

Critical Notice

Justice, Identity and the Family

A critical notice of Harry Brighouse and Adam Swift, *Family Values: The Ethics of Parent-Child Relationships*.

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It is a cliché, but still a startling fact, how little philosophers have written about the family. Perhaps it is because so many – Plato, Locke, Hume, Kant, Kierkegaard, Nietzsche – never married or had children; perhaps philosophers see themselves as ‘above’ earthly attachments, or as preoccupied with ‘deeper’ concerns. And yet it is equally a cliché that all philosophers grew up in families, and most of them maintained familial relationships, harmonious or otherwise, throughout their lives.

Because of this neglect, the work of Harry Brighouse and Adam Swift is especially welcome. This book is designed more as a textbook to introduce some relevant debates from political philosophy (especially over liberty and equality) and to summarise their original arguments for justifying as well as restricting the modern Western family. The book’s main title – *Family Values* – is unfortunate, since it suggests that they will be toeing some conservative line, and I fear this will turn off many otherwise interested readers. Which is a pity, since the book is very good: lucidly written, clearly-structured, with plenty of thought-provoking ideas and examples.

In this paper I want to summarise the author’s main arguments for justifying and restricting the family, and then I want to take issue with them on certain questions. I will also challenge them for avoiding certain topics that I think were relevant enough for inclusion in a book with such a title.

The authors are most concerned with two nefarious *effects* of family life, and their discussion of these effects – in chapters 5 and 6 respectively – is the most interesting and original part of the book. The first effect is that the family tends to preserve and reproduce social injustice. Not only do wealthy parents tend to pass on their wealth to their children, but wealthy parents also buy certain goods – above all, private education – for their children that will give them a clear advantage in those children’s future pursuit of jobs with higher

incomes, power and prestige. But the influence of parents goes even further, as the authors admit. Those parents who spend more time with their children, who read bedtime stories to them, who take them to museums, and who share intellectual values with their children, also confer future advantages: not only are those children better thinkers and speakers, but they are also more confident and outgoing. Although this second influence is not directly dependent on family wealth and income, there is nevertheless a correlation between being poor and not having the energy, patience, time, or even the skills, to be as attentive a parent as one would like to be.

As avowed egalitarians, Brighouse and Swift's first impulse might be to follow Plato and abolish the family precisely in order to eliminate its huge and unfair influence. However, they spend a good deal of time exploring the intrinsic value of the family and family bonds, not only for the children, but also (this is a less familiar point) for the parents themselves (the so-called 'dual interest' theory).¹ However, in recoiling from one extreme, they also stop well short of the other extreme of full autonomy for parents to spend their time and money the way they want. Against the wishes of most wealthy families, the authors would outlaw private schooling² and would impose high inheritance taxes. But how can they accept the value of family bonds while restricting family autonomy in this way? And why not restrict bedtime stories and museum visits when they too confer undeserved advantages? Their answer has to do with the different roles of different activities in promoting and sustaining these inherently valuable family relationships: bedtime stories are essential to a healthy family life, they argue, whereas attending private school is not; museum trips involve parent and child spending time together and sharing interests, whereas bequeathing property is something that only happens when the parent dies and the relationship comes to an end.

The point can be put in terms of the principle of double effect. Even though bedtime stories and museum trips have the foreseeable effect of conferring advantage, the parent's primary intention is to share time and activity with the child. Whereas private school and bequests are solely designed to confer advantage; and this is even more starkly the case in those situations where wealthy parents send their child away to an elite boarding school (p. 136).

Brighouse and Swift respond to the following counter-argument. Surely the *family home* has important value for the family? And this would support unhindered bequests from generation to generation, even if that home was a very expensive one. The authors accept (p. 139) the principle of keeping the building in the family, but do not see why the heirs should not still pay a hefty inheritance tax on it. If they cannot afford to pay the tax (either in lump sum or mortgage), they can still become priority tenants and rent the house from the state.

So the egalitarian restriction is their first proposal. Their second comes from a liberal concern for the child's future autonomy, and above all for how that future autonomy can be compromised by a parent imposing her values on

the child too much, or in the wrong way.³ The paradigm example here is religious belief, and Brighthouse and Swift are concerned to preserve sufficient *psychological* autonomy for the child to opt out of the religion later on, or at least to redefine their relationship to the religion. As with the egalitarian proposal, however, they do not want to replace the family with a value-neutral state upbringing, for they acknowledge the intrinsic value of parents sharing their values spontaneously through shared activities. But such ‘sharing’ has to be done in the respectful spirit of offering rather than imposing: it is permissible for the parent to explain what she believes, and for the child to freely accompany her to mass to see what it’s all about.

