

THAT CAN OF WORMS: INDIVIDUAL RESPONSIBILITY AND PARENTAL PARTIALITY

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## ABSTRACT

Macy Salzberger: That Can of Worms: Individual Responsibility and Parental Partiality  
(Under the direction of Susan Wolf)

What should the egalitarian parent do when acting partially toward their child creates or perpetuates inequality? How do we compare the value of goods realized through parent-child relationships to the goods of equality? In this paper, I hope to expand on Brighthouse and Swift's account of family relationship goods and legitimate and excessive partiality by offering an account of how to weigh the value of family relationship goods against the goods of equality. I suggest three standards from which a parent can judge whether or not her acts of partiality are legitimate: the meaningfulness standard, the adequacy standard, and the reasonableness standard. Through these standards, I hope to illuminate what family relationship goods are required or permitted through appeal to parental obligations, living a meaningful life, and public justification.

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*dedicated to my parents and their constantly excessive partiality*

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## **I. Introduction**

What can I do for my child? This question is most often posed as a practical, not moral consideration.<sup>1</sup> After feeding her child, clothing her child, sending her child to school, the well-intentioned parent asks herself, what else can I do? How else can I best promote my child's well-being and future success? She might, for example, involve herself in her child's schooling if she has the time to do so, insisting that her daughter switch classrooms so that she can have a better teacher. As a well-intentioned parent, she looks for all the reasonable ways she might help her child succeed in life, given the resources she has at her disposal.

However, the well-intentioned parent may generate or reinforce a number of inequalities by advocating for her child, by using her resources to give her child a better life. For one, her child may have access to better education simply by virtue of who her parent is; if the advocating parent succeeds, there is one less opportunity for another student whose parent does not advocate on his behalf to learn from the better teacher. The resources spent on the daughter could have also been spent elsewhere; if her mother had not spent the time advocating on her daughter's behalf, she could have been tutoring someone or advocating for someone with fewer resources at home. The mother could have even spent the time advocating for children whose next meal has yet to be determined.

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<sup>1</sup> Swift, Adam. *How Not to Be a Hypocrite: School Choice for the Morally Perplexed Parent*. New York: Routledge (2003), p9.

With these inequalities in mind, “What can I do for my child?” becomes a moral question. How can the egalitarian parent justify giving her child advantages when those advantages serve to perpetuate inequality? Compared to other relations of partiality, such as those between friends, lovers, and compatriots, parental partiality is especially at odds with equality. By giving your friend a gift or showing her compassion, you are not likely to be conferring any kind of cognitive or competitive advantage. The money spent on a box of chocolates for your Valentine might have been used for famine relief, but your Valentine is not better positioned for a job interview because he ate a box of chocolates. By contrast, a caring parent inevitably confers cognitive and competitive advantage. A well-positioned parent gives her child advantage whenever she reads her child a bedtime story, by developing her child’s vocabulary more than a parent who does not have the time to read her child stories<sup>2</sup>, or simply chooses not to read her child bedtime stories. Further, some instances of parental partiality, such as the parent advocating for her child to switch classrooms, operate in a zero-sum context. Not only does the partiality of the well-intentioned parent confer a competitive advantage on her child, but the advantage conferred effectively takes away an opportunity from another student who will be placed with the lesser teacher. The inegalitarian consequences of such decisions probably are not considered by most parents. But a concerned parent, committed to egalitarian ideals, should consider these consequences, and a philosopher surely must do so.

In their paper, “Legitimate Parental Partiality,” Brighthouse and Swift develop an account of what constitutes legitimate parental partiality by looking at the specific content of special

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<sup>2</sup> As Paul Tough notes in *How Children Succeed*, a typical child who grows up on welfare would need forty-one hours of language-intensive intervention a week to match the vocabulary of a working-class child.

responsibilities that parents have to their children and how these special responsibilities justify parental partiality. They argue that there are particular valuable goods essential to human flourishing that can only be realized within the family, so the family is an irreplaceable institution for the realization of human flourishing. Parents are legitimately partial, they argue, in those instances of partiality that realize the particular family relationship goods that cannot be realized elsewhere, whereas instances of partiality that do not realize those particular family relationship goods are deemed excessive.

If we look again at the parent who advocates for her child to switch classrooms, Swift and Brighthouse argue that the parent is justified insofar as this instance of partiality realizes one of the family relationship goods they have identified. If it does not realize one of these irreplaceable goods crucial for the realization of human flourishing, the parent is not justified.

From this account, we can see how paying a private tutor for your child to get into an Ivy League university might not provide you or your child with any kind of distinctive contribution to your or his flourishing and is thereby not justified. The parent would need to ask herself, what good am I trying to realize? Can I realize this good in another way? The parent might say, for example, that there is something distinctively valuable about acting on the loving motivation to generally advance her child's well-being, which is precisely what she is doing by hiring her child a private tutor. But the parent also must consider if there are ways to realize this good without reinforcing inequalities. Can she act from a loving motivation to generally advance her child's well-being without the aim of giving her child a competitive advantage? Perhaps she could equally well realize the relationship good by encouraging her child to spend time volunteering, an activity that would also generally advance her child's well-being while also benefitting others.

If so, then paying a tutor would not provide either the parent or child with any distinctive contribution to flourishing, and would not be justified.

By contrast, we can see how reading your child a bedtime story does provide a parent and a child with a distinctive contribution to their flourishing. If the parent and the child were denied the opportunity to read bedtime stories together, they would be denied a kind of intimacy that cannot elsewhere be realized. Therefore, the bedtime story would be justified by appeal to parent-child relationship goods.

