shall refer to two paradigm cases of permissible activity throughout the rest of the discussion. We have picked them because it seems to us that they are cases of activities variation within which may well have significant effects on the economic and cultural prospects of the children involved. First, we take it as obvious that parents should be free to read bedtime stories or not to their children and should have freedom to select which books to read (within some rather obvious limits that non-abusive and non-neglectful parents will not experience as constraints). Why? This freedom facilitates both party’s interest in having a close and emotionally fulfilling relationship with the other, as well as promotion of the child’s educational interests. It also facilitates the parental interest in sharing her own interests with her child and in getting to know her child’s emerging personality. Second, we take it as obvious that parents have the right to have their children accompany them to religious ceremonies and to enroll them in associations in which they will participate in the communities of value of which the parents approve (Sunday school, Hebrew School, the Ukrainian Youth League, etc). The idea is that it is through engaging in these activities and others relevantly like them that people realize the values of the sentimental family.

The activities we have described begin to describe a realm of legitimate partiality. If one is permitted to feed one’s own child without regard to how others are fed, when one does so one is being partial to one’s own child. One can nurse one’s own child but one has no obligation to nurse other people’s children. One can provide one’s own child with a well-decorated bedroom, but has no obligation to do the same for anyone else’s child, even if one knows that that other child has a less warmly decorated room. One can read a bedtime story of one’s choice to one’s own child, but may not do so to another child without parental permission, and has no obligation to do so even with parental permission. All these things may, for all one knows, result in one’s own child enjoying an immediate advantage over other children; and in the case of reading bedtime stories it is plausible that it results in them having competitive advantage over other children who do not have stories read to them, or who do not have those stories read to them, or who do not have stories read to them as well, or for as long. But these are activities which are constitutive of familial relationships, rather than extraneous to them. Yet, if these activities are licensed by their realizing the relationship goods, they are legitimately partial.

The contrast is with activities -- things we do to with and for our children --that do not meet the test of being essential for or realizing the value of the sentimental family. Again, there is a wide range of such activities. Consider the following: sending one’s child to an expensive private school designed to optimize her chances in the competition for materially and intrinsically rewarding employment; giving one’s child a trust fund; bequeathing her a large fortune. All of these activities will violate fair equality of opportunity in a regime of unequal outcomes, because they improve her prospects relative to others with the same level of talent and willingness to exert effort on bases stemming from her class background. They are not, however, protected by the value of the family. These may indeed be things that a parent does for the child out of a morally permissible motive of love; but none of these activities is essential to delivering on the
parent’s special duty of care for the child; none is essential for the child’s interests to be adequately met, so none is essential for the parent to meet her fiduciary responsibilities to the child; and none of them is essential for the parent to enjoy the distinctive benefits this kind of relationship provides for parents.

It would be nice for egalitarians who want to respect the family if activities of the first sort -- those which we want to say are within the scope of legitimate partiality -- came into less conflict with equality of opportunity than activities of the second sort. The social democratic strand of the egalitarian tradition has tended to assume this, and has pursued educational policies designed to marginalize the impact of private schooling, and tax-transfer policies designed to mitigate the effects of unequal wealth on life prospects. Recent research in economics and sociology casts doubt on this assumption, suggesting that in fact parenting styles, and other features that are constitutive of family relationships may have as much if not more impact on prospects for income and wealth than transfers from parents to children. Recent research casts doubt on this assumption, suggesting that in fact parenting styles, and other features that are constitutive of family relationships may have as much if not more impact on prospects for income and wealth than transfers from parents to children. The family, it may turn out, is intrinsically more threatening to the prospects for equality than social democrats have wanted to believe. We shall address in section 6 the prospects for constructing a family-friendly egalitarianism in the light of this problem.

Of course, the contrast between these two kinds of activities -- the paradigms of protected and the unprotected -- needs to be argued for, and is in fact more complex than we have stated; and we realize that for some readers who are predisposed to disagree with our analysis it will not even be intuitive. We shall deliver on the promise to provide an argument in sections 5 and 6. But for the moment the distinction is supposed to capture the difference between activities through which a parent and child realize the values which the family distinctively provides, and those through which they do not.