In arguing for this compromise position, Brighthouse and Swift are careful to reject two positions on the other side of the continuum. The first (p. 169) is the religious believer who conceals her beliefs in a spirit of a liberal neutrality.⁴ Such concealment goes against the principle of honesty and spontaneity in familial relations, especially about matters as serious and central as the parent’s religious belief. The second (p. 172) is the militant atheist parent who would explicitly condemn all religious belief in front of her child;⁵ the authors argue that this child’s future autonomy is actually compromised, since it will be that much more psychologically difficult for her to freely adopt religious beliefs as an adult.

So many of the general debates about social justice and liberalism come down to personal temperament, so I should confess to sharing enough of Brighthouse and Swift’s egalitarian intuitions to support high inheritance taxes (although it would have been useful to have some discussion of the economics) and the prohibition of private schools, however utopian these proposals might be in practice.⁶ However, I am less inclined to see a religious upbringing as such a threat to future autonomy, and even if it is, I would not be so worried about such a threat. Obviously there will be extreme examples such as the Old Order Mennonite girl who decided to risk a ‘future in hell’ by leaving her parents’ home at 19 (p. 171), or the parents who cut off their child for marrying outside the faith (p. 157). But in less extreme cases, I suggest that the threat of divine displeasure could have a useful role to play in inculcating the basic, uncontroversial principles of morality, and that it would be understandable to cut off one’s adult child for serious repeated breaches of such principles.

Second, I think that Brighthouse and Swift misunderstand the nature of religious belief if they think that a devout parent will be satisfied with merely ‘offering’ it to or ‘sharing’ it with her children. That makes it sound more like a hobby than a fundamental way of orienting oneself in the world. The devout parent cannot tell her child ‘I just happen to believe that God exists’ as if it were a merely contingent and detachable psychological fact about the parent, or as if there were a real possibility of a cognitive mistake. Instead, the devout parent will *of course* speak about the ‘fact’ of God’s existence. It is not a question of whether these imposed beliefs are or are not in the child’s interests, or

about whether they will or will not give the child happiness. Indeed, the parent can acknowledge that in many ways religious belief can make things harder for the child. However, cultivating in one's child a belief in God is perfectly compatible with the child later challenging certain interpretations of religious texts, and indeed with coming to have her own doubts about the whole enterprise.⁷

Finally, their understanding of religion does not do enough to acknowledge the value of a religious community, both that instantiated by specific human beings living alongside the parents, but also by human beings of the past and future. Not only is religion more than a hobby, it is also more than a *personal* system of beliefs, as if the parent's only manifestation of her religious beliefs was solitary prayer. Rather, it creates a very real sense of belonging to a larger community in space and time. Brighthouse and Swift would allow that a child could be introduced to such a community, like some anthropology student, in order to later make the autonomous decision to join it. But I suggest that by far the likeliest way of joining a religious community, deriving the benefits of identity and belonging – and autonomously remaining part of it as an adult – is to be brought up as *essentially* part of it.⁸

Social and Biological Conceptions of the Family

I now want to explore a third thesis of the book, one that is logically separate from their egalitarian and liberal concerns, above, but one that flows from the importance they place on the familial relationship goods between parent and child. Brighthouse and Swift argue that the family should be taken as essentially social rather than biological. There are 'profound respects in which raising a child just is the same experience whether the child is a genetic descendant or not' (p. 107). At first glance, I would support this thought on the usual grounds of liberal respect: in a family with mixed biological and adopted children, the parent must never endorse any thought that one child is somehow the 'real' one, or the 'more loved' one than the other.

