

## *Justice and the value of the family*

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Abstract: The family is regarded as a *value* in modern, liberal societies but also as a *problem of justice*. In the context of debates about the future and the character of the welfare state the role of the family in reproducing social inequalities gains renewed attention. The article asks in how far the family might be considered not only an obstacle but also a prerequisite of justice. The argument is that the justification of the family has to be linked to the value it has for *individuals*: it makes the realization of certain ‘relationship goods’ possible. In view of the ambivalent character of the family as a sphere of care for dependants and a source of power relations the concept of ‘relationship goods’ is related to the question of partiality and citizenship. It is proposed to avoid perfectionist arguments of an *ethical* kind and rather base the justification on arguments of non-discrimination and social sustainability that can be integrated in the framework of a *political* liberalism.

Keyword: Justice, family, relationship goods, political liberalism, partiality, citizenship

## *Justice and the value of the family*

The family is generally regarded as a *value* in modern, liberal societies: it is here that we want to organise our life as self-determinedly as possible, together with individuals that are important to us.<sup>1</sup> But the family is also regarded as a *problem of justice*: It is an institution in which the socialisation of the future members of society takes place and since socialisation affects future life chances it is responsible for the fact that these chances are distributed unequally.

The family is situated at the intersection of the public and private sphere and the question of where to draw the line between interference and non-interference is a constant matter of public debate in liberal democracies. What can currently be witnessed are two competing trends: calls for the protection of the family, which – as a form of life – is supposed to be increasingly subject to pressure.<sup>2</sup> And calls for diminishing the influence of the family in order to increase equality of opportunity. Compensating the inequality of children's starting conditions involves public policies and state action. Public policies concerning the family are frequently connected to heated discussions about the future of the welfare state (and the change of its character from 'protecting' to 'activating'). In these debates the role of the family in reproducing social inequalities gains renewed attention and reform policies are designed that are supposed to address the problem. At the same time accusations are circulating that criticize reforms in family policies (such as the extension of care facilities and incentives for women entering the labour market) as paternalistic intrusions of the state and violations of the

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<sup>1</sup> This value is legally expressed in Art. 8 of the *European Convention of Human Rights*, which protects the right to respect for private life, including family life. And in Art. 6 of the *German Constitution* which guarantees a certain autonomy of the family („Elternrecht”).

<sup>2</sup> Contemporary social analyses emphasize the fact that the reproduction of families can no longer be regarded as a matter of course. In view of new (and not so new) challenges – individualization tendencies and flexibility requirements – families prove to be in particular need of protection (see „Familie zwischen Flexibilität und Verlässlichkeit. Siebter Familienreport des Bundesministeriums für Familie, Senioren, Frauen, Jugend”; BMFSFJ 2006. Also: Brighouse/Swift 2007.

principle of privacy. While conservatives criticize these reforms with regard to a false (but dominant) culture of individualization, even some left wing egalitarians tend to be sceptical. They assume an uneasy alliance between the increasing role of public educational institutions and the requirements of an accelerated, flexible capitalism (Lessenich 2008: 97-108). It is this context in which the necessity of a critical reflection on the value of the family arises.

In what follows I will elaborate an account that presents an answer to the question what – if anything – we should value about the family.<sup>3</sup> After a short reflection on an appropriate *definition* of the family in view of changing social conditions (1.) I will ask in how far we might consider the family an *obstacle* of justice (2.). It is against this heavy burden that arguments for the family as a *prerequisite* of justice have to prove their worth. In order to understand the family as a prerequisite of justice we should look for a justification that links it to the value it has for *individuals*.<sup>4</sup> Arguments for the value of the family are at first approached *ex negativo* by examining the question: ‘why not abolish the family?’ – a question already posed by John Rawls in his *Theory of Justice* but answered unsatisfactory (3a). The primary justification for the value of the family in my argumentation will be that it makes the realization of certain ‘relationship goods’ possible (3b). The concept of ‘relationship goods’ (introduced by Harry Brighouse and Adam Swift) will help to specify which dimensions of family life are worth protecting and which are not. But the substantial meaning of relationship goods should always be a matter of public debate. Despite of some conceptual problems the account is helpful in justifying the protection *and* critique of an ambivalent sphere that is – although a problematic source of power relations – today in constant danger of being colonized. In order to do so, the concept has to be related to the question of partiality and citizen-

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<sup>3</sup> In what follows I am mainly dealing with the question of justice *of* the family which is the question of whether the family should exist from the point of view of justice, and which form, if any, it would take. The question of justice *in* the family is also of great importance but has to be treated separately. It is widely discussed and taken up more often in the feminist literature (e.g. Okin 1989, Pateman 1989). For the distinction see the lucid article by Véronique Munoz-Dardé 1998. For a connection of the two questions see Okin 1989: chap. 2. See also Seubert 2008.

