The Family and Justice in Political Philosophy

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Summary

Political philosophers' interest in the family - understood as a unit in which one or more adults discharge a socially and legally recognised role as primary carers of their children – has a long pedigree. But there is no doubt that over the last half century philosophical discussions of the family have intensified and given rise to an increasingly rich and multi-faceted body of literature. After briefly introducing the key reasons why political philosophers have been interested in the family, this chapter discusses two main sets of questions that arise concerning justice and the family.

The first set of questions are about what the *family owes society as a matter of justice*, that is, about how the family can and should help realise, or how it may hinder the achievement of, independently formulated demands of justice. For example, does the existence of the family necessarily threaten the pursuit of equality of opportunity for children? Should prospective parents constrain their freedom to found and raise a family in light of considerations about the environmental impact that their having and rearing children will have for future generations?

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The second set of questions concern what *society owes families*, that is, what we owe our fellow citizens as a matter of justice, insofar as they are actual or potential members of families: Do adults have a right to parent, and to parent particular children? Do children have a right to being raised in families? Should society share in the costs of having and raising children, or may it let most or all of those costs fall on the shoulders of those who freely choose to become parents?

Keywords: family; justice; parents; children; procreation; upbringing; gender justice; intergenerational justice

Related ORE entries: Intergenerational Justice; Gender justice; Equality

The Family and Justice in Political Philosophy: Some Preliminaries

Three Main Reasons for Political Philosophers' Interest in the Family

Political philosophers' interest in the family - understood as a unit in which one or more adults discharge a socially and legally recognised role as parents, i.e. as primary carers of their children – has a long pedigree. Plato, for example, discussed at length the family in *The Republic*, famously proposing a radical reform for the ruling classes of the ideal state, which involved the enlisting of women as well as men as rulers, centrally planned procreation, the collectivisation of childrearing, and the replacement of biologically defined relationships with generation-wide kinship (Plato, 2003). On this count as well as many others, Aristotle developed views that were in sharp contrast to Plato's, and defended the biological family as a special form of friendship and as a fundamental unit of society (Aristotle, 1983; 2004).

In Plato's and Aristotle's opposing views, as well as in subsequent discussions of the family in European political thought (such as in the views of J. Locke, J.J. Rousseau, J.S. Mill and of various socialist thinkers; for critical overviews of the history of political thought on the family, see Okin, 1989; Blustein, 1982), it seems fair to say that there were principally two reasons why the family elicited interest. First, the family is the site in which new polity members are created and reared, and how large a population is and what kind of upbringing and education children receive, have been thought to be matters of great concern for the polity as a whole. Second, the family, like the polity, is a sphere in which authority by some over others is exercised, so political theorists engaged in the examination of the merits of different forms and distributions of political authority have often deemed it instructive to compare their views about political authority to those about the nature and justification of authority within the family (which was for a long time thought to be the authority of the father over his children, his wife and his slaves or servants).

These two main reasons why the family has engaged political philosophers' attention –the fact that the family's workings have a substantial impact on society, and the fact that the family is a site of authority – have continued to be important in contemporary discussions. There is, additionally, a third main reason for contemporary political philosophers' interest in the family. As philosophers have adopted more expansive views about *when* individuals become subjects of justice (i.e., philosophers now widely believe, as children) and regarding what aspects of individuals' lives matter from the standpoint of justice (so as to include people's interests in goods obtained in what was previously thought to be the "private" domain of personal relationships), the parent-child relationship has acquired further importance, as children as well as adults are thought to have an interest in it.

While historically some political philosophers have paid some attention to the family, there is no doubt that over the last few decades philosophical discussions of the family have intensified and given rise to an increasingly rich and multi-faceted body of literature (for some main edited collections, see O'Neill & Ruddick, 1979; Meyers et al., 1993; Archard & Macleod, 2002; Brennan & Noggle, 2007; Archard & Benatar 2010; Baylis & McLeod, 2014; Hannan, Brennan & Vernon, 2015). There is also no doubt that this is in good part due to the work done by feminist thinkers, as attention to women's condition has required closely examining the family as the sphere to which women and their dependents have been traditionally relegated, both in theory and in practice, and which has been shown to play a fundamental role in creating and maintaining various forms of gender injustice (Okin, 1989; Pateman, 1988; Williams, 2000 are some main examples). It is thanks to feminist scholars that political philosophers in general, and theorists of justice in particular, after neglecting the family during the early part of the revival of theorising about justice (e.g. Rawls, 1971; Nozick, 1974) have come to recognise that their theories should pay careful attention to both the wrongs which some individuals can and do face within families at the hands of their fellow family members (as is the case with gender violence or other forms of oppression and domination suffered by women and sometimes their children by their male partners), and to those unjust inequalities that result from the interaction of the family with the workings of other socio-economic institutions such as the labour market (as well as social norms), as is the case with inequalities in incomes and opportunities resulting from the gendered division of labour.

While some points made by feminists' analyses of the gendered division of labour will be mentioned below (see the section on *Social Reproduction as Socially Valuable Work*) this chapter's main aim is that of providing a critical overview of

some main questions that arise about justice and the family that are not focused primarily on their gender dimensions. It is impossible, in a single chapter, to offer a sufficiently comprehensive critical survey of both feminist perspectives on the family and of general theorists of justice's contributions on the family. (For the former, see Satz, 2012; Gheaus, 2018; Mullin, 2019).

Main Questions and Definitions

This chapter identifies and discusses two main sets of questions about justice and the family. The first concern what the *family owes society as a matter of justice*, that is, about how the family can and should help realise independently formulated demands of justice. For example, does the existence of the family necessarily threaten the pursuit of equality of opportunity for children? Should prospective parents constrain their freedom to found and raise a family in light of considerations about the environmental impact that their having and rearing children will have for future generations? The second set of questions are about what *society owes families*, that is, what we owe our fellow citizens as a matter of justice, insofar as they are actual or potential members of families: Do adults have a right to parent, and to parent particular children? Do children have a right to being raised in families - and to certain kinds of, and/or particular, families? Should society share in the costs of having and raising children, or may it let most or all of those costs fall on the shoulders of those who freely choose to become parents?

These two sets of questions do not exhaust all the questions which theorists of justice have reason to ask about the family. In particular, there is a third, important set of questions about justice *within* the family, i.e. about what members of the family owe to each other, which this article does not examine. Whether a gendered division of

domestic labour is necessarily unjust; what and how much parents owe their children, both while they are children and once they are adults; and what, if anything, grown-up children, in turn, owe their parents, are examples of the most pressing questions about justice within the family. Some of these – concerning the gendered division of labour and what respect of children’s autonomy entails for parents’ rights and duties vis-à-vis them - have received substantial attention over the last three decades; more recently, new, thought-provoking positions on these issues are defended within the framework of political liberal theories of justice, which are committed to formulating principles of justice which can be justified to all reasonable citizens, in spite of the diverse conceptions of the good life which they endorse (see Clayton, 2006; Arjo, 2017). Although these questions will not be examined head on in what follows, at some points, as will be clear, the discussion below assumes relatively uncontroversial positions on some of them (e.g. that children are owed the upbringing that is necessary for them to enjoy equality of opportunity; that parents have duties to help ensure that their children’s needs are met).

Before moving on, some clarifications are in order about each of the two key terms in this chapter’s title, i.e. “the family” and “justice”.

As was noted at the outset, this chapter uses the idea of the family to refer to a unit in which one or more adults discharge a socially and legally recognised role as primary carers of children (i.e., the unit in which some adults are given rights and duties as parents for some children). That the focus is on the family so conceived should not be taken to commit us to a biased conception of what qualifies as a family, or to an unduly narrow view of which family relations give rise to concerns of justice.¹ Talking of the

¹ The chapter does not discuss normative questions that arise around the intimate relationships between adults which do not regard and are not affected by adults’ roles as carers of children. One example are questions about whether the institution of marriage

family in the sense just identified is compatible with acknowledging that many different family forms exist and may be justified (e.g. biological and non-biological; nuclear and otherwise; same-sex and heterosexual); indeed, some of the questions that are discussed in what follows concern whether there are any grounds for treating biological relationships between parents and children as normatively significant. It is also compatible with believing that, besides relations between parents and children, there are other family relations that may play an important role both in individuals' lives and at the societal level, and that may call for recognition and regulation on grounds of justice, both between children and adults other than their parents (e.g. step-parents and grandparents), and among individuals who are in other family relationships with one another (e.g. as siblings; as spouses). It remains true, however, that insofar as society must arrange for the raising of the young, and insofar as it does so by assigning to one or a few adults the role of primary carers, a number of significant questions of justice arise within the context of the family thus circumscribed; these are the questions discussed below. (Note that some of the questions may also arise with regard to the upbringing of children by adults who are not accorded parental rights, such as carers in orphanages. An example are questions about the limits of permissible partiality; see the section on *Responses to the Problem of Parental Partiality* below.)