However, there are powerful intuitions in favour of the biological, and such intuitions find expression, for example, in Art. 7.1 of the 1992 United Nations Convention on the Rights of the Child, which states that 'the child ... shall have ... as far as possible, the right to know *and be cared for by* his or her [biological] parents' (cited p. 193 n30). This clearly implies that the biological relationship should take precedence over any adoption relationship, except where the biological relationship has broken down to the point of seriously threatening the child's interests. In addition to the Convention, there is a widespread principle in family law that the biological parent will be taken as having the default priority in, e.g., contested paternity cases. (By 'default' I mean that the burden of proof will be on those claiming that it would not be in the

child's best interests to return to or remain with its biological parent.) Brighouse and Swift acknowledge that

it will be generally in the child's interests to be raised by their biological parents, and that there are practical limits on the state's (or anybody's) capacity to identify exceptions, [so] this does not immediately imply extremely radical conclusions at the level of policy. (p. 177)

Part of their reluctance to remove children from their biological parents has to do with the intrinsic value of the antecedent parent-child relationship, and the likely harm of disrupting it except in severe abuse or neglect cases.

However, this concession does not allow an *essential* role to biology, and in this they disagree (p. 80) with David Velleman's (2005) account. Velleman claims that the child's knowledge of its biological relationships, supported by 'literal family resemblances' (including racial resemblance), as well as by shared character traits and talents (sporting, musical, mathematical), not only to its parents but to a whole family tree of living and dead relatives, is an essential part of the child's fumbling attempt to discover and forge its own confident identity. In an age when there is so much evidence for the radical contingency of each life, there is a lot to be said for belonging to a group of people in the very primordial sense of sharing their flesh. A baby is not created in an inert container, to then emerge elegantly into the world. Instead, the baby grows from the flesh of the mother, and then has to be pushed and pulled out of her in an act of violence. There is a very important phenomenological difference here between the father's essential doubts about his paternity until facial and other resemblances begin to appear, and the mother's absolute certainty that this child is *hers*.⁹ One part of Brighouse and Swift's motivation in speaking about gender-neutral 'parents' throughout the book is, obviously and laudably, to prevent the sexist use of the above asymmetry in allocating greater child-rearing duties to women. But I maintain that the biological remains too important to ignore entirely, just as more general questions of gender should not have been omitted.¹⁰

But there is a more gender-neutral metaphysical point about the biological link. Once a woman gives birth to a child, that child remains *hers* in some sense for its entire life, regardless of how the social or legal relationship changes or even deteriorates; and even if the father's bond is less fleshly, it is still appropriate to say that the child is and remains *his* too. The child's very existence depended on these two people, and her status as *hers* (and *his*) is inalienable. Contrast this with adoption, where there was necessarily a prior moment that the child was not even known by the adopting parents. This leads to the terrible anxiety that strikes every adopted child sooner or later: 'I have been given up once, so there is nothing to prevent me being given up again.'

This is not to suggest that there is anything wrong with adoption nor anything morally inferior about adopted children: insofar as there is a duty to love, I would accept that a single parent has a duty to love both her biological and her adopted children equally. And both Velleman and I would agree with Brighouse and Swift's call (p. 177) for drastically increasing state support and funding of adoption.

Filial Duties

This debate brings me to an important omission from the book, and that is the question of the *filial duties* owed by adult children to their frail and elderly parents. The authors acknowledge the omission (p. 175), preferring to concentrate on the relationship between the parent and the underage child. In terms of philosophical methodology, they are of course entitled to narrow their focus to the breadth necessary to elaborate their two primary proposals. But I do not think the question of filial duties is so detachable. First of all, any book purporting to discuss 'the ethics of parent-child relationships' ought to consider the adult child and the elderly parent simply because in purely chronological terms, the child will only be underage for 18 years, and will probably spend on average twice that time as an adult in a gradually changing relationship with her parents. Evidently the authors feel that the parent's responsibility for the healthy development of their child declines rapidly after 18, and that the child is, whether she or the parents like it or not, now in charge of her own life.

However, I think there is a stronger reason than scope for including the topic of filial duties, and that is that the quality of the original parenting is often *revealed* in the adult child's attitude and behaviour toward her ageing and frail parents. Children are mostly not in a position to understand the relationship with their parents until they are adults; indeed, children might not even appreciate what their parents went through as parents until they themselves (the adult children) become parents, and this new understanding will probably improve the relationship between them. To put it in a different way: being a child is not simply about being underage, and parenting is not simply a matter of dealing with the underage. Being a parent and being a child are part of the larger cycle of human life, a life that must not only be lived, but also understood, and very often such understanding is possible only in hindsight. And it is *given* that understanding that different adult children will make different decisions concerning their parents, not only decisions about how often to visit them or communicate with them, but especially decisions about their care and welfare once they are no longer able to look after themselves.