While Brighthouse and Swift provide a brief taxonomy of what particular goods can only be realized within the family and how, they do not provide a method for comparing the values of those with the other values held by the egalitarian parent. In fact, they make this explicit in their paper, writing:

Our main aim is to offer a theory about what states must leave parents free to do to, with, or for their children if those parents and children are to enjoy the goods distinctively made available by familial relationships. It is not to defend a fully specified view on the quite general, and controversial, questions of the extent to which parents should be legally permitted to pursue, or are in fact morally justified in pursuing, those goods for themselves or their children in any particular circumstances. (49)

Therefore, their account tells us- all other things being equal- when parental partiality is not justified in creating or perpetuating inequality. Namely, parental partiality is not justified in creating or perpetuating inequality when it does not realize a family relationship good.

At this point, some might object to the idea presupposed by Brighthouse and Swift that we have an obligation to weigh the value of our relationship goods against the value of equality. By making parents subject their relationships to such moral scrutiny, we are already asking too much of parents. I shall not pursue this question here. Instead, I will take it for granted that a self-

described egalitarian parent will be concerned with how their relations of partiality affect equality- at least to some extent.

However, Brighouse and Swift leave even the self-described egalitarian parent unprepared to weigh the value of relationship goods against the value of equality. They establish what is so valuable about the nuclear family: there are distinctively valuable goods only found through parent-child relationships. But what should the egalitarian parent do when parental partiality that realizes a family relationship good also and by virtue of the same act creates or perpetuates inequality? How do we compare the value of family relationship goods to the value of equality? In this paper, I hope to expand on Brighouse and Swift's account of family relationship goods and legitimate and excessive partiality by offering an account of how to weigh the value of family relationship goods against the value of equality.

In the second section, I refine the tension between equality and parental partiality so as to provide a manageable scope for discussion. In the third section, I give a reconstruction of the argument presented in Brighouse and Swift's paper "Legitimate Parental Partiality." Fourth, I point out what I take to be the inadequacies of Brighouse and Swift's account and the inequalitarian consequences we find without further articulation of what constitutes legitimate parental partiality. I go on to argue what I take to be necessary for a more articulate account of legitimate parental partiality, comparing Brighouse and Swift's account to other accounts of partiality more broadly construed. Finally, I present a case study to examine how this fully articulate account would be carried out in practice.

## II. Parental Partiality and Fair Equality of Opportunity

The conflict between parental partiality and equality has often been discussed as a conflict between the family and fair equality of opportunity, most notably by John Rawls. In *A Theory of Justice*, Rawls writes explicitly that the family and fair equality of opportunity are in apparent tension. But in order to understand this tension, we must first understand what is meant by fair equality of opportunity. Rawls defines fair equality of opportunity as follows.

Offhand it is not clear what is meant [by fair equality of opportunity], but we might say that those with similar abilities and skills should have similar life chances. More specifically, assuming that there is a distribution of natural assets, those who are at the same level of talent and ability, and have the same willingness to use them, should have the same prospects of success regardless of their initial place in the social system. In all sectors of society there should be roughly equal prospects of culture and achievement for everyone similarly motivated and endowed. The expectations of those with the same abilities and aspirations should not be affected by their social class. (*TJ* 63)

Fair equality of opportunity therefore demands not only that just institutions prevent discrimination when it comes to hiring decisions, educational opportunities and so forth, but also that just institutions correct for social disadvantage.

By including fair equality of opportunity as a principle of justice, two institutional requirements are imposed on a just society.<sup>3</sup> First, fair equality of opportunity demands that institutions prevent excessive accumulations of property and wealth. Second, fair equality of opportunity demands that institutions maintain equal opportunities of education for all. While Rawls leaves the first requirement vague,<sup>4</sup> the second requirement imposes a positive duty to ensure that individuals who are socially disadvantaged can compete on fair terms with those more advantaged by social class.

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<sup>3</sup> Freeman, 90.

<sup>4</sup>Ibid, 90.

With fair equality of opportunity so defined, the family serves as a barrier to its satisfaction. As a barrier to the first requirement, the family serves as a vehicle for excessive accumulations of property and wealth; inheritances and family estates ensure that wealth and property accumulates to certain families and not to others. As discussed earlier, the family also serves as a barrier to equal educational opportunity. Parents can choose schools competitively, and even choose teachers competitively, ensuring unequal outcomes for students based on their social advantage. As Rawls himself writes, “The principle of fair equality of opportunity can only be imperfectly carried out, at least as long as some form of the family exists” (*TJ* 64). The egalitarian concerned with fair equality of opportunity is thus faced with the question: how do we resolve the tension between fair equality of opportunity and the family?

Some feminists have taken the ideal of fair equality of opportunity as grounds for arguing that we ought to abolish the family.<sup>5,6</sup> As a way of mitigating the concern for the tension between the family and fair equality of opportunity and resisting the call to abolish the family, Brighouse and Swift present their “family relationship goods” account. According to Brighouse and Swift, these family relationship goods give us good reason for preserving the family, despite its tension with fair equality of opportunity.

In the subsequent sections, I follow Brighouse and Swift in assuming that the egalitarian parent is concerned with the Rawlsian ideal of fair equality of opportunity. To refrain from making further assumptions about the interests and objectives of the egalitarian parent<sup>7</sup>, I will

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<sup>5</sup> Ibid, 97.

<sup>6</sup> For example, see Mumoz-Darde, Veronique, “Is the Family to Be Abolished Then?” *Proceedings of the Aristotelian Society* XCXIX 99, 1999, 37-56.

<sup>7</sup> This is not to say that the further interests and objectives of the egalitarian parent are not important or even less important. My ambition by limiting the assumptions about the interests and objectives of the egalitarian parent is to appeal to a fairly unobjectionable form of egalitarianism.

use fair equality of opportunity as the measure of equality with which the egalitarian parent is concerned. By looking at Brighouse and Swift's account of legitimate parental partiality, I hope to show that we ought not abolish the family, given ideal circumstances. I then use Brighouse and Swift's account of family relationship goods to determine legitimate parental partiality in non-ideal circumstances.