4. How exactly does legitimate partiality block redistribution? The idea is that whatever a parent does for a child that is legitimate may not be prevented; it is protected by the requirement to guarantee the integrity of the family, and the fact, if it is one, that it has the effect of interrupting fair equality of opportunity does not justify prohibiting it. Now, of course, other measures that would compensate for the interruption of fair equality of opportunity without undermining the ability of the parents and children to realize these values might be justified. Let us suppose, for the sake of argument, that reading bedtime stories to one’s child for 15 minutes every evening has a demonstrable positive effect both on their expected lifetime income and on their competitiveness for interesting and rewarding jobs, and lets suppose also that children who are in other ways more advantaged tend to be the ones who are read to. On our account this could not count as a reason for forbidding it, or trying to prevent it in any other way. It might, however, justify taking steps (as long as they did not infringe the basic liberties) to encourage parents who are less educated and/or have lower household incomes to read to read more to their children. It might also justify transfer payments designed to lessen the effect of reading stories on lifetime expected income; for example by mitigating the wage inequalities in the external economy. But it would not justify forcing parents to read bedtime stories to their children; this would not only violate the basic liberty of the parent but would also constitute an intrusion into the privacy of the family of a kind that would
jeopardize the ability of the family to function to the benefit of its members. Similarly, it
would not justify taxation specifically of bedtime-story reading parents; that would
constitute an unwarranted penalty for engaging in a morally innocent activity which
produces a valuable private good. In the absence of successful efforts to diminish the
conflict between bedtime reading and fair equality of opportunity the legitimate
government is bound to tolerate the inequality of opportunity produced rather than try to
equalize the extent of bedtime reading by forcible means.

Consider now our other case: the legitimacy of parents requiring their children to
accompany them to church. This is right is not, in our view, covered by the rights to
freedom of conscience or freedom of religion. Children, even when young, are not
identical with their parents, and we believe that the right to freedom of conscience is a
right over oneself, not a right to force others, even one’s children, to act in particular
ways. But two of the central ways that families produce the goods we have described are
by parents and children sharing their enthusiasms, including awareness of their most
fundamental commitments, with one another; and by sharing on another’s company. Let
us suppose, again, that this practice has effects which contravene fair equality of
opportunity: children whose parents take them to church have, as a result, better
expectations of income and interesting jobs than other children, other things being equal.
Perhaps attendance of religious ceremonies helps develop their self-discipline; or they
learn academically valuable lessons at church which translate into better grades and better
job prospects; or they gain entry to social networks that provide them with access to job
opportunities.\textsuperscript{25} Again, this fact might justify a tax-transfer system aimed at lowering the
stakes, for example by diminishing the inequalities of the distribution of income and
interesting work. But it would not justify a tax on the religious (or on the child-rearing
religious); nor would it justify measures aimed at promoting enrollment of children into
religious life. Promoting bedtime reading non-coercively through, for example, public
education campaigns, does not violate any basic liberties or any principle of state
legitimacy, which is why it is permissible to try to equalize bedtime reading by leveling
up; but promoting religious affiliation in itself violates a basic principle of liberal
legitimacy. So the government is even more limited in what it may do to compensate for
the effects of this activity than it is with respect to reading bedtime stories.

It will now be clear that the relationship-goods account of the family is
perfectionist. Think about the following contrasting justifications of government
promotion of having parents read to their young children at home. One justification will
appeal to the cognitive benefits of the being read to (for the children), and claim that
equality of opportunity supports promoting the activity. This is non-perfectionist in the
sense that it appeals only to the desirability of equalizing access to a set of goods on
which there is already some sort of consensus that they are desirable. A different, and
perfectionist, justification would appeal instead to the benefit that the activity would have
for the relationship between the parent and the child with at least some regard to the
benefit the parent will receive from the relationship.

We shall not argue for government sponsorship of reading to children on
relationship-goods grounds ourselves. There is, however, a broader area of policy to
which the parental enjoyment of the relationship-goods might be relevant; what policy to adopt regarding day-time child-caring in the early years. The policy-of-choice for liberal feminists is subsidized care in daycare centers, which allows women to participate full-time in the workforce. The Scandinavian social democracies and the US liberal welfare state have different versions of this; the social democracies provide direct subsidies to daycare centers, and the US provides tax deductions for parents who spend up to $5000 per child per year on dependent care. Both measures provide incentives for parents to participate in the workforce: stay home with the child and you lose the subsidy. Assume for a moment that the two environments -- day care centre and home care -- are equally good for children’s cognitive development. Some parents at least will enjoy richer relationships with their children if they remain outside the workforce for longer and care for the children at home. A perfectionist view that seeks to promote parental flourishing in the parent-child relationship will, at least, seek policies which do not provide material incentives for workforce participation when parents have young children to care for.