Second, concerns of “justice”, in what follows, refer to concerns around the competing claims of individuals, within the relevant domain, to benefits that are up for distribution, such as opportunities, material advantage, but also the psychological and social conditions for self-respect. Justice is distributive or social justice, broadly understood so as to encompass justice in the distribution of a diverse range of benefits

is justifiable, and if so, who should have access to it and on which terms. For some recent discussions of these issues, see Brake 2012; Macedo 2015; Chambers, 2017.

to which individuals may stake claims, which include economic resources, but also recognition or other relational goods (Walzer, 1983; Olsaretti, 2018.) More specifically, the theories within which issues about family justice are discussed below are all liberal, in the sense that they ascribe to individuals rights to important liberties like freedom of thought and association and bodily integrity; furthermore, the theories in question are all committed to redistributive measures, whether in the name of equality, or in the name of sufficiency, i.e. so that all persons have “enough”, or have their needs met. Different theories of justice adopt different views on what the domain of justice is – especially where the demands of distributive equality are concerned, whether they apply beyond the boundaries of the nation-state is a disputed issue. What follows focuses on questions about justice and the family that arise independently of our stance on this question; further questions arise if we assume that they do (see, for example, the discussion in Ferracioli, 2018).

Questions about justice and the family, then, include a wealth of questions that arise about the competing claims of persons once we acknowledge that persons, as well as being citizens, have all been members of families as infants, and may be members of families as parents, and that how the family is structured and run has a profound impact on the prospects and opportunities of infants and of their parents, and on some interests of society as a whole, in ways that will be discussed below.

What the Family Owes Society

Some questions about justice and the family arise merely insofar as we assume that the institution of the family exists and we notice that its workings affect in various ways whether and how the independently formulated demands of social justice can be realised. More specifically, these are questions about what adults who have and raise

children may or must do, as procreators and parents, so as to respect the justice claims of fellow citizens, where the latter formulated independently of any considerations about their interests in the family.

A clear illustration of this type of question, which will be examined below, is the long-lasting debate about the conflict between the family and the principle of equality of opportunity. Here, the demands of this principle (say, the meritocratic version of the ideal, requiring that the best qualified candidate get the job) are formulated and defended independently of any considerations about whether the adults who compete for jobs and positions were or should be raised in families, and independently of whether they are themselves carers. (As a test of this, consider this: the very same principle would be formulated and defended even if, contrary to facts, adults sprang into the world fully formed and autonomous.) Questions about the family's relation to the principle of equality of opportunity only arise at a second stage, once that principle is already formulated and defended, and we ask whether the existence of the family hinders and what it must do to help the realisation of equality of opportunity. It is in this sense that the questions at issue here are ones that arise merely insofar the family is assumed to exist and to affect whether and how social justice can be realised: raising these questions does not presuppose that individuals may have claims against society on account of their interests in the family –issues which are explored in the last two sections of this paper.

The next sections examine two different ways in which the family can negatively impact the realisation of social justice, in light of which we may argue that “family autonomy” ought to be limited - that is, so that those who have and/or raise children ought to restrict their choices and/or so that society may restrict their conduct in various ways. As will become apparent, the questions that will be discussed under

each of these two headings vary along a number of dimensions, three of which are worth highlighting as they help us capture salient aspects of the debates that will be surveyed. They are: i) Which aspect of family life is under scrutiny (is it procreation or parenting?); ii) Who the members of society are whose claims of justice are said to be affected by the family (is it contemporaries or non-contemporaries? Other children or adults as well? Only non-parents or all fellow citizens?); and iii) Which claims of justice are supposed to be affected (to equality of opportunity for jobs and positions? To an equal or to a sufficientarian share of natural resources?) by parents' having and/or rearing children.

Parental Partiality and Justice

Political philosophers have often noted that the family presents a threat to the realisation of justice because the parent-child relationship is a particularly strong intimate bond in which parents are disposed to favour and confer substantial advantages on their own children, out of line with, and/or disrupting, the impartial demands of justice. Plato's worries mentioned at the outset of this chapter, and discussion of the tension between the family and equality of opportunity mentioned just above, are familiar illustrations of the way in which the family is seen to conflict with justice because of parental partiality. This section describes the problem of parental partiality for justice in more detail before identifying different possible responses to it.

Diagnosing the Problem of Parental Partiality

In order to see exactly what the problem of parental partiality that exercises theorists of justice is, two preliminary points are worth noticing.

The first is that we should distinguish the particular aspect of parental partiality (and of partiality in general) that is a concern from the point of view of justice from other aspects of partiality that may be morally problematic in other ways. So, we might raise concerns about whether the *partial motives* that move parents are legitimate: we may think that to see oneself as having reason to promote the good of a particular person just because it is one's child, or by dint of standing in a particular relationship to that person, is, regardless of the effects of being so moved, morally problematic. Alternatively or additionally, some raise worries about the *anti-maximising effects* of parental partiality: how can someone justify spending money on one's child's skiing trips, instead of using that money to fund the educational needs, or less expensive recreational activities, of many more children? Independently of whether these concerns about parental partiality (and partiality more generally) are valid, the *distinctive* problem of partiality that theorists of justice face – that is, that which moves them by dint of their concern with social justice – is different, and points to the fact that the *distributional consequences* of partial choices are often unjust.² Parental partiality conflicts with justice if and because parents' favourable treatment of their children leads to unjust inequalities (sufficientarians may also be disturbed by some, but fewer, exercises of partiality). By contrast, justice would not condemn parental partiality in a world in which all parents, using their justly held resources, favoured their children to an equal extent and so that no unjust inequalities arose – even if we thought that all of these parents' motives were misguided.³ Nor is it a justice-based objection against parents that, by using their justly held resources on their children, they are not

² Scheffler (2002) clearly identifies the distributive objection to partiality but several discussions conflate the different worries about partiality mentioned in the text.

³ Admittedly, in some such cases parental partiality could be *wasteful* or bring about some *noncomparative* harms for children. See, for example, discussion of the negative consequences of the educational arms race in Halliday (2016).

maximally promoting the good, since on all theories of justice individuals may spend their justly held resources on themselves, even though this is just as much to the detriment of the maximal promotion of the good as spending those resources on one's children. Keeping these different objections to partiality apart is important in order to properly diagnose the problem of parental partiality for justice and to avoid arguing at cross-purposes (Olsaretti, 2017b).

The second preliminary point we should keep in mind when characterising the conflict between parental partiality and justice is that the justice-disrupting effects of parental partiality vary importantly depending on whether partiality occurs under ideal or non-ideal conditions. Non-ideal conditions are conditions in which demands of justice than the ones under consideration are not met, so that, for example, there are unjust socio-economic inequalities among parents and the institutions that are necessary to provide for citizens' basic entitlements, e.g. to health care and education, do not exist. Under non-ideal conditions, some partiality may be unjust that would not be unjust at all under ideal conditions: the mere fact of procreating the child one intends to the parent may be unjust where there are parent-less children who need to be adopted, but would not be unjust under more ideal conditions, as presumably there would be few if any children who lack a family altogether (even children both of whose parents die prematurely would likely be cared for by relatives).⁴ Non-ideal conditions also make some parental partiality more unjust than it would be under ideal-conditions. Children who inherit from their wealthy parents economic resources the latter do not have a right to own in the first place, besides being undeservedly better off than others, are benefiting from injustice; children of unjustly poor parents, besides being worse off than

⁴ For some discussions of the ethics of adoption, see Bartholet, 2000; Haslanger and Witt, 2004; Rulli, 2014; De Wispelaere & Weinstock, 2015.

other children through no fault of theirs, will also not be getting their basic entitlements to health and education met. At the same time, however, some parental partiality under non-ideal conditions may be less unjust than it would be under more ideal conditions. In particular, if in favouring their children, parents are bestowing on them what children should get under just conditions, this may not be unjust - think of a parent who leaves his child an inheritance to cover for her health needs in a context in which there is no national health service and health insurance is expensive and inadequate (Brighouse & Swift, 2014; Macleod, 2010a).