### **III. Brighouse and Swift's Account**

In the literature on partiality, the question of what constitutes legitimate partiality has been discussed only in the abstract, as if all relationships of partiality deserve equal treatment. By contrast, Brighouse and Swift urge attention toward the relationship specificity of the content of partial interests and responsibilities. According to Brighouse and Swift, what particular kinds of partiality are permitted is dependent on the particular features of the relationship. What you have reason to do in order to enjoy a friendship might be entirely different from what you have reason to do in order to enjoy a relationship with your compatriots, with your students, or with your child. Therefore, it is not sufficient to discuss partiality in the abstract; we need to look at the particular features of the relationship in order to see what kinds of partiality are permitted. What might be permitted for friends, compatriots, and parents and children ultimately depends on the particular features of each relationship, and not simply that they are relationships.

In order to answer the question "what constitutes legitimate parental partiality?" Brighouse and Swift investigate what particular kinds of partiality are necessary to promote the valuable relationship features that the family facilitates and protects. These valuable relationship features explain why it is best for children to be raised in families, as opposed to being raised in

state-run child-rearing institutions. While state-run child-rearing institutions might be more consistent with egalitarian principles, state-run child-rearing institutions deny children and adults the valuable relationship features that are realized in the parent-child relationship. Given a trade-off between a more equal state in which all children receive the exact same attention, care, and resources in a state-run child-rearing institution and a state in which we are able to realize these valuable relationship features, any reasonable person, according to Brighthouse and Swift, would choose the latter state. Given that any reasonable person would seem to choose the latter state, and insofar as partial treatment is necessary to realize the valuable relationship features found in the latter state, the valuable relationship features realized through parent-child relationships justify partial treatment.

What, then, are these valuable relationship features that justify partial treatment?

According to Brighthouse and Swift, there are various valuable “relationship goods” that are distinctive to parent-child relationships. These relationship goods can only be realized through the family, and thus cannot be realized through other means that might not interfere with equality. While not exhaustive, Brighthouse and Swift provide the following list of examples of relationship goods realized or produced in the family.

1. Children enjoy the loving attention of, and bond with, a particular adult, a relationship that is widely regarded as essential for their emotional development.
2. Children enjoy a sense of continuity with (or belonging or attachment to) the past, mediated by acquaintance with their own family members.
3. Children enjoy the security provided by the presence of someone with a special duty of care for them.
4. Parents enjoy a distinctively valuable relationship with their children; one that is intimate and mutually loving, but in which the parent acts as a fiduciary for her child’s nondevelopmental interests and for her interests in physical, cognitive, emotional, and moral development, which include, usually, the interest in becoming an adult who is

independent of her parents, capable of taking over responsibility for her own judgment and for her own welfare. (54)

The first three family relationship goods accrue to the child, while the last accrues to the parent. Brighthouse and Swift argue that these goods are a distinctive source of flourishing because they are unavailable through other relationships.

To see why these relationship goods are distinctive of the family, consider the following. A child who receives the loving attention of and bonds with her mother receives a good that is essential for her emotional development.<sup>8</sup> From the attention and bond with her mother, she is not only happier but also comes to understand that she is a person who deserves love and attention, setting her up for future emotional success. Such nurturance is not available in a more egalitarian state-run institution, unless the egalitarian institution could somehow mimic parent-child relationships.<sup>9</sup> Further, it seems unlikely that she will receive this kind of loving attention elsewhere. Perhaps her teachers will take a particular interest in her, or her grandparents will give her the attention her mother won't. But in either case, the adult would be acting as if they were the parent. The kind of care-taking the teacher or the grandparent takes on is typically associated only with the parent. Therefore, the care-taking role assumed by the teacher or grandparent can be called "parental-like." While the "parental-like" relationship does not rely on strictly parental partiality, it faces the same egalitarian obstacles.

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<sup>8</sup> Perhaps parent-child relationships are not the only relationships through which this good can be realized. However, it seems as though this good can only be realized by someone with a parental-like relationship, such as a grandparent or an aunt or uncle. This is not a strike against parental partiality, but rather a strike against parenting traditionally conceived of as a wife and husband pair. As B&S write, "any alternative institution would have to provide a parent-like bond between some adult and each child, the successful establishment and maintenance of which would raise the same issues that animate us here." (54).

<sup>9</sup> And then the same egalitarian worries would likely arise, only in an institutional context!

Likewise, the relationship good accruing to the parent cannot be realized elsewhere. Consider a friendship with another adult. In all but exceptional cases, an adult would not play a fiduciary role for a colleague, a spouse, a sibling, or a friend. Not only do parents play a fiduciary role, they also have a non-fiduciary interest in being able to play a fiduciary role. According to Brighthouse and Swift, playing a fiduciary role in someone else's life is a distinctive source of flourishing for most adults.<sup>10</sup>

By taking account of the various relationship goods exclusively realizable through the family, the relationship goods that motivate our interest in having nuclear families, we can come to understand what particular forms of partiality are necessary to realize those goods. In other words, parents must be allowed to be partial toward their children to the extent that partiality is necessary to realize family relationship goods. Of course, relationship goods listed above are not exhaustive of the distinctive relationship goods realized through the family; they serve to demonstrate what kinds of goods are realized, and exclusively realized, through parent-child relationships.