Simon Keller (2006) nicely summarises four prevailing theories that might ground filial duties, of which he rejects the first three. It is all the more surprising that Brighouse and Swift did not consider Keller, since Keller's own

preferred theory coincides well with theirs. The problem with each of the first three theories is that it tries to model the parent-child relationship on a different context which is ultimately too different. So the first theory grounds the duty on a *debt* owed to the parents, and faces obvious problems about quantification, about repaying too little or too much, and about the reduction of such a rich relationship to the commercial language of investment and return (a transaction to which the infant child did not consent, moreover). The second theory grounds the duty in *gratitude* to the parents. Here the main objection is to focus on the motivation of the parents, and to say that they did not bring up the child as an act of kindness for which they would expect gratitude. In addition, an adult child has filial duties to *do* certain things, such as look after their parents, pay for a nursing home, etc., and this may go beyond (indeed, way beyond) the expression of gratitude that might be required. Moreover, the child should be motivated by her parent's need, and not by a feeling of gratitude.¹¹ The third theory that Keller considers is a *friendship* theory, according to which filial duties are grounded in the friendly relations between parent and child; as such, our duties to parents are similar to our duties to friends. However, friends, unlike parents, can ultimately be acquired and discarded at least partly by choice. Whereas it makes perfect sense to speak of my filial duties to a parent who is not my friend, indeed a parent whom I might not even like.

Instead of these three theories, Keller proposes a 'special goods theory', according to which the parent-child relationship is unlike any other kind of human relationship, and generates a particular kind of value to both its participants – in this the theory resembles Brighouse and Swift's dual-interest theory, as best described in chapter 4 of their book. On one side, the desire to become a parent is not straightforwardly altruistic, nor is it straightforwardly egoistic; rather, it is better understood as a particular search for meaning in one's life. The parents put a lot in, and they get a lot out of it, but the kind of meaning in question undermines any attempt to focus on putting in and getting out. Keller (2006, p. 268) concludes his article thus:

My suggestion is that the reason why you have special duties to your parents is that you are uniquely placed to provide them with these goods, and find yourself in a relationship in which they have provided (and perhaps continue to provide) special goods to you. And the duties themselves are duties to provide the special goods to your parents, within the context of the reciprocal relationship that you and your parents share.

The worry about the special goods theory is that the goods might turn out to be so special as to prevent criticism from outside the relationship. If a concerned friend were to say to me: 'Listen, I think you should spend more time with your mother, she needs you', then it would seem that I could deflect this criticism by saying 'you cannot understand our relationship, and the special

goods that we give each other'. Whereas a debt or gratitude theory, in its favour, would seem to allow third-party observation, rough quantification, and criticism; indeed, in some contexts the third party might have a better view of the relationship and of the duties. On the other hand, there is also a powerful sense that it is none of the third party's business because it is simply not her family. This disagreement brings me to one last issue in the ethics of parent-child relationships, and again one that did not receive sufficient treatment in Brighouse and Swift's book.

Family Relationships and External Criticism

There is an ambiguity at the heart of the modern family. Speaking as a father of two school-age children, I can claim to know something about the joys and frustrations of parenting. During the past few years, I have met many other children, together with their parents. On many occasions I observe the other child, or I observe the parent, or I observe the relationship, and I make a confident judgement – to myself – that this child is suffering, or that this parenting policy is a bad policy: that the parent is spoiling or over-indulging the child, say, or not attending to the child's point of view, or not controlling the child's violent impulses, etc. I'm not talking about cases of abuse and neglect sufficiently serious that I would consider reporting the incident to professionals; instead, the other parent is 'good enough' (to use David Winnicott's famous phrase), but she and I disagree about what is most conducive to the other child's well-being. I stress the *confidence* of my judgement: I consider myself experienced enough in parenting to know what I am talking about, and I consider myself well enough acquainted with the other child, the other parent, and the situation, that I cannot honestly deflate my judgement with the expression 'oh well, I can't see the full picture', or 'maybe I'm just being over-sensitive'.