The fact that parental partiality may lead to unjust inequalities even under ideal conditions is what is most troubling for theorists of justice, for two reasons. The first is that, since parental partiality is widespread and hardwired, we may be facing, here, a limit on how much justice we can ever hope to achieve. The second is that, insofar as the family itself is also protected by justice (see section 3 below for discussion), the problem of parental partiality points to a conflict between the family and justice that is internal to the theory of justice: parental partiality may be protected by the exercise of liberties our theory endorses and give rise to inequalities our theory condemns (Blustein, 1982; Fishkin, 1983; Vallentyne and Lipson, 1995). Insofar as this is true, there is no full solution to the conflict, not even at the level of principle.

Even in an otherwise (more or less) just society, the exercise of parental partiality will create unjust inequalities. On all theories of justice, material inequalities among adults - those which are said to be traceable to their ambitions or their responsibility - can be compatible with, and on some views are required by, justice. So different parents will be unequally well-off. Moreover, even in a society with generous publicly funded services (e.g. one in which education were publicly funded, or even one where there were *only* public schools and universities), parents can buy unequal services

(e.g. private classes, activities and other formative experiences) for their children, and will exert very unequal influences on their children's abilities through their upbringing at home - as is often noted, how much parents talk to their young children, what range of vocabulary they use, and whether they read to them at bedtime, correlate with better or worse outcomes later in life (Heckman and Masterov, 2007; Heckman, 2012). The family thus threatens the ideal of equality of opportunity, both old – requiring equal opportunity to compete for jobs and positions - and new – requiring equal opportunity for well-being or life-chances (Mason, 2001; 2006; Brighthouse & Swift, 2006; Segall, 2011; 2013). In light of this, theorists of justice noted that that “so long as people come in families, the approach to fair equality of opportunity can only be partial” (Nagel, 1995; Scanlon, 2017) – a thought which Rawls famously expressed by asking: “should the family be abolished, then?” (Rawls, 1971).

Responses to the Problem of Parental Partiality

To the extent that the family and the demands of equality of opportunity are in conflict, theorists of justice face two pressing questions: the first is whether some parental partiality – and if so, which - is morally justified, or legitimate, even when it conflicts with justice; the second is how the conflict between (both justified and unjustified) parental partiality and justice should be resolved or at least mitigated.

Political philosophers working on the family have given a range of different answers to the first question; some adopt a view on which parental partiality is justified derivatively, insofar as parent-child relationships (and the partiality they display) are, for various reasons (for example, given biological parents' tendencies to care for their children's welfare), the best way in which everyone's general duties towards children are discharged (Goodin, 2005; Vallentyne, 2003; for critical discussion see Macleod

2007; Olsaretti 2017); on this view, justified parental partiality will not, at least not on balance, conflict with justice. A similar conclusion is reached on a different, moralised view, which, while acknowledging that the value of parental partiality is not derivative from the latter's contribution to discharging our general duties of justice, nonetheless holds that those duties *constrain* the partiality that is valuable and, therefore, justified. On a view that has gained attention in recent years, justified parental partiality *can* conflict with justice, but, since what justifies parental partiality – the value of the intimate parent-child relationship – often need not take the form of justice-disrupting conferral of advantage, the conflict between justified partiality and justice turns out to be more limited than we generally think.⁵

As far as the second question is concerned, three main answers present themselves.

The first possible way of resolving the conflict between the family and justice, which is sometimes discussed and invariably dismissed, would be the abolition of the family in favour of well-run orphanages, an idealised version of Plato's proposal for the ruling classes. Theorists of justice discard this possibility as morally undesirable because it would violate important rights of both parents and children (see section 3 below), and because the family is said to serve other moral goals which are essential for society as a whole. Such goals include that of endowing children with a sense of self-worth and a sense of justice, which are claimed to require strong affective ties and loving relationships to be nurtured and that of maintaining alive a plurality of different conceptions of the good, which liberal political philosophers assume is needed to

⁵ Whether these views can justify pre-parental partiality (i.e. the partiality of adults towards their possible future children) and the inequality-engendering effects of partiality further down the line, e.g. among one's grandchildren's and their contemporaries, are interesting questions. For some discussions see Douglas, 2015; 2019.

sustain autonomy (Munoz-Dardé 1999; 2002). Moreover, the abolitionist proposal, it has been recently argued, would be ineffective, since any attentive carers, even those of a well-run orphanage, would and arguably should develop attachments to the children they care for, and it is unavoidable that they would be unequally good carers (Gheaus, 2018b; Macleod, 2018).

Assuming that the family is and/or should be here to stay, an alternative way of responding to its conflict with justice is to rely on other institutions to *offset* the potentially inequality-disrupting effects of parental partiality. Early childhood interventions that work either with parents or alongside them, ranging from special programmes for parents at risk to publicly funded, high-quality and universally compulsory post 1-year old childcare programmes and excellent state schools are all familiar proposals (Heckman & Masterov, 2007; Magnuson & Duncan, 2016; Esping-Andersen, 2009). While their effectiveness as a solution to the problem of childhood inequality is the subject of debate as these measures are tested in real-life and clearly unjust background conditions, their merits as partial solutions in a society that is closer to justice seem undisputed.

Finally, a different kind of response to the conflict between the family and justice points to the need to change the structure of incentives that exists for parents to engage in inequality-engendering acts of parental partiality, so as to *pre-empt* the need for parental partiality. This pre-emptive response aims to identify and set up conditions such that parents will have fewer reasons (both motivating reasons and justificatory reasons) to confer advantages on their children in the first place. The starting point for this response is the simple but important observation that parents' reasons for conferring inequality-creating benefits on their children are largely a function of the socio-economic institutions which they and their children participate in. For example, job

competitions could be structured in such a way as to give candidates fewer reasons to accumulate extra qualifications: instead of viewing certain skills (e.g. some computer programming competence) which only richer candidates can buy as prerequisites, employers could provide it as part of the training for successful candidates (see Scanlon, 2017). More generally, in a competitive market economy where the payoffs of different jobs and positions are highly unequal and where one's access to other important goods (such as good quality healthcare and housing) depends on what jobs one gets, most parents will want to ensure their children are as likely as possible to access the better jobs and will confer on them whatever competitive advantage they have to help ensure their children make it through the "bottlenecks" that lead to those jobs (e.g. expensive private tutoring, expensive higher education and so on) (Fishkin, 2014). By contrast, if our socio-economic institutions are so set up as to ensure that the stakes of ending up in different jobs are less unequal and that even in the worse social positions individuals have access to the important goods of life, parents' reasons to confer competitive advantages on their children will diminish substantially (Gomberg, 2007; Fishkin, 2014; Scanlon, 2017). Drawing on these observations, a case can be for a more *holistic* evaluation of the family's role vis-à-vis justice than we are accustomed to. If how parents can be predicted and have reason to behave is partly a function of the socio-economic institutions within which the family operates, we should think of how the family *together* with one or another set of institutions fare in terms of justice. Thinking this way opens the way to noticing that the family might, in principle, play an equality-promoting rather than an equality-disrupting role, as sufficiently just parents' reasons to favour their children arguably means they have reasons to ensure that all the social positions their children could come to occupy are as good as possible (Olsaretti, forthcoming^a)

Children as Negative Externalities

There are other ways than the one just explored in which the family may hinder the realisation of justice. Besides potentially undermining the equality of opportunity claims of others as a result of a disposition to favour their own children, procreators and parents may negatively affect various third parties in seemingly justice-disrupting ways, irrespective of whether they confer advantages on their children, and sometimes, in effect, because they do not do that – that is, because parents fail to take care of their children, or to internalise the costs which their children create.