<sup>4</sup> Dominant in current debates are functional justifications (focusing scarcely on individuals but rather on society as a stakeholder). These functional justifications tend to leave the value of the family normatively on weak ground.

ship. I will claim that, not to be able to realize relationship goods is a violation of ones equal freedom to actually live the form of life one has chosen. Consequently, a demand for equal chances for realizing relationship goods must be considered a claim of justice. In justifying the value and protection of relationship goods I finally propose to avoid perfectionist arguments of an *ethical* kind and rather base the justification on arguments of non-discrimination and social sustainability that can be integrated in the framework of a *political liberalism* (4.).

### *1. What is the Family?*

In view of important transformations of the social institution of the family an adequate contemporary conception is indeed controversial. On the basis of sociological observations it becomes apparent, that the modern nuclear family can no longer be seen as the only model of intimate social relationships. Single parent-child-constellations, family triads enlarged by re-marriage, homosexual relationships with children as well as hetero- and homosexual couples without children are characteristic of daily life in liberal societies (cf. Beck-Gernsheim 2000; Bertram et al. 2006, Honneth 1994). The variety of forms of intimate social relationships might suggest starting from a very broad definition that will embrace all these forms of co-habitation. A broad definition would comprehend all relationships of love and care whether there are children or not. An alternative would be to consider the presence of children as constitutive for the concept of the family. Considering the definitions that are currently circulating, the conception of the family as an intimate social relationship including children can be seen as a *narrow* conception of the family. In comparison, a definition introduced by Iris M. Young can be interpreted as a *wide* conception. She understands family as individuals that live in a household and share the necessary resources of life, feel obliged to mutually care for their physical and emotional needs and consider themselves as being in a relatively permanent

relationship. ‘Families are the ones who care for you when you are sick and for whom you care when they are sick. Family members are obliged to remember one another’s birthdays, they are the one’s on whom we dump our troubles’ (Young 1997: 196). The reference to the self-conception of the family members takes into account that, in modern life, we wish to understand even intimate relationships of care as freely chosen and not quasi-naturally given. However, this definition tends to blur the difference between family and friendship.<sup>5</sup> It may be asked, of course, whether there is still a need at all for a differentiation between family and friendship. But for an analysis of *justice* it is particularly relevant to make a distinction. What gets lost if this distinction is put aside is the special character of a relationship implying asymmetry and dependence: the relation between parents and children. Addressing the special character of the parent-child-relationship leads to the question: what is, and should be, passed on in and by this relationship? What is it that affects the equality of opportunity? My proposition is to understand the family as *intimate relations of intergenerational care* and to base the following discussion on this comparatively narrow conception of the family. Note, however, that this conception is comparatively wide in other respects, as it neither supposes that it must biologically be the own children, nor that they have to grow up with both parents. Family is where relationships of intergenerational care evolve: parents for children (generally when they are young), and children for parents (generally when they are old). Parentage is primarily a social role. Families can therefore consist of one caring parent and, indeed, of homosexual persons.<sup>6</sup>

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<sup>5</sup> What Young claims one can, with good reasons, expect from one’s friends as well: that they remember one’s birthday, ask if they can help when one is ill and lend their ear for one’s troubles. For a reference to Youngs conceptualization see also Rössler 2001: 282 -283 and Rössler 2004.

<sup>6</sup> Understanding the family as *intimate relations of intergenerational care* is, of course, a normative definition. Empirically many families do not fulfill this task. Furthermore it might collide with legal definitions of the family. Caring persons who have become a social parent might not be recognized as a legal parent and this might lead to disappointments and conflicts. Another interesting question that I can’t pursue here is if caring for dependant parents is as large a part of the self-conception of contemporary families as caring for dependant children. Caring for the elderly more often tends to be externalized.