To illustrate the distinctive value of family relationship goods and their tension with fair equality of opportunity, Brighthouse and Swift ask us to consider the parent who reads her child bedtime stories. Take Stacey. If Stacey spends time reading to her child, Tom, she makes him more competitive than his peer John whose parent does not read him bedtime stories. Tom's vocabulary is much greater and he enjoys life much more because of the intimate relationship

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<sup>10</sup> Two objections might be raised at this point. For one, an adult might realize this good by working as a care-taker for someone with a disability or for the elderly. However, such care-taking seems to realize a distinct good- the adult does not play a role in cultivating an autonomous individual. Second, it might be objected that parenting is not necessary for an adult to attain fulfillment. Brighthouse and Swift do not mean to argue that this is true for all adults- they only mean to suggest that for some adults, it is necessary to attain fulfillment. The only way to refute this claim would be, of course, to empirically verify that this relationship good is not necessary for any adult to attain fulfillment.

maintained with Stacey through their shared time, spatial closeness and background for future discussions. While Stacey and Tom disrupt equality by giving Tom an advantage over John, Stacey and Tom are only able to realize the kind of intimacy they have through their parent-child relationship. It is unlikely Tom would feel as safe and close to someone without Stacey giving him the advantage conferred through bedtime stories. Perhaps Stacey could find some other way to maintain such an intimate connection with Tom, but any such way we can imagine- sharing a hobby, taking Tom to church, and so forth- would also confer some kind of advantage onto Tom that John simply would not have if his parent were not as involved as Stacey.

In order to isolate the tension strictly between parental partiality and fair equality of opportunity, we can further assume certain background conditions. Borrowing the Rawlsian framework once again, we can assume that John has been guaranteed certain basic freedoms. For example, John has already been guaranteed a life free from discrimination, violence, and coercion. John will always have food on his plate and a public school to attend. With these background assumptions about John's institutionally guaranteed provisions in mind, Brighthouse and Swift argue that it would be unreasonable for someone to say that Stacey ought not read Tom a bedtime story. Sure, Stacey confers a competitive advantage onto Tom. But what kind of world would we live in if we were deprived of the good of such intimacy whenever it compromised fair equality of opportunity? Given that we prefer the state in which parental partiality occurs over the state in which children are raised in state-run institutions to ensure strict fair equality of opportunity, Brighthouse and Swift conclude that, at least in certain instances, the value of the family outweighs the value of fair equality of opportunity. Therefore, the family ought to be

preserved and parental partiality should be allowed, despite their tension with fair equality of opportunity.

#### **IV. A Challenge for Brighthouse and Swift**

The difficulty with Brighthouse and Swift's background assumptions and the Rawlsian framework more generally is that we cannot assume just background institutions that guarantee basic freedoms for John. As Brighthouse and Swift acknowledge, "the real world is characterized by deprivation more urgent than the absence of the opportunity to compete on fair terms" (74). Full of inequalities existing prior to any acts of parental partiality, the real world presents us with challenges far more complicated than deciding between state-run child-rearing institutions and nuclear families, between Stacey reading Tom a bedtime story and deciding against conferring any kind of competitive advantage onto him. Answering the question of what is so valuable about the family is therefore not sufficient to answer the question of the extent to which parents are justified being partial to their children in any given circumstance.<sup>11</sup>

To understand what complications parents face in non-ideal circumstances, consider the parent who wants to send her child to a private school. Sarah and Jill live in a neighborhood where the public school does not competitively prepare its students for college admissions. There are very few counselors, teachers are stretched too thin to write careful letters of recommendation, classrooms are pouring over with students, textbooks are outdated, and teachers are granted very little freedom to develop syllabi. At the public school, Sarah and Jill are quite active; they regularly attend PTA meetings advocating for students and for good teachers

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<sup>11</sup> Brighthouse and Swift write, "That can of worms is matter for another article" (49).

whose jobs are threatened by cheaper labor, they volunteer at events, and so on. Their child, Matt, has his eyes on a small liberal arts college. Sarah and Jill imagine that Matt would be happier both at the private school and at a small liberal arts college; Matt thrives in small classrooms with teachers and peers who challenge him. Clearly, Matt is not being challenged to his potential at the public school and the course catalogue for the community college limits Matt's ability to study photography, philosophy, or Russian literature. The nearby private school would competitively prepare Matt for the liberal arts college of his dreams and he would be happier in the meantime.

If Sarah and Jill act on their motivation to send Matt to private school, they realize a family relationship good. There is something distinctively valuable about a parent being motivated by the general desire to improve the quality of their children's lives. While we commonly act with a general desire to improve the quality of our loved ones' lives- our friends, our lovers, even maybe our colleagues- the parent alone occupies a fiduciary role with her child. So, Sarah and Jill are motivated by the general desire to improve the quality of Matt's life while entrusted with Matt's future.

When we act from a general desire to improve the quality of a friend's life, we do not act as if we have been entrusted with our friend's future. We would be rightly charged with paternalism if we acted toward our friends with that understanding. Therefore, there is something distinctive about the parent's interest in improving the quality of their children's lives. And this general desire is distinctively valuable; both the parent and the child find this good to be a distinctive source of flourishing.

By sending Matt to private school, Sarah and Jill do more than confer a minor competitive advantage while realizing some other family relationship good. Part of the good realized by sending Matt to private school is simply the competitive advantage. Furthermore, Sarah and Jill take away resources from other students by sending Matt to private school. Sarah and Jill will no longer be volunteering at the school, attending PTA meetings, and advocating for teachers and other students. The public school loses two very involved parents capable of affecting change in the school when Sarah and Jill transfer Matt to a private school.

Sarah and Jill would face the same sorts of egalitarian challenges if they were to simply move to a wealthier school district where Matt could attend a better public school. The PTA at the wealthier school is full of parents with resources available to them and with the interest to attend regularly and advocate for teachers and students. By switching to a wealthier district, Sarah and Jill would then still be removing much valued resources from their previous public school without benefitting another school in need. Therefore, they worsen the educational opportunities of less advantaged children.

With Brighthouse and Swift's account in their back pocket, Sarah and Jill can assure themselves that by transferring Matt they are realizing a valuable relationship good. It is, all things being equal, a good thing that they are so motivated to improve Matt's quality of life. But there is also something valuable about Sarah and Jill contributing to the worse-off public school. By staying in their district and leaving Matt in public school, Sarah and Jill have the ability to keep the school from sliding further into inadequacy, benefitting the students and teachers who are there. What Brighthouse and Swift's account cannot tell Sarah and Jill is how they ought to

weigh the value of acting to improve Matt's quality of life against the value benefitting the school.