The Negative Externalities of Parenting

The most familiar and least controversial version of the thought at hand is this: parents wrong third parties if they culpably fail to raise their children as law-abiding. Whether parents raise children they procreated or not, and whatever the basis for parental rights and obligations (see section 3.1 for discussion of some of these), there is widespread agreement that they owe it to their fellow citizens, and not only to their children, to contribute to ensuring that the children they raise are adequately socialised. Although this claim may be uncontroversial when formulated abstractly, what the exact content of parents' obligations is, under what conditions parents are culpable for failing in their obligations, and what exactly may or should follow from their so failing, are all complex questions which invite different answers.

With regard to the first, especially in a less than fully just world, parents' obligations may be argued to extend beyond that of ensuring that their children are law-abiding: insofar as important demands of justice go unmet, and given that we all have duties to promote just institutions (Rawls, 1971), parents ought to bring up their

children so that they have sense of justice, where this may or not coincide with their being law-abiding. In today's world, for example, parents can be argued to have obligations to raise their children so that they become environmentally just citizens (Zwarthoed, 2015; Cripps, 2017 argues that parents owe this *to their children*). But even under otherwise just conditions, we may wonder whether parents have obligations to third parties to raise their children so they grow up with a commitment to being economically productive, or whether this is incompatible with a duty they have to their children to not steer them towards any particular conception of the good (Clayton, 2007; on neutrality and the duty to hold paid employment, see Van Parijs, 1995). As for the conditions under which parents can be said to be culpable for failing to raise their children as adults with a proper sense of justice, at least three partly inter-dependent sets of factors are relevant here, regarding, first, what the justifiable division of labour is between parents and society at large (via its formal education system but also the media and other cultural institutions that may have duties of care towards minors) in the task of educating the next generation; whether parents themselves are the victims of injustice; and whether it is especially difficult, costly or impossible for some parents to bring up their children into rights-respecting citizens due to genetic or to environmental factors, and whether or not parents could foresee and avoid such circumstances (Wasserman, 2017). What may or ought to follow from parents' culpably failing to discharge their obligations, besides their being morally blameworthy, is a further and contested matter. May society punish parents for their children's violations of the rights of others? Are parents financially liable if their children fail to be economically self-supporting? Do parents' liabilities last, unchanged, all the way until their children are of age, or do they extend even further, at least alongside their children's own liabilities? Although children, once adults, are themselves full moral agents, some have argued

that since procreative parents were causally and morally responsible for bringing their children into existence, they share in the liability for their children's violation of the rights of third parties (Vallentyne, 2002).

The Negative Externalities of Creating New Persons

Once we focus on the third-party effects of procreation, as opposed to parenting children whose existence is taken as given, it appears that there are several circumstances in which adults may be negatively affecting third parties by deciding to bring new persons into existence. Under conditions of population pressure, where for economic or environmental reasons the addition of new persons can be predicted to negatively affect, on balance, other persons' claims to their fair share of opportunities or resources (e.g. their access to public services such as schools or hospital beds, or their chance to obtain employment, or their fair share of natural resources), adding new members to the population and independently of who parents the children in question has been argued to violate the justice claims of others. These others may be parents' contemporaries, whether from parents', children's and possibly their grandchildren's generations. Non-overlapping future generations' claims, too, may be said to be affected. A version of this argument was put forward by JS Mill, who noted that "(...) [I]n a country either over-peopled or threatened with being so, to produce children, beyond a very small number, with the effect of reducing the reward of labour by their competition, is a serious offence against all who live by the remuneration of their labour (...). Mill went on to add that "[t]he laws which (...) forbid marriage unless the parties can show that they have the means of supporting a family, do not exceed the legitimate powers of the State (...) Such laws are interferences of the State to prohibit a mischievous act – an act injurious to others (...)." (Mill, 1859: 99). More recently,

several versions of this argument have been defended, which raise moral concern about bringing new persons into existence in light of pressing concerns about climate change (Kates, 2004; MacIver, 2015; Cripps, 2015; Hickey, Rieder and Earl, 2016; Conly, 2016). In these arguments, what procreators violate by bringing (too many) new persons into existence are the claims of members of the next generation and further generations down the line not just to an equal but even a sufficient or decent lifetime share of resources.

Although easily run together with the first line of argument just mentioned, a second one appeals to the injustice that is suffered, specifically, by those who *refrain* from procreating, in virtue of the inequality which can obtain between them on the one hand and procreators and parents on the other. Under conditions in which adding new members to the population is a net negative externality (that is to say, any benefits which the addition of the new persons produces, e.g. an increased tax base, is offset by the overall costs of the addition e.g. the additional carbon footprint of the new person), those who do not have children can complain against those who do that they are bearing costs which procreators are not bearing in equal measure, *without there being a good justification* for the inequality in overall benefits and burdens sharing (Rakowski 1991, Casal and Williams 1995; 2004). Childless environmentalists, for example, can complain that procreation is morally on a par with conspicuous consumption (Young 2001; for a critical response, see Olsaretti, forthcoming^b), and that having to share the costs of children is unfair to them, since they refrain from creating similar costs by avoiding both procreation and conspicuous consumption.

Under conditions in which the creation of new children creates net negative externalities of these sorts for others, it has been argued, it is morally impermissible to have children, unless, as is typically not the case, it is possible for procreators to fully

absorb the costs of those negative externalities themselves, by saving enough to be able to endow one's children with their fair shares (Young, 2001). Others suggest that it is permissible to have only one child, per person or per couple (McKibben, 1999; Conly, 2016). Whether legal coercive mechanisms may be used in enforcing the obligations to refrain from having more than the permissible number of children is a further question to which most philosophers give a negative answer (but see Räikkä, 2001; Conly 2016).

What Society Owes the Family

As was noted at the beginning of this chapter, the questions discussed thus far are ones that arise merely insofar as we assume that the family exists and notice that it affects justice, and independently of whether, as we might put it, justice requires that the family exist or be supported. In fact, further questions about justice and the family arise insofar as individuals can be argued to have interests *qua* (potential and actual) members of families, interests which are themselves the object of justice claims. These are the questions we now turn to consider. They regard what society owes the family, i.e. what society owes either parents or children in virtue of their interest or role in the parent-child relationship. The section on *Access to the Family as a Claim of Justice* discusses the possibility that parents, children, or both, have claims of justice to accessing the family, and/or to forming a family with particular persons (for example, with one's biological children, in the case of parents; or with the best available parent, in the case of children). The section on *Sharing the costs of children as a demand of justice* considers whether parents have claims of justice to having the costs of children be socialised.

Access to the Family as a Claim of Justice

The idea that access to the family should be a concern of justice is a politically well-established one. The Universal Declaration of Human Rights affirms the right to freedom from arbitrary interference with the family and every man's and woman's right to found a family (UDHR, 1948);⁶ the UN Declaration of the Rights of the Child states that "[t]he child, for the full and harmonious development of his personality, needs love and understanding. He shall, wherever possible, grow up in the care and under the responsibility of his parents" (UNCRC, 1989). Both documents focusing on adults' rights and those that deal with children's rights state that the "the family is the natural and fundamental group unit of society and is entitled to protection by society and the State" (UDHR, 1948; UNCRC, 1989); moreover, the family is "...the natural environment for the growth and well-being of all its members and particularly children, [and it] should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community" (UNCRC, 1989).

If adults' rights to found a family and children's right to be raised in one are human rights, and since respect of human rights is a demand of justice whatever else is, we might expect convergence among philosophers on viewing access to the family as a claim of justice. In fact, although political philosophers have mostly simply assumed the existence of the family and not asked whether anyone has claims of justice to it, the main existing theories of justice do have the resources for capturing the view that

⁶ These rights have been endorsed in various subsequent UN declarations and documents (e.g. the 1966 Declaration on Population, the 1975 Declaration on the Equality of Women, and at the 1994 International Conference on Population and Development in Cairo), albeit with different nuances, often focusing on reproductive health and education, but also on the right to be able to provide for one's family (protected by article 23 of the UDHR). For a helpful overview, see the *Reproductive Rights are Human Rights* handbook (2014) <https://www.ohchr.org/Documents/Publications/NHRIHandbook.pdf>

individuals have rights (i.e. enforceable claims) to parent-child relationships.⁷ But who is said to hold these rights, what they are a right to, exactly, and what justifies those rights, are questions the answer to which differ considerably depending on the theory of justice which we adopt and within which we offer our argument to the effect that individuals have rights to access the family – or, in short, our justification of the family. Before presenting in some detail a few main candidate views, it is helpful to lay out schematically the possible answers to the three questions just mentioned, as doing so provides a general framework within which views beyond those discussed here can be identified and examined.