## 2. *The family as impediment to justice*

Reasons why the family can be considered an impediment to social justice have been presented from the various viewpoints of developmental psychology and social theory. In general terms it can be argued that the family contributes to the reproduction of inequalities with regard to the equipment with resources. These can be material resources, passed on within the family by inheritance. But it can also include immaterial resources: values, dispositions, abilities, competencies or gender-specific attributions that are communicated to children by their parent's lifestyle, activities and interests. The subtle mechanisms of the reproduction of social inequality are prominently illustrated in the work of Pierre Bourdieu. For Bourdieu, the family is a socialising institution which most effectively guarantees and efficiently conceals the inheritance of the so-called 'cultural capital' (especially under conditions of formally regulated redistributive restrictions of direct bequest).<sup>7</sup> The personified cultural capital, the 'habitus', also plays an important role in forming social relations. It creates an 'affinity among the similar', a mutual recognition which underlies social group formation.<sup>8</sup> From this point of view, the family doesn't merely communicate and transmit *cultural* capital, but *social* capital as well. It creates a special relationship of loyalty and helps to lay the foundation for further social relationships. It provides relations of recognition and thus, in turn, enables potential access to the cultural and material resources linked to these relationships.

Current diagnoses suggest that the role of the family in reproducing inequality increases. The well known danish welfare state theorist Gösta Esping-Anderson points out that

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<sup>7</sup> Cultural capital means, on the one hand, the possession of material cultural goods (books, dictionaries, musical instruments, pictures etc.) – all this can quasi-naturally be available in the social environment – or not. In addition to that, cultural capital has also an institutional dimension: the acquirement of educational achievements and titles, but above all internalized abilities and dispositions – all that has become, through education, a permanent part of the person and his or her existence. *Habitus* is what, according to Bourdieu, generates social inheritance without being perceived. Under these conditions the official educational systems contributes to the reproduction of the social structure in so far as it, in the end, just sanctions the inheritance of cultural capital: those who have had an *informal* advantage from the start, are finally *formally* provided with educational achievements as well (Bourdieu 1983: 186).

<sup>8</sup> This can take place on the basis of class, race or sex; however, according to Bourdieu, these are not quasi-objective categories. He has a relational conception of social groups and regards group identity as the expression of a social constellation (cf. Bourdieu 1985).

families today face a wholly new paradox: In a knowledge-based economy life chances depend increasingly on the cultural, social and cognitive capital that people can amass. Under these conditions childhood is the fundamental life phase. The interplay between parental and societal investments in children's developments becomes crucial. The paradox is that 'strong families are becoming ever more detrimental for our well-being even as they are themselves becoming more vulnerable, fragile, and threatened' (Esping-Anderson 2002: 27). The key problem according to Esping-Anderson is a rising welfare polarization between resource-strong families on the one side and income and work-poor families on the other. What he describes as the main task of a 'child-centered social investment strategy' is to minimize at-risk population as far as possible via early intervention programs (Esping-Anderson 2006: 69).

Although Esping-Anderson explicitly stresses that his aim is to strengthen the family by unburdening it, he is accused of – consciously or unconsciously – lending his hand for the destruction of its integrity. He is accused of having a hidden agenda very well suitable for the demands of a new flexible capitalism (Lessenich 2008: 105f.). He is criticized for an instrumental view on the social, looking at children (and women) as if they were social investment goods. Without deciding this question here, the current discussions on the future of the welfare state is pressing and it reveals an urgent need for a justification of the values associated with family life.

### *3. Why not abolish the family?*

#### *a) The reasons in Rawls' 'Theory of Justice'*

The family as a problem of justice also appears in contemporary political theories, especially in John Rawls' *Theory of Justice*. Considering the unequal opportunities for individuals that

this institution provides, he famously asks ‘Must the family therefore be abolished?’ (Rawls 1999: 448). This indicates where the actual burden of justification from the point of view of justice lies. From an egalitarian position the problem is not the justification of political measures to secure equal opportunities, but the *non-interference*, the non-extension of such measures to a sphere defined as quasi-natural or private. This line of justification can also be found in Walzer’s *Spheres of Justice*, when he remarks: ‘The most radical egalitarian proposal, then, the simplest way to simple equality, is the abolition of the family’ (Walzer 1983: 229). Walzer states with regard to Rawls that a certain tendency to abolitionism seems to belong to egalitarian thought. The radicalism of the question is continued in current positions regarding the relation of family and social justice.<sup>9</sup>

Since John Rawls ultimately answers the question ‘why not abolish the family?’ in the negative, it might be interesting to take a closer look at the reasons he gives. As indicated, Rawls is fully aware of the inequalities created by familial socialisation and thus he writes: ‘The consistent application of fair opportunity requires us to view persons independently of their social position. But how far should this tendency be carried? It seems that even when fair opportunity (as it has been defined) is satisfied, the family will lead to unequal chances between individuals (§46). Is the family to be abolished then? Taken by itself and give a certain primacy, the idea of equal opportunity inclines in this direction. But within the context of the theory of justice as a whole there is much less urgency to take this course’ (Rawls 1999: 448-449).