Whether, and to what extent, the pursuit of the relationship goods involved in family life yields inequality (whether of opportunity, or of other forms, other than of the enjoyment of those goods) is, in large part (perhaps entirely) an artifice of the design of social institutions. Imagine a society without wage inequalities. In such a world one’s income would be entirely a function of the number of hours one worked, and would not be at all influenced by the value of one’s natural talents or the extent to which one’s interactions with one’s parents had developed those talents (though it would still be influenced by how those interactions had influenced one’s preferences for income relative to leisure. Imagine, more feasibly, a world in which interviews played no role in job allocations; then one’s chances at attaining valuable positions would be at least much less influenced than they are now by the extent to which the behaviours which interviews tend to reward come naturally to one (and hence, one factor which is influenced by parent-child interactions would be rendered less influential). Or consider the following imaginative comment from sociologist Annette Lareau, whose ethnography Unequal Childhoods identifies the ways in which middle class parenting styles confer competitive advantage on their children:

This kind of training developed Alexander and other middle-class children a sense of entitlement. They felt they had a right to weigh in with an opinion, to make special requests, to pass judgment on others, and to offer advice to adults. They expected to receive attention and to be taken very seriously. It is important to recognize that these advantages and entitlements are historically specific…. They are highly effective strategies in the United States today precisely because our society places a premium on assertive, individualised actions executed by persons who command skills in reasoning and negotiation.

Recall Scheffler’s observation that partial relationships benefit the participants twice over -- both in the enjoyment of the good of that relationship and in the enjoyment of the obligations the other participants have to them (and, as we have added, the prerogative they have relative to them). The point here is that the extent to which that second benefit benefits them unequally will depend on the structure of the social environment. The
consistency of the relationship-goods approach to the family we are advancing here with a thoroughgoing egalitarianism turns on this observation. The government is not entitled to interfere with the family so as to undermine its ability to confer the relationship goods for which it is vital on its participants. But it is entitled to shape or reform the social environment so as to diminish the extent to which the prerogatives and obligations essential to the ability of the family to produce relationship goods produce further, extrinsic, inequalities; in other words, to try and break the link between those activities and the non-relationship-related goods they yield.29

5. In section 3 we made a rather loose distinction between those activities which are essential for realizing the value of the family and those which are not. But, of course, for most families there is no particular activity or type of activity which is genuinely essential for the family to deliver its goods to its members. We have picked the paradigms of reading bedtime stories and taking one’s children to church; but suppose that the government simply prohibited, or placed massive barriers in the way of reading bedtime stories or taking one’s child to one’s church. If that were really the only prohibition that a government imposed, the only intervention in family life, most families would still contain plenty of space for realizing the value of the family. Parents would not read, but would perhaps tell, bedtime stories. They might read stories at other times of the day. They might not read or tell stories, and replace the activity with singing round the family piano; or going for a short evening constitutional together telling jokes. Again, while many families would experience a prohibition on eating dinner together on weekends as a significant intrusion, most would be able to sidestep the effects of this ban on the ability of their family to produce important goods by replacing it with other intimate activities. For churchgoers it would probably be harder to substitute any activity for taking their child to church with them, but people are remarkably ingenious regarding the pursuit of their religious and parenting objectives. Remember, in each case it is, ex hypothesi, only the described activity which is prohibited.

We are not suggesting that any of these activities should be prohibited, or that any actual government which acted against such an activity would restrict itself to that prohibition. The point is to illustrate the misleading nature of the locution we have used up to this point: ‘is essential to the value of the family’. We are not sure that under any non-artificial description there is an activity that has this property on the most natural understanding of ‘essential’. To take our first paradigm case, people can enjoy valuable family relationships without reading bedtime stories to their children (or having them read to them by their parents). And obviously they can enjoy these values without attending religious ceremonies together. But if that is so, how can we confidently distinguish legitimate from illegitimate partiality?

We propose that prohibition and redistribution that prevents parents from acting partially toward their children is legitimate, as long doing so leaves ample space available for people in families to realize the values that the sentimental family distinctively serves. This means that the state must protect anything that is essential to that, and also leave plenty of space for activities and interactions through which it is realized (even though they are not essential). The following test applies:
When an activity
   i) conflicts with some other important value like fairness/equality of opportunity AND
   ii) is not itself essential to realizing/expressing the value of the family AND
   iii) is such that removing/prohibiting it would, with appropriate other institutional measures, leave ample (perhaps just as much) space for family-values realizing activity