With regard to who is the bearer of rights to the family, it is possible to hold that it is only adults, only children, or both adults and children who have the rights in question. As for the content of the right, it is important to distinguish between two main claims we could be making when we argue that individuals have a right to the family. The first is that they have a right to accessing the parent-child relationship, where this, in turn, implies both that the parent-child relationship in some form exist, and that certain obstacles to accessing that relationship be removed for all prospective parents and children. The second claim we could be making when defending access to the family as a demand of justice is that parents, children, or both, have a claim to entering and/or maintaining a relationship with *specific* children and parents, respectively (almost invariably, this claim is made about one's biological child or one's biological parent). Turning, finally, to what justifies the rights in question, there are two main families of views, which appeal, respectively, to freedom and to well-being considerations as the bases on which parents, children, or both, are said to have claims

⁷ The political philosophers who have paid attention to the family over the past two decades have mostly debated these questions outside the framework of, and *without* integrating their answers within, a theory of justice. The discussion proceeds differently.

of justice to access a family, and/or to particular families. Since what justifies the claims of justice which people make gives shape to both who can make those claims and to the content of those claims, what follows adopts the distinction just mentioned, between freedom-based and well-being considerations for viewing access to the family as a demand of justice, as an organizing criterion for presenting a number of competing stances that have been or can be defended on these issues.

Before proceeding, two clarifications are important. First, in the rest of this section, what is at issue when discussing the “right to the family” are primarily claim rights against interference, i.e. rights *to not be legally prevented* from forming and raising a family. (Whether or not individuals also have rights to what we could call “accommodation” and specifically to what is sometimes called “parental subsidies” is a further question discussed in the next section.) Second, the rights in question are not thought to be unconstrained. In particular, adults’ rights to have and raise children are constrained by a requirement that prospective parents’ respect or promote some weighty interests of their prospective and actual children, as well as by a requirement that they do not violate the rights of third parties. The discussion that follows assumes that whatever these constraints may be, they are respected. Accordingly, as announced earlier, many important questions in procreative and parental ethics, concerning what parents owe their children, are bracketed off here for reasons of space.⁸ (As far as third-

⁸ The most important and often discussed ones are: whether procreating always wrongs the future child; whether the permissibility of procreation depends on having the right motives for having children; whether it is enough, to have a moral claim to parent, that one be a good enough as opposed to the best available or an excellent parent; what the legitimate scope of parental discretion is in making decisions for the children one is a parent of; and the related question of whether, whatever our standard of parental competence and our view of the scope of parental discretion, it is required or permissible to institute a parental licensing scheme to enforce the duties that parents owe children.

parties interests are concerned, the discussion of this and the next section assumes that children are not net negative externalities.)

Freedom-Based Justifications of Rights to the Family

Justifications of the family that appeal to individuals' freedom interests as grounds for their claims to access the family vary depending on what notion of freedom is deployed.⁹ Four main (not necessarily mutually-exclusive) views of what freedom interests individuals have appeal to self-ownership, the integrity of the person and freedom of association, personal autonomy and moral agency.

On the self-ownership view favoured by libertarians, individuals' (equal) freedom is protected through conferral on them of private property rights over their mental and bodily powers, which function as side-constraints against interference. Rights of self-ownership protect individuals' interests in forming a family insofar as prospective parents use their own body in procreating, and thus have a claim against others' interfering with their procreative choices either by preventing them from having children or by removing children from them against their will. The self-ownership view can also justify some adoptive parents' rights, insofar as it views the transfer of children from their procreative to adoptive parents as being, under certain conditions, fully consistent with- indeed, as a legitimate exercise of- procreators' rights of self-ownership. While as far as adults' rights to choose to bring children into the world and to rear those children are concerned, the libertarian position aligns with widely held convictions, there are some aspects of it that are starkly at odds with those

⁹ In what follows the ideas of freedom and of interests are used broadly. Different senses of freedom are discussed below. As for the notion of "interests", it is used so as to cover both the concerns that are expressed by the Benefit Theory and those conveyed by the Choice Theory of rights.

convictions. In particular, the fact that on the libertarian picture, parents have property rights over their children until the latter become self-owning agents themselves is antithetical to endorsement of the moral equality of children (Macleod, 2002) and to the belief that procreators have duties *to their children*, including the duty not to transfer them to other adults (except in special circumstances) – duties which the proprietary picture, by contrast, denies parents have (Steiner, 1995; Narveson 1988).¹⁰

The more widely endorsed liberal position that ascribes to individuals rights to certain canonical liberties rather than of self-ownership, including rights to the integrity of the person, can also provide support for adults' procreative rights; because the liberty rights in question are not property rights, this view avoids the difficulties that beset the proprietary view just mentioned. However, in order to defend adults' right not only to create, but also to rear their children – and thus, the right to access the parent-child *relationship* – rights to the integrity of the person are insufficient. Liberals have then often appealed to freedom of association as grounding parents' rights to raise a family (and indeed, to raise a family as they see fit, subject only to a few constraints), but since children are not autonomous agents and they do not choose whether they will be raised in a family or in any particular family, the appeal to freedom of association in the context of protecting parental rights seems misplaced. Freedom of association protects the interests of people jointly committed to relating to each other, and to do so on the terms they choose (within certain limits); adapting what has been said about freedom of exchange, we could say that rights to freedom of association have “hooks on them” (Nozick, 1974: 264): we cannot invoke freedom of association as a basis for

¹⁰ Not all libertarians agree with this. Vallentyne (2004), for example, ascribes children rights as he endorses a benefit theory of rights as well as a choice theory of rights. Denying that parents owe duties to their children does not commit us to denying that they have duties *concerning* their children.

establishing a relationship with a comatose or a demented elderly person, but only as a basis for establishing a relationship with persons who share the right to freedom of association and wish to exercise it by associating with us. So, if the right to freedom of association is relevant at all in the justification of the parent-child relationship, it becomes so only after children are autonomous enough to share that right. Insofar as we aim to justify the existence of the family in some form, and adults' and children's rights to access it and to be members of particular families, before children reach that stage, some other argument is needed.

The more abstract ideal of personal autonomy, also endorsed in various interpretations by liberals, can play a role here: as an ideal of self-authorship or self-creation, it enjoins individuals to identify for themselves what "counts as success in [their] own life" (Dworkin, 2011: 204) and to lead their lives in ways that reflect their ideas of what has value for them. While, in order to be able to lead autonomous lives, individuals must enjoy the canonical liberties mentioned above, autonomy requires more than that; among other things, a number of different lifeforms and options must be accessible to individuals, and, provided others' rights are respected, individuals' liberty to pursue the lifeplan they come to value should be protected. For many, having and rearing children (often with a fellow co-parent whom one is intimately related to) is such a lifeplan, and a very important one (Macleod, 1997). Here, unlike with the freedom of association argument, the fact that children are not themselves autonomous participants in the parent-child relationship does not make the appeal to parents' autonomy interests inappropriate: insofar as prospective parents can realise this lifeplan in ways that respect children's rights, including their future right to autonomy (Feinberg, 1994), a commitment to personal autonomy tells in favour of allowing the family to exist and of facilitating access to the family for all adults who wish to pursue

this project. Prospective parents' autonomy interests can also protect their commitment to raise particular children, i.e. those they have brought into existence, on the assumption that doing so is part of the lifeplan procreators have endorsed.