What does Rawls mean by this overall context? It is, above all, the effectiveness of the difference principle which reduces the urgency of a total equality of opportunities. The second principle of justice demands the creation or maintenance of equal opportunities in all domains of society for all equally gifted and motivated individuals. This can be understood in the sense

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<sup>9</sup> Harry Brighouse and Adam Swift, for instance, discuss the problem with regard to the necessity to find arguments why the family is better than a state-run orphanage (which undoubtedly, from the point of view of equal opportunities, represents the most egalitarian solution). Cf. Brighouse/Swift (2007) as well as section 3.b.



of fair equality of opportunities: functions and positions are to be assigned according to individual performance, not according to inheritance, friendship or otherwise. Taking into account the priority rule, the difference principle describes the social and economic consequences that political decisions should be aiming at. Its sense is to ensure that the rules of 'background justice' remain intact on the long run, too.

When Rawls relates the justification of the family to the difference principle he is arguing with respect to the opportunities of the disadvantaged – to this extent his argumentation has a consequentialistic character. True, it cannot be denied that the familial socialisation influences chances in life. But its abolition would, in the long run, impair the system of social cooperation in a way that an even further deterioration would ensue. What is implied is that in a state-run orphanage all of us would develop our abilities so much worse, that the development and progress of society as a whole would suffer.

According to Rawls, the limits of formal equality of opportunities must be compensated for, above all, politically. He is well aware of the fact that talent and motivation are at least to a certain extent socially conditioned. Therefore the opportunities for their development must be distributed justly in those spheres open to public influence. Rawls repeatedly indicates in his later work that he places the main burden of compensating for different starting conditions onto the educational system (cf. eg. Rawls 2001: 55-56.). He does not deny that there remain differences but he believes, that one is much rather ready 'to dwell upon our good fortune' when the remaining differences 'are made to work to our advantage' (instead of grieving about how much better one's situation could be were all social impediments really removed) (Rawls 1999: 448).

Can the argument of the long-term benefit for society really explain the value of the family? Does it actually provide us with reasons as to why we value families and the special relationships they involve? The consequentialistic justification is not wholly satisfying. But a further remark is necessary: Rawls takes a functionalistic perspective on the family since his

political theory is marked by a certain normative self-restriction. The reason for including the family in the basic structure is that it ensures the well-regulated creation and regeneration of society and its culture from one generation to the next (cf. Rawls 2001: 162-168.). This point of view is indeed functionalistic in a broader sense: it centres on the transmission of the basic values, the political culture and political virtues on which fair political and social institutions are based. Thereby he limits the interest in the family. There is no need for a *political* liberalism to judge whether and why we should live in one way or the other, but only to ensure fair terms of social cooperation. The general social interest in the family is related to this end. The socializing function of the family is essential for acquiring the two moral powers, a sense of justice and the development of a conception of the good, without which adolescents will not be able to fulfil their role as cooperating citizens later on. The stakeholder is society as well as the child. Rawls seems to presume that a child's socialization is best effected in small groups. But so far, his argumentation does not justify the family in any particular form but every social institution that is capable of fulfilling this task.<sup>10</sup>

Rawls seems to presuppose the value of the family and yet leaves much of his argumentation undeveloped. If individuals will have unequal life chances *as long as the family exists*, the need for the institution of the family must be justified for reasons more powerful than its unjust effects. But what are these powerful reasons? When Rawls assumes that 'in some form the family is just', in how far is it to be considered a prerequisite of justice (Rawls 1993, p. xxix)? Why not just treat the family as a form of association? It would then be supported by the first principle of justice. But if the basic individual right to freedom of association were the basis for the justification of the family the question arises why the family gets singled out as a *just* institution. Behind this must be the assumption that the family is a special form of association, not comparable to other associations (including those that are also pro-

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<sup>10</sup> In reaction to feminist critiques (especially by Susan Moller Okin) that deal with questions of justice *in* the family and an allegedly traditional understanding of the family in *A Theory of Justice* Rawls makes it clear that he wants to understand „reproductive labor' as „socially necessary labor' in the comprehensive sense of the raising and educational integration of children into the overall culture (Rawls 2001: 162).

ted by the principle even if they are structured unequally like e.g. the catholic church). It must be because of its particular nature that the family is just.