## **V. Legitimate Parental Partiality Redefined**

Brighthouse and Swift have attempted to identify the distinctive goods realized by the family and thereby to provide the basis for a distinction between legitimate and excessive parental partiality. Unlike previous accounts of partiality, they derive the content of particular reasons for action from the goods realized by a particular kind of relationship. From this account, they can show what acts in particular can be justified in some circumstances by appeal to the value of parental partiality. For example, if leaving your child an inheritance does not realize a family relationship good, it cannot be justified by appeal to the family. Brighthouse and Swift are thus positioned to say why some inequalities often justified by appeal to "family values" are not in fact justified by them at all.

However, Brighthouse and Swift's account does not provide us with a fully articulate basis for the distinction between legitimate and excessive parental partiality. We still have to ask ourselves under what circumstances we are justified in realizing family relationship goods and what degree of realization of these goods is permitted. When does the value of our family relationship goods outweigh the value of fair equality of opportunity? When are we asking too much of parents by even asking them to make that comparison?

The egalitarian parent might argue that it is not their responsibility to ensure fair equality of opportunity at all. A well-versed parent might even cite Rawls, noting that the requirements of fair equality of opportunity refer to the responsibilities of just institutions, not to the

responsibilities of individuals. For most egalitarians, however, I assume that the absence of just background institutions does not excuse oneself from pursuing justice. Therefore, the egalitarian parent has some duty to assist in the establishment of just arrangements when they do not exist, at least when this can be done with little cost to herself.<sup>12</sup>

The egalitarian parent who fights for the establishment of more just institutions might consider her obligations to pursue justice thus satisfied. While I take this to be necessary for the egalitarian parent, it does not seem sufficient to excuse the parent from further action. I assume that the egalitarian parent also has a more general desire to pursue justice than what follows strictly from a Rawlsian account. The egalitarian parent also does not want to make exceptions for herself while trying to cooperate with others; she is committed to fairness and wants to act on principles which other people could not reasonably reject. Therefore, I assume that the egalitarian parent has a general desire to be able to justify her actions to other reasonable people.

In the following, I take up Brighouse and Swift's concept of family relationship goods in order to distinguish between legitimate and excessive parental partiality. To further articulate the distinction, I propose three separately sufficient standards by which the egalitarian can judge whether or not acts of partiality can be justified to others.

### **V.I An Adequacy Standard**

One reason why parental partiality is often assumed to be unobjectionable is that parents are assumed to have a duty to provide for their children. Young children are not yet moral agents; they are not responsible for their own judgments or for their own welfare. Absent a state-run

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<sup>12</sup> In fact, Rawls makes this duty explicit in his chapter on Duty and Obligation (*TJ* 294).

institution for childrearing, parents are best situated to care for children in their status as moral patients. As the distributively determined caretakers, parents assume duties toward their children to provide for their morally relevant interests.<sup>13</sup>

Accordingly, parents must at least be permitted to be partial to their children to the extent that partiality is required to adequately provide for their morally relevant interests. Of course what constitutes a child's morally relevant interests is another can of worms in itself. Here, I only mean to sketch a number of considerations that might factor into or constitute an adequacy standard by which we can distinguish between legitimate and excessive partiality in the context of necessary provisions. While not exhaustive, I will consider a range from very unobjectionable to quite objectionable considerations.

At the most unobjectionable level, an adequacy standard says that parents are required to be partial to their children insofar as partiality is necessary to provide at least minimal means of subsistence and shelter, and to make sure their child attends school. They must also be partial toward their child to the extent that it is necessary to protect their child from harm and take all measures necessary to avoid charges of neglect or abuse. In this context, partiality feels almost too strong a word. Parents have these special obligations toward their children, whether or not they even like their children! All I mean by partiality here is that a parent acts more in favor of her particular child than she would any other child. Perhaps adults independently of whether they are parents have an obligation to provide this minimal means of subsistence for all children, to

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<sup>13</sup> I mean here that once a parent has consented to be a parent that she thereby assumes duties toward her child. I do not mean to say that someone who births a child automatically assumes duties toward that child, and I certainly do not mean that once a fetus is created that the host of that fetus assumes duties toward that fetus. Given these clarifications, I take the claim to be unobjectionable.

take all measures necessary to protect all children from neglect or abuse. However, an appeal to the value of the family can only ground the obligations parents have toward their own children.

Of course, these legally rudimentary obligations for parents only scrape the surface of the relevant interests of children for which parents are responsible. Another duty often assumed to fall to parents is the duty to develop their child's autonomy. Therefore, parents would be required to be partial to their child to the extent to which it is necessary to develop an autonomous human being. This duty is assumed so that children can eventually become moral agents.

Concerned with the narrow valorization of agency-related goods, others argue in favor of a capabilities approach to parental responsibility.<sup>14</sup> Given a capabilities approach, parents would be responsible for developing a child's capabilities for core functionings. In addition to providing for an autonomous life, then, a parent would provide for a child's being capable of having loving relationships, living a healthy life, and other functionings we determine to be "core," or valuable. The capabilities approach aims to ensure that children are raised such that they are capable of living good lives. Therefore, an adequacy standard for partiality would require that parents be allowed to be partial to their children to the extent that partiality is necessary for parents to develop their children's capabilities for core functionings.

Some philosophers, such as Colin Macleod, are concerned that all of these accounts fail to capture one core responsibility of parents: to facilitate the goodness of their children's lives qua children. In addition to preparing children for their adult lives, parents also have an obligation to make sure that their children have good childhoods. According to this approach to parental obligation, parental partiality is required to the extent that it is necessary for parents to

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<sup>14</sup> Macleod, 185.

provide their children with good lives, to realize those family relationship goods that accrue to the child.