This last thought – that respecting prospective parents' autonomy tells in favour of allowing them to raise particular children – should be distinguished from another argument which also appeals to autonomy, now understood as *moral* autonomy, in the following sense: we have interests, as moral agents, in being able to do that which we have weighty moral reasons, or duties or obligations, to do. Although we do not believe that adults generally have a duty to procreate,¹¹ some argue that adults do have a duty to parent children who exist and need to be parented, whether or not they are responsible for those children's existence. This argument appeals to the general duties all adults have to aid or rescue those who are especially vulnerable (Goodin, 1985; Goodin, 2005). The view that adults have special obligations to raise (or, on some views, at least ensure that someone else raise) the children they have caused to exist or voluntarily chosen to bring into existence is more widely discussed and endorsed (O'Neill, 1979; Archard, 2010; Porter, 2014; Olsaretti, 2017b). The main grounds adduced for this obligation, insofar as it is one procreators owe *their children*, appeal to the fact that the creation of new persons involves exposing someone else, without their consent, to what is at best a risk of harm, or the "mixed blessing" of having to work to obtain well-being, where success is far from guaranteed (Mill 1859; Shiffrin, 1999; Velleman, 2008; see also Benatar, 2006; Weinberg, 2016). Procreators have a duty to minimise that risk from materialising, and to lend their children the assistance they need to try and rise up to the

¹¹ See, however Smilansky, 1995 and Gheaus, 2015. In discussions in population ethics, the fact that we lack such duties is often cited as an objection against total utilitarianism that it implies that people have a duty to have children. See, for example, Narveson, 1973 and Mulgan, 2006.

challenge of leading a good life. According to this line of argument, parents have rights to parent particular children (and *a fortiori*, rights to access the family) because doing so is what they have an obligation to do, and moral agents have an interest in being able to do what they have an obligation to do. Alternatively, on the view that all adults have general duties to children in need of being parented, we could say that adults have rights to establish a parent-child relationship, though this is not a duty they owe any particular child, insofar as this is what they need to discharge their general duty to benefit vulnerable persons.

Whatever their merits, it might be argued that the freedom-based arguments for individuals' rights to access the family just explored are incomplete, for two reasons.

The first is that they seem too adult-focused: the starkest example of this is the self-ownership argument, as was noted earlier, but, insofar as the exercise of canonical liberties, of autonomy and of moral agency all presuppose capacities which children (up to a certain age) lack, all the above arguments capture mainly adults' interests in accessing the family, rather than children's. Yet both seem important, as advocates of what is commonly referred to as the *Dual-Interest View* of the family emphasise (e.g. Macleod, 2002; Brighouse and Swift, 2006; 2014).¹² In response to this worry, it can be noted that the ideals invoked in the above arguments can also buttress a case for children's rights to be raised in families, albeit in a more indirect manner than how these ideals justify adults' rights. Children have weighty interests in *acquiring* those capacities the exercise of which they will have an interest in once they are adults (and old enough children): children have an interest in acquiring the capacities for personal

¹² The Dual-Interests View, which broadly speaking holds that both parents' and children's interests matter when determining who has access to the family and what rights and duties members of the family have has been formulated in response to exclusively child-based theories, like those of Goodin (2005) and Vallentyne (2003).

autonomy, for moral agency, and whatever capacities are necessary for the (valuable) exercise of their rights to freedom of association and of self-ownership. Insofar as this is true, and insofar as it is also true that the parent-child relationship is either uniquely or better suited than alternative child-rearing arrangements to endow children with these capacities, a concern with any of the above-mentioned understandings of freedom can be used to justify the family from a child-focused perspective.¹³ We could also advance, with regard to children, a version of the claim that caring relations are a primary social good: children would have claims to this primary social good in order to develop into free and equal persons (see Brake, 2012; Cordelli, 2014).

There is a second reason why freedom-based arguments seem incomplete, however: especially from a child-focused perspective, but – so it is often argued – even from an adult-focused one, well-being considerations are salient for the case for individuals' rights to access the family.

Well-Being-Based Justifications of Rights to the Family

On any plausible view, and at a minimum, considerations about children's well-being act as a constraint on the freedom-based justification for the family: there is consensus among philosophers that the parent-child relationship is a fiduciary relationship whose legitimacy is conditional upon its serving children's well-being (as well as future autonomy) interests. Well-being considerations can also play a more positive role and themselves ground persons' rights to access the family. Exactly what form the well-being-based justification of the family will take will depend on the precise commitments of our theory of justice: just as there are different theories of justice that

¹³ Roback Morse (1999) and Liao (2015), among others, argue that being raised by loving adults is necessary for children to acquire the capacities that are necessary for them to trust others.

take well-being as a relevant *distribuendum*, so there are also different well-being-based arguments for rights to access the family. In particular, the well-being-based case for the family will differ importantly depending on whether subjective or objective well-being is relevant; on whether individuals have claims of justice to certain (well-being) opportunity or outcomes; and on whether our theory of justice takes persons' lives as a whole, as opposed to parts of them, as the relevant temporal unit over which claims of justice apply.

Focusing on children's perspectives, we can formulate a case for their rights to be raised in families, and perhaps in particular families,¹⁴ by appeal to either or both their *time-specific* claims to certain objective well-being *outcomes*, and to their *lifetime* well-being *opportunity* claims on either an objective or a subjective theory of well-being. While they are children, and because of their vulnerability and dependence, children have claims to being provided with certain goods and to being protected from certain bads; first and foremost, they have claims to having their needs met and also to attaining certain valuable functionings, or, as some put it, to enjoying the intrinsic goods of childhood (Macleod, 2010a; Gheaus, 2014; Brennan, 2014). Children may also have a claim to be loved (Liao, 2015). These claims are claims to actually obtain certain goods, rather than to having an opportunity to obtain them, because, unlike adults, children do not have (at least up to a certain age) the capacities that would justify giving them opportunities for the exercise of which they are then held responsible (Macleod, 2010a; on the related question of whether children's well-being is different from adults, see Cormier & Rossi, 2019). Where children's time-specific claims are at issue, it is plausible to think these are premised on an objective theory of well-being: we believe

¹⁴ Velleman (2005) for example argues that children have interests in being raised by their genetic parents. For a critique, see Haslanger, 2009.

that, while satisfying children's preferences may sometimes be good for them, this is often not the case, and that although being happy and avoiding unpleasant mental states is a component of children's well-being, it is not the only one. Finally, these claims are time-specific, in the sense that we can argue that children have them, while they are children, and they give us at least *pro tanto* reasons to confer the relevant benefits on children, regardless of how doing so impacts on children's lifetime claims: a child should not suffer as a child, for example, *even* if his life as a whole were an excellent one even with the suffering. Appealing to these time-specific claims, a case can be made for why children ought to be raised in families assuming that being reared by (at least good enough) parents is instrumental for the achievement for, or it is constitutive of, children's time-specific claims.

Because childhood is a deeply developmental phase and what happens during it has pervasive effects on a person's lifelong prospects, children's time-specific claims and the claims which they can stake from a lifetime perspective are often aligned and therefore hard to prize apart. So, insofar as the family is either uniquely or better placed than alternative child-rearing arrangements to provide children with the goods mentioned above, these are things which we could think persons have a claim to receiving while children because receiving them then is required to ensure for individuals their fair opportunity for well-being across a life, whether well-being is understood in objective or in subjective terms. The case for the child's right to be loved, already mentioned earlier, or for the value of familial relationship goods for the child, can be understood this way (Brighthouse & Swift, 2014; Liao, 2015). Since there are goods which being raised in a family provides which are instrumental for our development both as agents who can engage with objective goods, are capable of experiencing happiness, and can form and satisfy preferences, access to a family can be

argued to be precondition for having an opportunity to flourish or to fare well in subjective (preference-based or hedonistic) terms.

While the lifetime perspective just mentioned takes into account the well-being interests of people across their lives that are well-served by their being *raised* in the family, the case is often made that it is also an important component of wellbeing for persons, once they are adults, to *found and/or raise a family*. It is possible to make this case from within a subjective conception of well-being, whether a preference-satisfaction or a hedonist one: insofar as many adults desire to have and raise children (Thomas, 2006), and insofar as having and raising children makes them feel happy or fulfilled, the right to procreate and parent one's children should be secured in order to protect people's welfare prospects. However, philosophers who have set out to make a well-being-based case for adults' right to the family have done so (explicitly or implicitly) by appeal to an objective conception of well-being. More specifically, they have invoked adults' interests in the special intimacy that parents have with their children (Blustein, 1982; Macleod, 2002; Brighouse and Swift, 2014), and/or in the "creative self-extension" (Macleod, 2002; Thomas, 2006; Taylor, 2009) they can accomplish by raising another human being. The right to raise children is then part of what protecting the opportunity for a flourishing life requires, or, to put it differently, access to the family either is itself a distinct valuable capability or contributes to various valuable capabilities which people should have access to. Whether the right to bring new children into existence, and to raise those particular children, is also defensible on this view, even where this is not necessary to be able to establish a parent-child relationship (because, for example, there are children in need of adoption) depends on whether a case can be made that procreation and parenting one's biological child matters for people's objective well-being. Some have argued that there is value in

contributing to the genetic pool (Brake, 2015) or in parenting the child one has gestated (Gheaus, 2012; 2018).