And here's the interesting part: *I say nothing to the other parent*. Why? It might of course be cowardly fear of confrontation with someone whom I will almost certainly see again at the playground. But I don't think it's that, because in an analogous situation of, say, a Head of Department bullying a colleague, I would stand up for the colleague (or I would not, but I would at least admit that it was a clear case of cowardice, or self-interested calculation). The reason I say nothing is because I feel it is none of my business, that the default position is that parenting – within the limits of abuse and neglect – is an extension of the individual's private realm. Brighouse and Swift (p. 10) quote Charles Fried as one defiant articulation: 'The right to form one's child's values, one's child's life plan, and the right to lavish attention on the child are extensions of the basic right not to be interfered with in doing these things for oneself¹².' In this sense my critical judgements are idle, and even if voiced can be legitimately ignored. And yet of course the child, just like my departmental colleague, has objective needs and interests, such that the meeting of these

needs and interests should in principle be observable and appraisable. This tension is only occasionally on view to me – the better people to ask would be the primary and secondary school teachers who have to suppress so many of their judgements.

The ambiguity can also be grasped by examining the spectacular failure of those who would seek to license parents, in a manner analogous to the way that we as a society license car drivers and medical doctors. Again, Brighthouse and Swift say ‘we do not want the state to get involved in the business of deciding which adults are and are not able to provide the love that children need’ (p. 21), but I think it’s a failure worth examining more closely. Hugh LaFollette begins his classic 1980 article¹³ with blunt statistics about child abuse in America. Under the present situation, he argues, we have to wait for solid evidence that repeated harm has occurred before we remove a child; far better would be to identify those parents most likely to harm their children ahead of time. The exact details of the licensing scheme would be up to psychologists, educationalists and paediatricians to determine, but LaFollette is clear that – like the driving test – the vast majority of prospective parents would be able to pass a test (if necessary after repeated attempts), and could only benefit from the basic knowledge they were forced to learn. Besides, concludes LaFollette, what he is proposing is nothing so very different from what we as a society are already doing when we screen couples who apply to become adoptive parents.

As I say, the article is noteworthy in being full of sensible arguments that must have occurred to plenty of people when they read about some awful child abuse in the newspapers. And yet as far as I know, no legislature has ever seriously debated any proposal to license parents. The reason is easy to see: even a soft-touch version of licensing would still be massively intrusive, generating all kinds of justified resentment, if not all-out class war.

This reluctance to intrude, to criticise, to judge, either parents for their parenting of young children, or adult children for their attitude toward or care of their own parents, says something about the place of families in our lives. And here I want to criticise one aspect of Brighthouse and Swift’s overall approach in their book. ‘This book offers an account of why families are valuable’, are the opening words of the Preface (p. ix). By the end of part 2, the authors hope to ‘have presented our basic justification of the family’ (p. 5). They also write that ‘there is considerable evidence that good relationships make people happy’ (p. xiii). I want to suggest that it is *pointless* to ask why families are valuable, to seek a justification for them, and to speculate about whether they make people happy. Families are simply what many people choose to make. It is a primitive urge, a bedrock, which is eminently intelligible even if no deeper reasons can be given for them. Some people speculate about good reasons to get married; or good reasons to marry a certain person, or good reasons to have children; or good reasons to *not* have children. I suggest that all these discussions are idle, first because the urge to marry and the urge to have children are normally such deep urges that if there were any reasons available for evaluation,

they would be buried deep in the subconscious where not even the agent herself has privileged access to them. But second, I suggest that most of us do not seek reasons to explain *in general* why another person got married or had a child. And when I wonder about why *this* person married *that person*, it is not clear that I or this person or anyone else could give any reasons of much explanatory value.

In a similar vein, I have to take issue with Christine Overall's *Why Have Children? The Ethical Debate*. She complains that many women who decide not to have children are asked to justify this decision, and are often accused (or thought of) as selfish. Instead, given the ethical implications for others (and for the planet) of having children, Overall argues that the burden of proof should be on those who decide to have children. I would reject both burdens of proof, and would deny that any satisfactory reasons can or should be given for either decision.¹⁴

Again, as a work of philosophy I think Brighouse and Swift's book is a success. But the authors do not seem sufficiently aware that if they open with the declared intention to explore 'why families are valuable', then a philosophically inexperienced reader will find this baffling. One kind of reader will never doubt that they are valuable, and will wonder why is it important to know why they are valuable. Another kind of reader will say 'thanks, my own childhood was pretty bad, and I have no desire for a family, thank you very much, whatever your justifications'.¹⁵