What we take to be reasonable parental partiality is in part determined by what we take parents to be responsible for their children. These accounts are not irrefutable- we may find reasons to think we are more or less especially morally obligated to provide for our children as opposed to providing for others. Necessarily, then, there are ambiguities about what forms of partiality are justified by appeal to the adequacy standard. We can get clearer about what forms of partiality are permitted by getting clearer about what parents owe their children, a subject for another paper.

## **V.II A Meaningfulness Standard**

In their paper, “School choice and the burdens of justice,” Clayton and Stevens argue that in some circumstances, we have a duty of justice to accept an inadequate education for our children in the fight for the realization of educational justice. In this section, I will assume that Clayton and Stevens’s objections to parental partiality will not be met by appealing to an adequacy standard, either because the adequacy standard will be rejected by Clayton and Stevens or the adequacy standard is weak enough that it will not require providing an adequate education for your child.<sup>15</sup> In order to argue that parents need not necessarily abandon partiality to ensure fair equality of opportunity regardless of any adequacy standard, I will argue that parents are justified

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<sup>15</sup> I find it unlikely that Clayton and Stevens could provide an argument for rejecting the adequacy standard on either ground. However, this section aims to show how the meaningfulness is separately sufficient for justifying parental partiality. Therefore, we can assume for now that the adequacy standard fails to understand the role of the meaningfulness standard.

in being partial to their children in at least some instances when being partial to their children is necessary for either themselves or for their children to live meaningful lives.

To refute the family relationship goods account of parental partiality, Clayton and Stevens point to the failure of Brighthouse and Swift's account to respond to non-ideal circumstances.

While we may allow a degree of parental partiality to disrupt equality in the context of just background institutions, they argue, it does not follow that we should allow parental partiality in the absence of a just background. To illustrate, they ask us to imagine that there are 50 children who have got into danger in the sea. As a passer-by, you can run to a nearby boat and row it out to the children to save their lives. You are not alone on the shore- four other people could help you. Under ideal circumstances, you would only contribute your fair share, the other four would help you rescue. But if the others refuse to help, it would be unreasonable for you to throw up your arms and say you cannot accomplish anything on your own. Even at the cost of exhaustion, you should go row out to the children to save them.<sup>16</sup>

In ideal circumstances, you are justified being partial to your child even if there is a small cost to equality by doing so. To refrain from partiality when acting partially toward your child comes at a greater cost to equality, then, would be to do more than your "fair share." What Clayton and Stevens argue they have shown through their example is that "the moral requirement to promote the good of justice remains intact even when it is rendered more burdensome and unfair by the immoral behavior of others" (123). Therefore, even though it is due to no fault of your own that acting partially toward your child comes at a greater cost to equality than in ideal

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<sup>16</sup> This example is strictly borrowed from Clayton and Stevens. For those not interested in being faithful to Clayton and Stevens's example, consider substituting a larger boat for a rowboat to lend plausibility to the example.

circumstances, justice requires that you bear that cost yourself by refraining from helping your child.

What Clayton and Stevens seem to miss about Brighthouse and Swift's account is the distinctive value of family relationship goods and the relevance of partiality in our moral consideration. Brighthouse and Swift do not simply appeal to fair shares to make their case; they do not argue that individuals are entitled to a certain share of family relationship goods in ideal circumstances. Rather, they appeal to how family relationship goods are a unique contribution to an individual's life. The example Clayton and Stevens use to refute Brighthouse and Swift leaves out family relationship goods entirely, thus leaving out the thrust of Brighthouse and Swift's argument.

Consider the following case. Suppose there are four children drowning and that a parent could use the rowboat to save three other children at sea or she could use the rowboat to save her drowning child. The other children are a good ways away from her child, and she does not have enough time to save them both. Surely, the parent would not appeal to fair shares to say that in ideal circumstances she would be allowed to save her child while the other passersby saved the other children. All that matters to the parent, in that moment, is that she saves her child because of how valuable her daughter is to her.

In this example, it is not obvious whether we should condemn or praise the mother. If we acted according to some utilitarian conceptions of justice, we would clearly condemn her for choosing to save her child.<sup>17</sup> Yet, it seems reasonable, if not admirable, that a mother is so

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<sup>17</sup> Of course, there are many more interesting variations of utilitarianism that might allow for her to save her child, for example if acting on the general rule that you can save the lives of your loved ones without directly causing harm to others would promote the greatest happiness, a rule utilitarian would favor that she act according that rule.

committed to protecting her child- a family relationship good that accrues to both herself and her child<sup>18</sup>-that she saves her child, even while recognizing that justice, if justice is utilitarian, demands her to do otherwise. The mother's desire to protect her son is importantly and uniquely valuable to the mother, even if the mother's desire is not valuable enough through the lens of justice to justify saving her son over the three other children. In light of conflict between the goods of justice and her love for her son, it seems reasonable for the goods of justice to cease to be decisive for the mother. As Susan Wolf writes, "if the meaning of one's life and one's very identity is bound up with someone as deeply as a mother's life is characteristically tied to her son's, why should the dictates of impartial morality be regarded as decisive?" ("Partiality" 253). When what propels a mother forward in life- the life of her own son- is compromised, it seems reasonable for the mother to not feel the weight of the goods of justice as heavily. Therefore, even if an appeal to fair shares may not justify acting partially in the face of injustice, just how valuable our family relationship goods are to our lives might be sufficient to outweigh any utilitarian calculation.