Whether well-being considerations, of either a subjective or an objective nature, will be defended alongside the freedom considerations mentioned above to justify access to the family, will depend on the overall theory of justice we endorse. Since a complete liberal theory of justice will endorse canonical liberties and/or some autonomy-based rights alongside well-being-based claims of justice,¹⁵ defenders of welfarist conceptions of justice (e.g. equality of opportunity for welfare) and of objective well-being-based ones (e.g. equality of basic capabilities) can and are likely to deploy several parts of their theory of justice to justify individuals' rights to access the family. By contrast, defenders of so-called resourcist conceptions of justice, like John Rawls's (Rawls, 1971) and Ronald Dworkin's (Dworkin, 2002) will offer freedom-based arguments for the family and eschew appeal to well-being considerations like the ones discussed above, at least insofar as adults' claims to the family are concerned, as doing otherwise would be at odds with their commitment to remaining neutral among different reasonable conceptions of the good. As was noted earlier, even taking children's perspectives into account, a concern with endowing children with the capacities to be "free and equal" may do enough to provide adequate justification of children's rights to a parent-child relationship. If it were thought not to be, it is an open question whether resourcists may endorse, only where children are concerned, a well-being-based-conception of justice; or whether they should say that well-being-based considerations are irrelevant as far as individuals' *claims of justice* to the family are concerned (i.e. insofar as these are enforceable rights that the political community

¹⁵ When they defend equal opportunity for welfare, political philosophers focus only on one aspect of their overall theory. Capability theorists incorporate concern with agency into their very equalisandum.

should protect), but remind us that saying as much is compatible with recognising that well-being considerations are fully pertinent where *individuals' own reasons* to found and raise a family are concerned.

Sharing the costs of children as a demand of justice

We have seen that theories of justice have various resources for supporting adults' and children's rights to raise and be raised in a family, respectively, where the rights in question are at least rights to non-interference with prospective parents' voluntary choices to form a family. (More precisely, adults have a right to form a family with children whom they are at liberty, and on some views have either a claim over, a general duty or a special obligation, to parent.) This section examines the related but further question of whether parents have claims of justice to socialising the costs of having and raising children, that is, to having those costs be shared by all citizens at large rather than paying for (most or all of) them themselves (or the question of parental justice, for short). The costs of children include both the costs of caring for and raising children until they reach adulthood, and the costs that, once they are adults, the new persons will impose insofar as they lay claims to their fair share.¹⁶ Since the question at stake is often conflated with related but different ones, it is important to begin by clarifying it; after doing so, two main types of affirmative answers to the question of parental justice are introduced and examined, which appeal, respectively, to parents'

¹⁶ The focus here is, then, on the costs of meeting new persons' claims of justice over their lifetimes. Of course, the costs of children can and often include costs that are not required by justice (for example, the cost of providing children with expensive education and hobbies); that there should be a case for sharing these costs seems less likely (Olsaretti, 2017a). The discussion here also assumes average costs of raising a child; for discussion of the case of children with disabilities, see Wasserman, 2017; for the discussion of the costs of procreation (i.e. the costs of conceiving and bearing a child), see Burley, 1998.

(freedom and well-being) interests and to the social value of parents' contribution as reasons for a pro-sharing view. Before proceeding, it is important to emphasise that the discussion that follows proceeds on the assumption that parents are not at the short end of other injustices besides the ones under consideration here: under the non-ideal conditions of our world, many parents have claims to assistance not insofar as they are parents, but insofar as they are individuals who have not had their fair share of opportunities (Olsaretti, 2013). Redressing that injustice would then be required regardless of whether the individuals in question choose to parent, and since the focus here is on what people are owed insofar as they are members of families, it is helpful to focus, at least at first, on cases where parents are not unjustly poor. (For discussion of the claims of poor parents, see Bou-Habib, 2013; Arneson, 2014).

Sharing the Costs of Children, Gender Justice and Childhood Justice

In addressing the question of whether parents have claims of justice to sharing the costs of having and raising children, it is tempting to think it can be settled fully by appealing to children's rights and/or women's claims to gender justice. Since we all agree that children have claims to having their various needs met (including, as we saw above, to having them met in the context of a parent-child relationship), and since we all agree that we all have *some* general duties vis-à-vis all children (even if we do not all agree that we have the duty to parent them), we may think that from this it follows straightforwardly that all adults within the relevant domain of justice (e.g., all fellow citizens), whether or not they are parents, have an obligation to contribute to bearing the costs of children, and so should help parents meet those costs through policies such as publicly funded parental leave, child-care, schools and health service for children. Furthermore, as feminists have long argued, women everywhere have borne

disproportionately the costs of children and have been penalised along various fronts as a result of doing so (in terms of their real opportunity to work full-time rather than part-time; their real access to high-earning occupations; their relative socio-economic and power status within the heterosexual household and in the event of divorce, and their access to pension benefits); since the unequal division of unpaid labour within the family is the lynchpin of gender injustice (Okin, 1989; Williams, 2000), it might seem that a commitment to eliminating this injustice straightforwardly favours socialising the costs of children.

In fact, however, the implications of both concerns about childhood justice and gender justice for who should bear which costs of children remain indeterminate without an answer to the separate question of whether *parents*, qua parents, have claims, against society at large, to sharing the costs of children. For consider: while it seems true that gender justice requires that women who have children should not be penalised relative to their male counterparts, this conviction leaves open whether only *parents* (both male and female) should share among themselves the costs of children, or whether *society at large* should share the costs of children. Similarly, at least in principle, meeting the demands of childhood justice, which require us to respond adequately to children's needs, is in principle compatible with both a system in which the costs of children are borne by parents (perhaps by all parents collectively, so that parents justly share, among themselves, the unequal costs of different children), and with a system in which the costs of children are shared by all members of society, non-parents as well as parents. Which of these regimes we should favour depends, in part, on our answer to the question of parental justice.

The remarks just made help make it clear why the question of whether parents have claims of justice to sharing the costs of children is, as was noted before, a "further"

question relative to the ones discussed in the previous section, regarding whether adults and/or children have rights to access the family. We can affirm that children have rights to being raised in a family, without this committing us to a view of who should bear the costs of raising them; similarly, we can affirm that adults have rights to found and raise a family, without this necessarily committing us to the view that they have a right to others' sharing the costs of their doing so. As an illustration of this, consider the demand made by the 1989 Convention of the Rights of the Child, mentioned earlier, that the family "... should be afforded *the necessary protection and assistance* so that it can fully assume its responsibilities within the community" (CRC, 1989, emphasis added). It is possible to interpret this demand as requiring that parents have access to jobs which give them sufficient remuneration to bear most of the costs of children. The Convention's demand need not entail that the costs of children should be shared substantially, as they are in welfare states where there is publicly funded provision of lengthy parental leave and of universal high-quality childcare and child-subsidies.

Effective Freedom and Effective Opportunity for Well-Being as Pro-Sharing Reasons

While respecting the freedom and the well-being interests of parents, which were mentioned in the previous section, does not necessarily entail that the costs of children should be shared by society at large, it is easy to see that further arguments that appeal to those same interests can be formulated in favour of sharing the costs of children. The key move in this first type of pro-sharing arguments consists in making a case for why protecting adults' freedom interests or their opportunity to obtain (subjective or objective) well-being (whether what is at issue is the *equal* or the *adequate* protection of these interests) ground claims to *real or effective* as opposed to *formal* access to the family, which in turn requires that the costs of children not fall fully or predominantly

on the shoulders of parents. (Note that this move is not available to us if we appeal to self-ownership, as respect of it is standardly understood to require only non-interference.) In defending this move, defenders of the pro-sharing view can draw on claims that have been advanced in the context of discussions of the concepts of freedom and of opportunity.