If there really were a question about whether families were justified, then there would have to be a real alternative if it turned out that families could not be justified. And the prospect of prohibiting the family has never been a real alternative, despite Plato and the *kibbutzim* and the hippy communes. Even the most authoritarian regimes in human history have never really tried to do this (despite many ingenious attempts at controlling their subjects), and there is certainly no serious political movement today to do so. Indeed, if we are to judge by the terrible stories of underfunded state institutions and foster care systems in the modern West, then the state is simply not interested in assuming the parental role except in extreme cases, where it has no choice.

My disagreement with Brighouse and Swift on this point may be merely verbal. After all, they are prepared to allow a good deal of privacy to the family relationship, more than most egalitarians, and their main three proposals – raising inheritance taxes, prohibiting private schools, and preventing parenting that would undermine autonomy – all make reference to people *outside* the family (either the children's peers, or the future adults into whom the children turn) who are harmed, and therefore the privacy claim cannot deflect the standard justification for liberal intervention.

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Notes

- 1 Although the authors stress that the value to the parents must not amount to what Colin Macleod defends as ‘creative self-extension’ (pp. 101–104), for this would amount to using the child for selfish ends.
- 2 This follows on from Adam Swift’s 2003 book.
- 3 They acknowledge (p. 117) that the division between the egalitarian proposal and the liberal proposal is somewhat arbitrary, since one way that parents try to benefit children is precisely by shaping their religious and other values.
- 4 They cite this argument as coming from Matthew Clayton (2006).
- 5 One thinks of the tone of Richard Dawkins’ (2006) best-selling book, *The God Delusion*.
- 6 With regard to private schooling, it is worth citing the Irish compromise, according to which the state pays the salaries of the teachers at both state and private schools. The result is that the most prestigious private schools charge much lower fees (typically about €6,000 per year) than the most prestigious schools in Britain or the US. This is still controversial, however: on the one hand, the schools are much more accessible to more people; on the other hand, there is something odd about the taxpayer subsidizing the prestigious schools so that wealthy parents do not have to pay as much.
- 7 Brighouse and Swift (p. 170) concede that even the more traditionalist forms of the major religions contain enough resources to allow independent critical thought and enquiry.
- 8 The debate here is usually phrased in terms of allowing a child an ‘open future’, to use Feinberg’s seminar expression. What I say above draws from Mills, 2003.
- 9 Relating to this point, Brighouse and Swift discuss and reject (pp. 108–109) Anca Gheus’s argument that the mother has a right to her biological child in virtue of having formed a relationship with it during pregnancy: see Gheus, 2012.
- 10 ‘We do not doubt that the family as it actually exists has been, and continues to be, a crucial site of gender injustice, but its gendered aspect is not our topic here’: pp. xiii–xiv.
- 11 Consider the previous example of the wealthy parent who neglects her main parenting duties by sending her child off to boarding school. While the child may or may not feel gratitude to the school, there is a real question of whether it will feel gratitude to a parent whom she no longer knows.
- 12 Their quotation comes from page 152 of Charles Fried’s 1976 book, *Right and Wrong*, Boston: Harvard University Press.
- 13 LaFollette, 1980. See also his revised version of the paper, where he responds to critics: ‘Licensing parents revisited’ (LaFollette, 2010). Further relevant references are also given in the Brighouse and Swift, p. 194 n4.
- 14 There is a challenging related question which neither Brighouse and Swift nor I have broached at all, and that is the question of how much help infertile couples can claim from the state, given the depth of the desire for children and the ‘blight’ (p. 99) that childlessness is sometimes taken to be on someone’s life.
- 15 In his review of the Brighouse and Swift book for the *Notre Dame Philosophical Reviews* (<http://ndpr.nd.edu/>), David Archard writes: ‘I find the conjunctive claim that parenting is objectively valuable but not universally valued where such non-valuing is not erroneous to be prima facie odd. It is odd to say, as they do in their Conclusion, that family relationship goods ‘matter for everyone’ and that these goods are proper distribuenda in a full theory of justice. What are distributed in Rawls’ theory, for instance, are primary goods that any rational person may be presumed to want. But not every rational person does want the family goods.’

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