We might be inclined to say that the realization of family relationship goods, whenever they are so integral to the meaningfulness of our lives, is sufficient to outweigh the goods of justice. However, the means necessary to realize our family relationship goods might nevertheless be so demanding or so outrageous that the goods of justice outweigh the value of our family relationship goods. Suppose that a mother has been asked to testify against her son, knowing that he has committed murder. If he is convicted, he will suffer gravely. If she lies in her

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<sup>18</sup> While it is difficult to formulate relationship goods precisely, we might formulate this good as "acting from a general desire to protect the safety and well-being of a particular person." Serving this role for another person is uniquely valuable, and having someone act in this way for our own safety and well-being is uniquely valuable.

testimony, they will have no grounds for conviction. Furthermore, without the mother's testimony, the preponderance of evidence incriminates another, innocent man and the other man will be convicted in his place.<sup>19</sup> In such a case, we might say that there is something "positively reasonable (and not just understandable) about the woman who, having recognized that impartial morality instructs her to turn her son in, wonders whether to act according to impartial morality or not." Without what gives her life meaning, the mother would have little if any reason for caring about anything in the world at all.

While we can understand why the mother acts from her desire to protect her child- her desire is uniquely valuable and provides her life with meaning- that value is nonetheless insufficient to outweigh the injustice of allowing an innocent man to go to jail. Meaningfulness does not, as it were, "trump" all other moral considerations. Rather, meaningfulness gives us an understanding of why family relationship goods are so valuable compared to other goods. Enjoying a piece of chocolate is valuable, reading a pleasant novel is valuable. However, neither gives an individual meaning in her life. Given the relative importance of family relationship goods, they are due more weight than simple preferences in our moral considerations. The meaningfulness standard thus states that what counts as legitimate parental partiality is in part determined by how essential realizing family relationship goods is to the meaning of a person's life.

To understand the weight of family relationship goods in the context of fair equality of opportunity, consider the following. Perhaps what has driven a mother through various obstacles in life- a messy divorce, an overwhelming job- has been the dream of giving her child a better

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<sup>19</sup> This is a modified example from Wolf (253).

life than she had. Worrying that her child might face the same fate she did if she stays in a public school, she sends her child to private school. By sending her child to private school, she confers advantages onto her child based on how she has chosen to allocate her resources. The thought that fair equality of opportunity ought to govern her actions when it would deny the mother what gives her life meaning seems “wholly detached from and out of touch with human psychology” (“Meaning” 307).

Looking at Brighthouse and Swift’s account of family relationship goods combined with Wolf’s discussion of partiality and morality leads to interesting policy questions. What parent-child relationships and spousal relationships have in common is that they realize a relationship good to be especially motivated by the desire to improve the quality of a specific person’s life. We find this good valuable, and in fact, having this kind of good is capable of providing our lives with meaning. This might also be true for certain forms of friendship. The legal system recognizes this good of spousal relationships: you cannot be required to testify against your spouse. Partiality is thus legally recognized as legitimate in the context of spousal relationships, but parent-child relationships realize the exact same relationship good. So why are there not any exemptions for parents testifying against their children, or children testifying against their parents?<sup>20</sup>

### **V.III A Reasonableness Standard**

Parental partiality typically goes beyond what can be justified by appealing to what is necessary for meaningfulness in our life- if we didn’t pursue every avenue possible to provide for our

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<sup>20</sup> Currently, only four states do not require parents to testify against their children. See Smith, Tovia, “Should Parents Have to Testify Against Their Kids In Court?” (2010).

children, we would still be able to have a meaningful relationship and life. But this does not exhaust the extent of parental partiality that is often taken to be acceptable. To take the paradigm example, reading bedtime stories does not necessarily meet either the adequacy standard or the meaningfulness standard. Yet, no one wants to demand that we give up reading our children bedtime stories. So how can we distinguish between reasonable and unreasonable parental partiality?

I suggest a contractualist approach to understanding the boundaries of parental partiality, whereby we ask whether or not a rational and reasonable person could object to the ways in which we act partially toward our children. Drawing from W.M. Sibley, Rawls writes that knowing that someone is rational means that we know they will intelligently pursue whatever ends she has set for herself. Therefore, if someone has set the end of becoming a millionaire for herself, she will orchestrate the most intelligent plan for doing so. By contrast, knowing that someone is reasonable means that we know she is willing to govern her conduct by a principle which she and others can come to accept by taking into account the consequences of their actions on others' well-being.<sup>21</sup> Therefore, the reasonable person is not strictly egoistic; if becoming a millionaire violates a principle which she and other find acceptable, then she cannot reasonably do so. A reasonable person cares about being able to justify her motivations to others with whom she can cooperate as free and equal on terms all can accept. The strictly rational but unreasonable person lacks the particular form of moral sensibility "that underlies the desire to engage in fair

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<sup>21</sup> *PL*, 49.

cooperation as such, and to do so on terms that others as equals might reasonably be expected to endorse.”<sup>22</sup>

Rawls considers individuals to be reasonable if they are ready to accept norms or principles that everyone can accept and are therefore justifiable to them. For my purposes here, I will adopt Scanlon’s notion of reasonableness by which individuals are reasonable if they perform actions or act on principles that no one could reasonably reject. In order to understand the contrast, consider the following example used by Scanlon.<sup>23</sup> Suppose there is a proposed principle under which several people could avoidably suffer, meaning there are alternative principles without that suffering. Now, suppose that those individuals are particularly self-sacrificing. In such a case, it seems as though they could reasonably accept the proposed principle. However, it also does not seem like it would be unreasonable for those individuals to reject such a principle. Given the intuitive plausibility that this conception of reasonableness is more fair, I will be using Scanlon’s account. However, I take it that my account will still be of use regardless of which account of reasonableness you adopt.

Now, consider how this reasonableness standard can be employed in the context of parental partiality. Perhaps a mother wants to send her child to a private school because he has special needs that cannot be accommodated in public schools. This might upset the resources available in the public school- if the mother was particularly involved, the school would suffer without her presence. Even so, we would need more reasons to understand how a reasonable person, a person committed to engaging in fair cooperation, could object to the mother pulling

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<sup>22</sup> Ibid, 51.