**THEN** it is a candidate for prohibition.

As we have pointed out it may be that no individual activity automatically passes this test so that it is not a candidate for prohibition. As long as the prohibition was on an activity sufficiently narrowly specified and on nothing else relevantly like it, ‘ample space’ would remain available for realizing the value of the family. Nevertheless, some categories of activities are such that if all (or most, or just many) activities within the specified category were prohibited there simply could not be ample space available. What is it about bedtime story-reading that makes it so natural a paradigm case of a protected activity? The parent reading the bedtime story is doing several things simultaneously. He is intimately sharing physical space with his child; sharing the content of a story selected either by her or by him with her; providing the background for future discussions; preparing her for her bedtime and, if she is young enough, calming her; reinforcing the mutual sense of identification one with another. He is giving her exclusive attention in a space designated for that exclusive attention at particularly important time of her day. There must be ample space for parents to engage in activities with their children that involve these kinds of things. Our other paradigm case, having one’s children accompany oneself to church is similarly a paradigm case because it involves similarly intimate interaction and the produces similar mutual identification. Although each such activity could be prohibited without significant loss, the prohibition or inhibition of many such activities would.

It is particularly important that parents have a great deal of room to choose how to instantiate the valuable relationship, so they need lots of options to choose between. What is a viable way of instantiating a valuable relationship for one parent-child pair will not be for another, because the personalities and preferences of the people involved affect the viability of any given activity being one in which they can enjoy the relationship. Richard Rothstein expresses skepticism (rare among policy commentators who discuss the issue, but reasonable) that reading to children would produce cognitive benefit if the parent doing the reading had no independent enthusiasm for reading\(^3\), our point here is the analogous skepticism that reading to one’s child (or taking her to church or a cricket match, or cooking with her) will produce relationship-goods if one is not independently invested in the activity. External monitoring and excessive restrictions on one’s options interfere with the relationship to the detriment of its quality.

Just as excessive external monitoring undermines the value of an intimate relationship, so does excessive self-monitoring. Parents must, of course, monitor both
themselves and the relationship, and this is one aspect of the asymmetry between the parent and the child. But successful intimate relationships require a good deal of spontaneity, and the choices of joint activities should be spontaneous (not in the sense that they are never routine, but in the sense that they are the choices only of the parties to the relationship). Spontaneity, furthermore, is put at risk by the need monitor whether one is unfairly conferring advantage. Consider helping one’s child with her homework. One might have multiple motivations for doing so, for example a desire to contribute to her cognitive development, an intrinsic interest in the subject of her homework, and a desire to take the opportunity to share time with her. When the social environment is just, and as such limits considerably the competitive advantage she will gain from the cognitive development yielded by working on the homework, the parent can help with the homework without the nagging worry that in doing so he is simultaneously conferring on her an unfair extraneous advantage. This point is generalisable to the idea that social justice relieves familial relationships of one way that they can be internally diminished; the self-monitoring and restraint that parents of good-will might otherwise engage in to ensure that they are not contributing to injustice through their interactions with their children.

We have distinguished the cognitive benefits of bedtime story reading from the relationship-realizing benefits. But we also observe another, distinct, kind of benefit it might have: the contribution it makes to the child's emotional development. Like other intimate activities it is liable to contribute to her ability to connect with future others, manage her own emotional life and wellbeing, and enjoy herself the goods of parenthood. Parents have a special duty to meet the child’s needs, which include her needs to develop her cognitive and emotional capabilities. But these are not the features of the activity we are appealing to here; we are simply appealing to the immanent relationship benefits of the activity.

Our preliminary contention is that sending one’s child to an elite private school does not involve or produce such goods, which is why it falls into a different category. The child is interacting with other children and adults in school, not with her parent. In selecting an elite private school the parent is selecting which set of other people the child will interact with, but is not directly furthering or helping to maintain the goods of the parent-child relationship. Nor, normally, is she carrying out her fiduciary duty to meet her child’s interests. Parents have a duty to meet their children’s interests adequately, but not to pursue their ‘best’ interests; the parent who refrains from trying to maximize her child’s lifetime expected income is not doing wrong.31 Similarly, gifting or bequeathing large amounts of money to one’s children are external, non-intimate, transactions. Even if they are motivated by parental love, the relationship can survive well without them; these, too, fall into the unprotected category. Since they conflict with fair equality of opportunity they become natural candidates for prohibition or regulation. We shall consider some complications concerning these cases in the next section.