So, appealing to freedom of association and the right of personal integrity, it could be said that these liberties (or their fair value)¹⁷ are threatened in a society in which some parents are unable to provide for their own children, or can do so only at tremendous cost to themselves. Poor parents who, if the costs of children are not substantially socialised, have to spend most of their waking lives in order to make ends meet for their family and are barely able to spend time with their children, and in the extreme, may have to surrender their children for adoption, do not enjoy equal or even adequate freedom of association; it could be argued that even their equal rights to integrity of the person are compromised.

A pro-sharing argument that appeals to personal autonomy seems to be on even stronger ground in formulating a pro-sharing case, as it is generally recognised that autonomy requires not merely the absence of interference, but also the effective availability of (sufficiently varied and valuable) options. It has been argued that, given how demanding and long-lasting a commitment parenting is, in a regime in which its costs are not substantially socialised, parents' autonomy – their ability to engage in valuable pursuits – can be seriously compromised. Parents' choices of whether to change jobs, where to live, what relationships to cultivate, are all very constrained while they are raising children, and the more expensive a society makes it to raise children (for

¹⁷ For the distinction between respecting freedom and guaranteeing its fair value, see Rawls, 1971: 204. For a critique of the idea that only the value of freedom, rather than freedom itself, is undermined by external interference, see Cohen, 2011.

example, by not funding childcare or schools), the more constrained parents' autonomy is (Alstott, 2004; for discussion, see Bou-Habib & Olsaretti, 2013).

As far as people's *moral* autonomy is concerned, the thought that protecting it requires that the costs of discharging one's duties be shared is less familiar. Defenders of the socialisation of the costs of children might develop it by showing that respecting people's moral autonomy requires, more precisely, that society abstain from *making it* (unjustifiably) costly to perform one's moral duties, as is arguably the case where societies socialise the benefits of children but not their costs (e.g. by using the next generation's tax contributions to fund everyone's, not just parents' pensions; but by then expecting parents to mostly bear the costs of raising children). Alternatively, or additionally, defenders of a pro-sharing case that appeals to moral autonomy might draw on the integrity-based case made by defenders of accommodation for religious beliefs, and argue that respect of individuals' integrity requires, more generally, that the option of complying with one's (perceived or real) moral requirements not be unduly costly (Bou-Habib, 2006; Laborde, 2017).

As for adults' well-being interests, as we saw in the previous section, it can be argued that they are well served by giving people an opportunity to found and raise a family. Defenders of well-being-based currencies of justice agree that justice demands that all adults be guaranteed the real, as opposed to merely formal, opportunity for equal (or adequate) well-being, where this requires that, if people make a (comparable) choice to exercise their protected opportunities, they end up at an equal (or adequate) level of well-being (Arneson, 1989). In a regime in which having and raising children is very costly and not socialised, equal opportunity for wellbeing is not guaranteed, and, at least for some parents, even their adequate opportunity may be threatened.

Social Reproduction as Socially Valuable Work

While several of these interests-based defences of the pro-sharing case may be convincing, an altogether different type of argument can be advanced in favour of socialising the costs of children. This appeals to the idea that those who have and raise children make a socially valuable contribution which it would be unjust to not recognise and reward. Unsurprisingly, versions of this claim have been defended by feminist scholars, as women do most of any society's unpaid care work (Folbre, 1994; 2001; 2010; Anderson, 1999). Note that some arguments, including by feminist social scientists, that point to the social value of parents' work, are forward-looking, in the sense that they show that recognising and rewarding such work adequately matters for incentive reasons, i.e. so that enough adults have enough children (e.g. to sustain the desirable age-dependency ratio), and/or so that parents invest their time and resources into raising their children into law-abiding and economically productive citizens (Folbre, 1994; Burgraff, 1997). Such forward-looking arguments are not what is at issue here, however, as they do not establish that parents have claims of justice to the costs of children being socialised. For parents to have such claims, it must be shown that it is unfair to them if their work goes unrewarded.

The best developed version of this argument appeals to the so-called principle of fairness, which at its most general holds that under certain conditions, those who benefits from others' having deliberately engaged in costly benefits-producing activities, have obligations, to the benefits producers, to share the costs of those activities (Hart, 1995; Rawls, 1971). The fairness principle, which was initially defended by some political philosophers in the context of justifying individuals' moral obligation to obey the law, seems to offer support to the intuition that all beneficiaries of public goods – goods that are non-excludable, i.e. too costly or impossible for

producers to prevent nonproducers from enjoying - should help share the costs of producing those costs (Klosko, 1987). If we endorse the fairness principle, and since it can be argued that, like the production of clean air, the creation of the next generation is also a public good, we may succeed in defending a pro-sharing case. The merits of the public goods argument for sharing the costs of children are contested. Quite apart from scepticism about the principle of fairness as such (Nozick, 1974), worries have been raised that the principle, in a plausible formulation, does not support the claims of parents, as it only applies to contexts in which the benefits producers act out of a cooperative spirit and incur costs they would rather not incur *in order* to benefit others or to maintain a cooperative scheme (Simmons, 1979; Casal, 1999; Casal and Williams, 2004). Parents' work, it is claimed, does not generally have these features; parents do what they do for their children primarily in order to benefit their children, not society at large, and they do not see their project of raising children as a contribution to a cooperative scheme. In reply, it has been argued that many parents are in fact moved by mixed motives which include the desire to benefit others (Arneson, 2014), or that once we notice that some important benefits of children, unlike classic public goods, are deliberately socialised, we can argue that parents do contribute to a cooperative scheme, i.e. one which redistributes the benefits they create by having and raising children among all citizens (Olsaretti, 2013). Whether these arguments succeed, or whether there are principles other than the principle of fairness that can justify the view that justice calls for rewarding parents' socially valuable work – such as a principle of non-exploitation (Hampton, 2007) are questions that merit further attention.

Conclusion

As this chapter's discussion should attest, many important questions arise about justice and the family, and they have rightly attracted increasing attention among moral and political philosophers. The family is a central institution of any society, insofar as it plays a fundamental role in fulfilling some crucial interests of individuals (both as children who need raising and as adults who will often discharge the role of parents), and insofar as it enables and affects the prospects of a society's continued existence as a scheme of cooperation. Accordingly, questions arise both concerning what the family owes society and about what society owes the family. These are the two main sets of questions which this chapter has examined.

Questions concerning what the family owes society, it was noticed, arise once we notice that the institution of the family affects whether and how some independently formulated demands of justice can be realised. By having children and by rearing them in particular ways, procreators and parents affect the claims of third parties to equality of opportunity and to an equal or even a sufficient share of the benefits (beyond opportunities) that justice requires be distributed fairly, such as rights to a share of natural resources and of income and wealth. There are, as this chapter has pointed out, various responses to worries about these ways in which the family can conflict with justice. Some view the conflict as real and identify ways in which to reduce it; other responses seek to show that the conflict between justice and the family only emerges – or only emerges in a stark form – if we adopt indefensible views of how we should set up the socio-economic context in which families operate and of what may, compatibly with justice, worsen the size of people's shares. If these responses are right, what the family owes to society, in order to not hinder or to help realise the demands of justice, may not be as restrictive of procreative and parental freedom as some think.

While it is undeniable that society may make demands in the name of justice on the family, it is also true that, because individuals have interests as potential or actual members of families, a just society must recognise and give protection to those interests. Different theories of justice offer different interpretations of what those interests are and of whether parents, children, or both can stake claims of justice against their fellow citizens on their basis. This chapter has examined how individuals' interests in freedom and in well-being, on various understandings of these notions, both as children and as prospective parents, have implications for their rights to access the parent-child relationship and to establish that relationship with particular persons (e.g. one's biological parent or child). Some of these interests can also be invoked to make a case for society's obligation to share with parents the costs of children, as justice can require that people's effective, not just formal, freedom and opportunity for well-being are protected. It seems plausible, however, that a society's obligations to share these costs with parents also rest in the fact that reproductive labour, as feminist scholars and liberal theorists of justice agree, is socially necessary labour, and that justice requires that those who discharge socially necessary labour be rewarded or not be penalised as a result of doing so.

Since some important interests of both adults and children are met in families, and because a society's prospects to provide for all its members depends as much on there being parents who have and raise children as it does on a healthy economy and well-functioning system of laws, addressing the wealth of questions that arise around justice and the family is of central importance in political philosophy.

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