At this point an extensive discussion of Rawls' contract theory and its revisions would be necessary.<sup>11</sup> I can't go into this in detail here. Suffice it to say that Rawls doesn't relate the justification of the family to the value it has for individuals in a comprehensive and totally convincing way. Is there another account that can help to answer this question? And in how far can it be integrated into the Rawlsian framework?

*b) The 'relationship goods account'*

A promising candidate for filling the holes of the Rawlsian answer is the 'relationship goods account' developed by Harry Brighouse and Adam Swift. Similar to Rawls they argue within an egalitarian liberal framework, aiming to find a balance between the principles of freedom and equality. Equality demands that people are treated 'as equals', a principle which, according to Brighouse/Swift, implies comprehensive distributive consequences (with regard to 'equal resources for lifeplans' and 'equal opportunities for well-being'). Freedom is in tension with equality because it includes the freedom to take sides, to be partial: 'the freedom to engage in relationships that depend crucially on treating oneself, and particular others, as special' (Brighouse/Swift 2007: 3). Brighouse/Swift assume that the institution of the family can principally be justified from the perspective of three different 'stakeholders': society, children

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<sup>11</sup> If the moral development of children is best affected in small groups, as Rawls seems to imply, the family would be justified if there were good reasons to support the claim that no other social institution will do this job sufficiently well. Veronique Munoz-Dardé proposes that children need individualized ethical activities for their moral development in order to acquire fully a lively sense of their own worth as persons, the development of self-respect as the 'most important primary good' (Munoz-Dardé 1998: 351). Her argument is connected to a deeper critique of the Rawlsian contract theory. She proposes an individualized revision of the original position in which the parties themselves deliberate and decide whether the family in some form should belong to the basic structure or whether other forms are indeed preferable. The parties in the original position are forced to articulate reasons why they want a specific form of association that is structured around individualized care for dependants, especially between one generation and another' (ibid: 350).

and parents. While the first reference to *society* offers no and the second reference to the *children* offers only conditionally normative reasons why the family should not be abolished Brighthouse and Swift address the third category of stakeholder, the *parents*, in order to answer the question why we have an interest in certain relationships to particular others.<sup>12</sup> The institution of the family enables parents to live a form of relationship that cannot be compared to any other relationship between adults. ‘They enjoy an intimate relationship with a dependent who spontaneously loves them’ (ibid.: 4).<sup>13</sup>

Brighthouse/Swift’s argument for the justification of the family assumes that people are fundamentally interested in being parents and in rejoicing in the goods that the family as a parent-child-relationship affords. Initially this argument appears attractive, because it focuses on individuals and is decidedly non-functionalistic. But there is an obvious possible objection, which the authors address themselves. Brighthouse/Swift’s point of reference is the contribution of parenting to the wellbeing of persons, a form of satisfactory life which being a parent can offer. But not all people regard being a parent as a contribution to their wellbeing, some rather less than more and some, perhaps, not at all. In addressing this objection Brighthouse/Swift argue that they only refer to the actual preferences people have: ‘(...)being a parent is important enough for enough people’ and ‘(...) no one who will do an adequately good job of raising a child should be prevented from being a parent’ (ibid: 4, see also 2006: 97). Their statement is obviously connected to an empirically based assumption that the family as an

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<sup>12</sup> Brighthouse and Swift share the understanding of the family proposed above. ‘Family’ is defined by the fact that ‘one or more adults parent’ one or more children’ (ibid.: 3). Family relations do not depend on biological parenthood. Parenting is primarily a social role. What is important is that they are characterized as relationships in which we can feel appreciated as particular others.

<sup>13</sup> To point out that children are dependants has, of course, far-reaching implications. Parents have certain authoritative powers to decide for their children, they have far-reaching possibilities to shape their worldview, their values and their interests. This, however, also implies a responsibility to promote the child’s interests – including the most important interest: to become a person one day that no longer needs parental care. Parents have fiduciary obligations (Locke) towards their children, and they have a fundamental interest in living up to this fiduciary role. From the tense relation between parental rights and other ‘trustees’ various conflicts ensue that can not be specified here. Only this: Parents have, on the one hand, the right to communicate their moral convictions and worldviews to their children, because the community that is characteristic of intimate relationships cannot be lived otherwise. On the other hand they should use their authority to protect the child’s ability to develop an individual worldview and his or her own lifeplan. If priority is given to the protection of the child’s autonomy, the question arises, how far parental behaviour that is in conflict with the prospective autonomy of children can be tolerated. Cf. Brighthouse/Swift (2006).

institution is in difficulties in western societies. Current policies, it is argued, reinforce incentives to decide *against* parentage when aims of life are weighted against each other. ‘Public policies hinder the realization of family values’ (ibid: 9). They offer insufficient support for children as well as for adults who wish to be parents. Furthermore, they distribute the possibilities of access to these values in a socially unequal way. ‘...social arrangements currently make it much harder for some than for others to realize family values in their lives’. What is needed under these conditions are policies of non-discrimination creating equal opportunities for life plans that involve raising children.