Given the importance of the category into which bedtime story-reading falls, is it legitimate for the state to make schooling compulsory for all children? After all, compulsory schooling keeps children physically separate from their parents for some 40
waking hours a week, and thus inhibits considerably the opportunities they have for making and re-enforcing intimate relationships with their children. It is worth noting that in contemporary advanced industrial democracies this is not a major political concern, as it is the hours parents spend at work rather than those their children spend at school that most limit the opportunities for life-sharing and intimacy. But some parents at least might experience compulsory schooling as a limit, since it restricts the amount of time they can spend with their children and exposes the child to influences that are not under the direct control of the parent. Think, however, about the developmental interests of the child. Whereas in the earliest couple of years of life a child needs more or less constant attention, and the adult has an obligation to ensure this for her, as children grow they experience a need to lead parts of their life separately from the parents, and the adult will usually be able to have a fully intimate relationship with the child without spending every day with them. Compulsory daycare for 40 hours a week from 6 weeks after birth would indeed constitute a severe barrier to the establishment and reinforcement of intimacy -- compulsory schooling for 40 hours a week from 6 years does not have the same significance.

That said, value-of-the-relationship considerations should inform the way that compulsory schooling is carried out. In the early years it is appropriate to limit the compulsory hours and try to design the school day and school year in ways that allow for a great deal of parent-child contact. The school authorities act in loco parentis in the sense that they have duties to protect the child from risk of harm and to serve their developmental interests adequately, but they have obligations to involve the parent in certain urgent matters; if for example, a child is seriously injured, although the first task is to ensure due medical attention, the immediate second task is to contact parents to ensure that they can be present; and not just because it is reassuring for a child to have the parent present but also because the parent has a relationship-related interest in being present to care for their child in time of crisis. Similarly, the compulsory school has an obligation not to foster a culture which can be expected to alienate the child from the parent, at least in so far as the risk of alienation is not justified by its obligation to educate the child well.

6. We have said that activities relevantly like bedtime story telling merit protection, but that actions like bequeathing large amounts of money to one’s children, or sending them to elite private schools do not because they ‘do not involve or produce’ the relevant relationship goods. We can see three obvious objections to the claim about the latter kind of activity. One is that protecting them might be justified because they play a vital role in allowing parents to fulfill their special obligation to care for their children and, in particular, to ensure that they have adequate prospects for a decent life; the second is that they do indeed involve or produce the relevant relationship goods; the third is that, although such activities are neither necessary for realizing the value of the relationship nor for meeting the special duty of care, parents nevertheless have a prerogative to favor their children in these ways.
What about the first objection that these kinds of activities are essential for meeting one’s special obligation of care to one’s child? Before addressing that question directly, suppose we take fair equality of opportunity as the principle with which the family is in conflict: in that case a child whose prospects are otherwise less than equal to those of children with similar levels of talent and willingness to exert effort, her parents do nothing to inhibit the realization of equality of opportunity by paying for her to attend better schools or giving her money which they, the parents, have refrained spending on consumption goods (as long as in doing so they do not overcompensate for the child’s prospect deficit). So in a world that is otherwise unjust it might be quite acceptable for parents with less advantaged children to act in these ways.

But are even these parents in even these circumstances doing something their special duty of care requires? We have not offered a theory of what the special duty of care one has toward one’s child involves, and what theory is right affects the answer to this question. One might have the view that parents have the duty to maximize the life chances of their children, in which case sending your child to an elite private school may well be entailed by it. Such a view seems implausible to us. Another view would be that one has the obligation to ensure that one’s children have reasonably good prospects for a flourishing life and enjoyable life, including adequate expected lifetime incomes: that view does not entail an obligation to provide elite private schooling (though it may entail an obligation to ensure that the child’s schooling is better than the local state-supported school provides in some circumstances). On views such as this parents who refrain from acting to improve their child’s material prospects, and instead consume their surplus income, or, say, donate it to the truly needy, are not doing their children a wrong. If so the parent’s special duty of care does not require such activities.

Consider the second objection. Gifting or bequeathing money can be an expression of one’s love for a child (or other person). One’s child might, especially if one is wealthy, feel entitled to one’s largesse, especially if she observes a cultural pattern of large scale parent-child giving/bequeathing within her class. She might similarly feel undervalued if she is consigned to the ordinarily-resourced local school when she knows that one can readily pay for her to attend the outstandingly resourced private school some short distance away. And one might feel that to do otherwise would be an expression of undervaluing her.