<sup>23</sup> Scanlon, 111-2.

her son from the public school. Perhaps the mother pulling her child out of school upsets the balance of fairness; however, this is not obvious from the case as described.

Although I list this reasonableness standard as a third and separate standard by which we can distinguish between legitimate and excessive partiality, both the adequacy standard and meaningfulness standard can be subsumed under the reasonableness standard. I take it for granted that no one could reasonably reject either standard and that reasonableness is sufficient on its own. I list each standard as separately sufficient so as to provide a fuller articulation of what constitutes legitimate parental partiality and to provide individual justification in case one standard is determined to be inadequate.

## **VI. A Case Study**

In order to see how each standard operates in practice, I offer the following case study.

Jacob and Jonathan are Latino and African American, a couple, and about to adopt a child. While both were raised in lower-income families, they have managed to beat the odds and made their way into academia. They consider what to do about their pending adoption. So far, they have been living in a historically black neighborhood so that they could give back to the community. However, they worry about what life will be like for their child. As a mixed-race gay couple, they already receive enough harassment as adults and anticipate a great deal of harassment for their child. Because they are adopting a black child, they also anticipate the child inheriting a legacy of oppression on multiple fronts.

Given their circumstances, they consider the idea of moving to a district with a better public school. They want to make sure their child receives adequate attention, that there are

enough resources in the school for their child to be protected from bullying, and that she receives the kind of education necessary to be successful further down the road in life. However, they are also quite involved in the district's politics, advocating for educational reform so that the community's future can be improved. While making their decision, they worry about pulling their weight in the community, leaving the children of the community behind in order to give their child opportunities with their social advantages.

With any of the standards I have argued for, Jacob and Jonathan's decision is not an easy one. Depending on what adequacy standard we choose, the decision becomes more or less challenging. With an autonomy adequacy standard, we would need more details about the school to assess whether or not it allowed for their daughter's development into an autonomous adult. For example, if the graduation rate were so dismal that it seemed unlikely she would make it out with a diploma, Jonathan and Jacob would have good reason to think that the adequacy standard would allow them to move districts. If she were only likely to face harassment, the adequacy standard might not apply; she might become fiercely independent in order to prove to her harassers that she is not some weak woman to be pushed around.

The same can be said about the capabilities adequacy standard. If the school's environment is so horrible- with discrimination and bullying in every corner of the school- that she will be unable to live a happy, healthy life in the future, the adequacy standard would allow for switching districts. But the school might also develop her capability for resilience in the face of oppression. She might even develop more useful capabilities, such as understanding people whose backgrounds differ from hers.

Perhaps living in the neighborhood, attending school with students who look like her even if they do not have as much money as her, could make for a good childhood even with an inadequate education. Once again, we would need to know more about what life would be like for her in that school and in that community. Even with the last adequacy standard, then, the answer is unclear.

When it comes to the meaningfulness standard, no external observer is able to say when it has been met. Perhaps Jonathan and Jacob are like the parent discussed earlier, whose life has been shaped and sacrificed in order to give her child a better life than she had. On the contrary, Jonathan and Jacob might just take their child to be on a check-list of life events that they want to accomplish. Whether or not parental partiality in this instance is required for Jonathan or Jacob to live a meaningful life depends on the details of their self-assigned projects and purposes.

Even if they do not conclude that the adequacy or meaningfulness standard gives them permission, Jonathan and Jacob might ask themselves: could anyone reasonably object to us moving districts so that our child can go to a better school? I do not suggest that there is an easy answer to this question; it may be impossible to answer. In order to answer this question, Jonathan and Jacob must imagine what a reasonable person might respond to the question if they knew all of their circumstances.

Of course, they might not have a full imaginative grasp of how others might respond and their assessment of reasonableness might be biased in their own favor. Here, the reasonableness standard is subject to the ordinary criticisms of a contractualist approach. While I argue that my framework provides at least a fuller articulation of the boundaries of legitimate parental partiality

than Brighthouse and Swift's account, I do not mean to suggest that those boundaries can be easily identified, or identified at all, even with the fullest articulation.

## **VII. Conclusion**

I have so far only given a framework for weighing the value of family relationship goods against the value of fair equality of opportunity. However, there is more for the egalitarian parent to consider even while being partial. An egalitarian parent can and might even feel especially charged with the responsibility to minimize the costs of partiality. In this last section, I discuss ways in which a partial parent can minimize the costs of partiality by returning to Jonathan and Jacob.

Suppose Jonathan and Jacob ultimately decide it would be best to switch districts in order to provide their daughter with a better public school education. As already noted, this has a number of negative consequences for the school in their current district; they would not be able to attend the school's PTA meetings and advocate for its students and teachers, they would not be able to vote in the district's school board elections, and they would, in one respect, be failing to show solidarity. However, they are not without any means of fighting back against the costs of partiality. Jonathan and Jacob can, and perhaps ought, to combat the non-ideal circumstances that make otherwise permissible partiality impermissible.

For one, Jonathan and Jacob can still advocate at a statewide and nationwide level for educational reform in order to mitigate the disparities between the districts. They can become engaged in political discussions focused on school choice, perhaps even advocating against a

system that allows them to simply move to a better district. They can also return to their old district to tutor children at the school and volunteer for after-school programs.

Lastly, Jonathan and Jacob can engage in intentionally egalitarian parenting practices. They could send their child to Campus Camp Wellstone, a grassroots organizer training program, instead of soccer camp. They can read their child egalitarian bedtime stories, like *Princess SmartyPants*. While Jonathan and Jacob would not be directly mitigating the costs of partiality, they would be indirectly mitigating the costs through their child. By engaging in intentionally egalitarian parenting practices, they can prepare their child to combat the institutions that make permissible partiality under ideal circumstances impermissible under non-ideal circumstances. Therefore, their child can inherit their advocacy, an inheritance that does not compromise the goods of justice.

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