Our response is somewhat conjectural. First, we doubt that such feelings would be prompted in a regime in which, for example, elite private schooling or large-scale gifting were effectively prohibited. If she is prohibited from disposing of her money in that way the parent is not doing anything that demonstrates her misevaluation of the child, and the child cannot reasonably believe that she is. As Samuel Scheffler points out, People’s judgments about the circumstances in which, and the extent to which, they have reason to give special weight to the interests of their intimates and associates are highly sensitive to the norms they have internalised and to the character of the prevailing social practices and institutions. Behaviour that is seen in one social
setting as an admirable expression of parental concern, for example, may be seen in another setting as an intolerable form of favouritism or nepotism.\textsuperscript{35}

The parent, furthermore, has some indeterminate amount of influence over the child’s emerging value system: if neither the parent nor the social environment encourages the child to associate transfer payments and like behaviors with loving relationships there is no particular reason that she should come to have the feelings. Second, even if these behaviors are not prohibited we conjecture that children who enjoy emotionally healthy relationships with their wealthy parents will not experience their parents’ restraint as an instance of undervaluing; this is both because the parent has some influence over the emerging values of the child and because she can engage in a wide range of other valuing behaviors in the context of which, we conjecture, the child will be immunized from a sense of entitlement to the parent’s wealth even in a parent-child wealth transferring social context. The state which prohibits activities like sending one’s child to an elite private school while leaving ample opportunity for activities like reading bedtime stories, thereby leaves ample space for realizing the value of the family. The state which does the reverse -- prohibits activities like bedtime story reading while permitting plenty of scope for transfer payments and sending to elite private schools fails to leave ample space for realizing the value of the family.

Still, it might well be that some identifiable types of instance of gifting and bequeathing are particularly valuable instantiations of the parent-child relationship. Consider the bequest of an expensive house in which a family has lived for several generations. Perhaps, even though an egalitarian ethos and appropriately egalitarian set of parental values could prevent children from feeling damaged by its unavailability, the availability of such a legacy is a great value that would be lost in a regime of prohibition. If so there would be a case for legalizing such bequests; but for combining that permission with a rule preventing the child from realizing the house’s commercial value, and otherwise taxing the benefit.

The third objection is most sensibly understood as a follow up to our response to the second objection, using the concession we have entertained in our previous paragraph. ‘Look’, the objector says, ‘you admit that the activities do realize the relevant relationship values, and I admit that they are not essential for realizing those values. But people are not properly restricted to doing only what is essential to realizing the relationship values; they have prerogative to do more than is merely essential. If it is such a great good, it is surely better that more of it is produced; and the availability of these activities allow parents to do precisely that.’

This is the point at which Rawls might invoke the point of view of citizens, and say that we have ‘reasons to impose the constraints specified by the political principles of justice’. The family and the goods it provides are tremendously valuable, but they are not the only valuable things. The point, as with the other basic liberties, is not to maximize liberty as such, but to provide conditions adequately good for the pursuit of some good or goods and, having ensured ‘room for a free and flourishing internal life appropriate to the association in question’, the citizenry is free to impose the constraints necessary for
pursuing other important values of justice. Prohibiting elite private schooling and prohibiting, limiting, or taxing heavily, gifts and bequests are such constraints. Our account of when an activity is a candidate for prohibition does not say that it is a candidate whenever it is non-essential, but only that it is a candidate when it is non-essential and its pursuit threatens some other weighty value (in Rawls’s case, fair equality of opportunity).

We should note one complication. We have been discussing only those constraints on equality that are imposed by the requirement to respect the value of the family. Some of the activities for which parents may wrongly claim protection on family values grounds may be susceptible of a quite different kind of defense. In particular, those activities, such as heavy investment in private schooling, which develop the human capital of the child, but are not constitutive of the family, may, in the right kind of tax-transfer system, have material benefits for the least advantaged. The dull children of well off parents might be more productive if sent to expensive elite schools, and thus better contributors to tax-transfer schemes, as well as spurs to overall growth in production. Similarly, if parents are allowed to bequeath their wealth, or some substantial part of it, on their children, they might work harder, thus contributing (in an economy structured the right way) more to the benefit of the least advantaged. The difference principle, or some similar principle, might demand that, other things being equal, parents should have such prerogatives. To press this is to press the idea that the difference principle (or some similar principle) should not be entirely subjugated by fair equality of opportunity. But the difference principle, if it were the only principle of justice, might give us no reason at all to maintain the familial relationships themselves. Assume, for example, that children raised in well run orphanages would be, although emotionally less well-integrated than children raised in families, much more likely to be workaholic; then the difference principle would give no reason to maintain the family. To reiterate the limitations of this paper; we are restricting ourselves to exploring what the value of the family itself justifies, under the assumption that it is prior to equality, priority, and fair equality of opportunity.

7. Concluding Comment.
We have attempted to identify the distinctive goods realised by the family and to use that account of family values to derive a distinction between legitimate and excessive parental partiality. While we have undoubtedly left many knotty issues unresolved, at least we have made an attempt to unpack the content of those partial reasons for action that arise from a particular kind of personal relationship. Applying our distinction to hard cases in unjust contexts such as those we live in is very complicated, but we have made a start.

As we earlier quoted Estlund as saying, ‘The task of theoretically sorting out what is morally permitted (or at least non-tainting) in all or most real situations is daunting’. This paper has tried to take one step along the road by developing a way of thinking about how particular relationships generate reasons to treat people differently. We have drawn back from the really daunting agenda outlined by Estlund in that we have said
little about reasons for action in non-ideal circumstances, but we hope we have done
even to show how the perspective developed here might yield answers to those issues.
The aim has been to outline a theory that strikes the right balance; one that
recognises the value of familial relationships, their role in human flourishing, while
insisting that such relationships not become ‘moral loopholes’ or excuses for abandoning
a seriously egalitarian agenda.

Endnotes

1 ‘Incentives, Inequality and Community’, Tanner lecture reproduced in Darwall (ed.) Equal Freedom (Ann


3 Boundaries and Allegiances (Oxford University Press, 2001) p. 99; see also pp 54-59.

4 In section 46 Rawls says that ‘the internal life and culture of the family influence, perhaps as much as
anything else, a child’s motivation and his capacity to gain from education’ (1999, 265)


7 For example, in David Miller’s unpublished discussion of ‘Reasonable Partiality Towards Compatriots’
where he distinguishes positive and negative duties and develops a four-fold schema.

8 Examples include Andrew Oldenquist, ‘Loyalties’, Journal of Philosophy 1980; John Cottingham,
‘Partiality, Favouritism and Morality’, Philosophical Quarterly 1986; David Miller, On Nationality (Oxford
University Press)

9 Our approach focuses on specifics of parent-child relationship and suggests that you can’t just generalise.
If our approach is right, we are very skeptical that compatriotism has the implications for the distribution of
resources claimed by some of the defenders of patriotic partiality. Because the relationships between
compatriots are not, in themselves, personal relationships in any sense, we are skeptical that they can carry
with them strong special obligations or prerogatives. The challenge for nationalist, on our approach, is to
show how value of relationship of compatriotism requires special responsibilities (or permissions) for its
realisation, and what the content of those responsibilities (or permissions) is, as well as that the value
realized by the relationship is sufficiently important to override the presumption in favour of cross-national
redistribution. This is not to say that partiality between compatriots cannot be legitimized (although one of
us is on record as denying that that it can and, as we have said, we are sceptical); it is just to say that the
argument for its legitimacy will have to proceed in an entirely different way


11 Fishkin also uses fair equality of opportunity as the focal point for the conflict; and so do authors who
are more generally hostile to egalitarianism such as Stephen Kershnar ‘Why Equal Opportunity is Not a
(Oxford 2002).

12 See Adam Swift ‘Justice, Luck and the Family: Normative Aspects of the Intergenerational
Transmission of Economic Advantage’ in S. Bowles, H. Gintis and M. Osborne-Groves (eds.) Unequal
This is not a point about Pareto optimality; it may be that if I took a strange child to watch Toad of Toad Hall with me, she would enjoy the show and my sparkling company so much more than my own daughter as to outweigh my own loss of value on some impartial calculus.


15 Along with others: see, in particular, Ferdinand Schoeman ---; James Rachels --- also Fried, Galston, and Lomasky.

16 We should clarify that the relationships in question do not contribute to the flourishing of the persons involved because they value the relationships; the contribution comes because the relationships structure and express the way that the persons value one another. Of course it is OK to value the relationship as well as to value the other person – to recognise that a friendship is good for one, contributes to one’s flourishing – but something is wrong if that is the salient thought. Francis Schrag offers the example of a man who finds and helps woman who needs him more than his wife. What’s wrong? ‘Maria thought she was loved because she was Maria, not because her need was more or less great than another woman’s.’ Her ‘sense of self is profoundly shaken, for [she sees] the man [she] loved never loved [her] at all.’ (Francis Schrag, ‘Justice and the Family’, Inquiry, 19, 193-208 at p??). See also Liam Murphy, Moral Demands in Non-Ideal Theory (Oxford University Press, 2000) page 140 note 36 where he attributes the following comment to Derek Parfit: “It’s odd that Williams gives, as the thought that the person’s wife might hope that he was having, that he is saving her because she is his wife. She might have hoped that he saved her because she was Mary or Jane or whatever. That she is his wife seems one thought too many.” When we talk about why relationships are valuable for people we are taking an external perspective on that value, which is appropriate for the purposes of philosophising about it. If the participant in the relationship is taking only that perspective, then she is not realising the good. Think about people who revel in being ‘good parents’ more than they love their children.

17 Phillipe Aries, Centuries of Childhood; Lawrence Stone, Family, Sex and Marriage in England 1500-1800. Cite also revisionists who express skepticism.


19 For current purposes we want to leave open what counts as abuse: we do not want to take a position, for example, on whether slapping a child always counts as abuse. But we would caution that judgments about both abuse and neglect have to be all-things-considered judgments -- whether some particular infraction counts as abuse or neglect must depend on whether it constitutes part of a pattern of behavior. So, for example, one unjustified loss of temper at a child does not constitute abuse; repeated such losses do.


specifically with respect to the uptake of education in American schools see Richard Rothstein, *Class and Schools* (EPI, 2003).

24 Note that Western governments that take such measures offer something like this as a justification, as well as the rather different justification that such measures will help to foster the development of human capital and, eventually, productivity.

25 For suggestive evidence that being raised in some religions enhances one’s ability to accumulate capital better than being raised in others see Lisa A. Keister, “Religion and Wealth: the Role of Religious Affiliation and Participation in Early Adult Asset Accumulation” *Social Forces* (2003) 82: 172-205

26 For extensive (and approving) discussion of the social-democratic practice see Gosta Esping-Anderson *Social Foundations of Post-Industrial Economies* (Oxford University Press, 2000); for an elaborate discussion of the US, see Anne Alstott, *No Exit: What Parents Owe to Children and Society Owes to Parents* (Oxford 2004).

27 Anne Alstott makes one such proposal -- providing a voucher which could be used either to pay for day care or to invest in the primary carers human capital so that she is not at so great a labour market disadvantage in the future -- though we should emphasise that her justification is not perfectionist in the way that ours is. See *No Exit* chapters 1-2 for the outline of the proposal and justification.


29 For a lengthier discussion of this option of ‘breaking the link’ between certain benefits and others to which they connect see section 5 of our “Equality, Priority, and Positional Goods’.

30 Richard Rothstein, *Class and Schools*, pp??

31 Note here about the exceptions -- in non-ideal circumstances the available public schooling may be inadequate (as it is, for sure, in large parts of South Africa for example where girls have a very high probability of being raped on the premises, by someone with AIDS, and where the prospects of learning in many public schools are slim; see Unterhalter 2003); and if elite private schools are really the only feasible alternatives in those circumstances they may be the only ‘adequately good school’, so parents with the means may have an obligation to send their children to them.

32 Compulsory schooling is frequently not entirely compulsory, as home-schooling, for example, is frequently legal. Prohibiting home-schooling seems to us to be consistent with the obligation to give ample space for the flourishing of the familial relationship as long as the public schools available carry out their mission in a manner consistent with respecting that space; and permitting home-schooling seems to us not to affect the obligations for public schools to educate in a manner constrained by value-of-the-family considerations, given that even when home-schooling is permitted it is not realistically available to many parents.

33 Among other reasons: because it implies that it is acceptable to impose very great harms on others, and because it implies that parents who do less than the best for their children are failing in their duty of care.

34 For an extensive discussion of the problems this sentence hints at see Adam Swift *How Not to be a Hypocrite: School Choice for the Morally Perplexed Parent* (RoutledgeFalmer, 2003).

35 Samuel Scheffler, *Bourndaries and Allegiances* p 123. The passage continues as follows: ‘This means that social institutions can vary considerably in their character while still leaving ample room for people to behave in ways that give expression to the value they attach to their interpersonal relationships. Within a fairly broad range, people can modify the behaviour that serves this function to fit the institutional and normative context in which they find themselves. In particular, they can adapt their behaviour to more or less egalitarian institutions and policies. People who live in societies with relatively more extensive social
welfare programmes, or more extensive policies of redistributive taxation, are not thereby prohibited from
giving meaningful expression to the value they place on their most treasured relationships. To be sure, this
kind of flexibility is not unlimited, and it is an interesting question where the limits lie. However, it is not
necessary to fix those limits with any precision to see that a general practice or honouring special
responsibilities need not preclude the implementation of significantly egalitarian policies, or deprive a
professed commitment to equality of all practical implications'.

36 See our unpublished “Equality, Priority and Positional Goods” (available via the Equality Exchange at
Studies 1999; Matthew Clayton “Rawls and Natural Aristocracy”, Croatian Journal of Philosophy and
Rawls’s own comment in Justice as Fairness on p. 165 footnote 44 for expressions of skepticism about
granting priority to fair equality of opportunity over the difference principle.