So far Brighouse/Swift primarily address injustices brought about by structural forces that hinder the realization of values related to family life. But, committed to an egalitarian perspective, an uncritical defence of family life as such is not what they are aiming at. Brighouse/Swift assume that there are several formal and informal mechanisms by which parents transfer their relative social advantage to their children. This extends from providing them with money or other possessions to more intimate mechanisms of passing on values and ‘cultural capital’. The ‘relationship goods account’ is meant to identify only those practices as worthy of protection which are indispensable for the realisation of ‘relationship goods’. This includes an intimate sharing of space, time for common experiences and lively communicative exchange of plans and ideas that supports mutual identification.<sup>14</sup> ‘Our theory says that there must be ample space for parents to engage in activities with their children that involve this kind of things’. In contrast, the bequest of financial fortune does not represent an activity indispensably worth protecting. Passing on our fortune or being able to send our children to a private school is not the reason why we prefer the family to the state-run orphanage.

Brighouse/Swift argue for the protection of those conditions that are needed for the realization of meaningful relationships (in this case: parent-child-relationships). They want to fend off discriminations and overcome disadvantages in comparison to lifeplans *without* chil-

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<sup>14</sup> In this context, the reading of bedtime stories represents a paradigmatic example of an action worth protecting, because essential foundations of the parent-child relationship are laid.

dren. This leads to the follow-up-question where the structural dynamics threatening the realization of relationship goods actually come from? Brighthouse/Swift make it very clear that the main danger is not to be seen in state intrusions in the so called private sphere but in the flexibility requirements and new forms of exploitation in the economic sphere. Under these conditions the protection of the value of the family actually *demand* new political measures (rather than restrictions of state action with respect to the family). Their approach has a multitude of implications for policies: Apart from the fundamental demand to put an end to the discrimination of parents and to foster parenthood (this already implies far-reaching consequences in social policies), the issue is the creation of equal opportunities for the realisation of relationship goods. At the moment, better-off parents not only have the possibility to pass on their financial resources to their children. They also have better opportunities of enjoying valuable relationships than parents threatened by poverty who try to make ends meet by taking on several jobs: This often means their absence from home until (late) in the evening, which is opposed to the activities outlined above. Nevertheless, although differently situated, privileged parents also require protection against the erosion of their family life. They often have jobs that are opposed to the requirements of being parents, because they stipulate a commitment that impedes a comprehensive participation in family life, or makes it altogether impossible.<sup>15</sup>

#### *4. Partiality and Citizenship*

Having examined the different approaches what might be a convincing strategy for the justification of the family? As outlined above, reasoning along the relationship goods-account has the advantage that the value of the family can be related to the worth it has for individuals:

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<sup>15</sup> Especially high qualified parents with a commitment to gender equality might be in need of protection against the force to externalize carework. Externalization might produce social costs that are criticized as a marketization of care work (e.g. Fraser 2009). Nancy Fraser assumes an uneasy alliance between second-wave feminism and a new form of post-fordist capitalism.

their interest in meaningful relationships and individualized care for particular others. Thus the realization of relationship goods can be made an issue of justice: we can demand equal chances for their realization. But relationship goods still remain a problem of justice and seem to stand in an unavoidable tension to equality. In Brighthouse/Swifts account they are based on the freedom to be partial. But what is actually won by that?<sup>16</sup> If freedom to partiality means that we are free to love our children more than the children of others nothing can be said against it. Justice doesn't require that we deny a special degree of concern (Nussbaum 2002: 13). If it means that we are seeking to promote the good of our children as much as possible, at least two problems arise: we might act to our best knowledge and nevertheless do the wrong thing (e.g. buying fat and heavily sweetened food). Or we are transcending the legitimate frame within which treating my own child as special is permitted (e.g. trying to get undeserved advantages). What is at stake here is the degree of *permissible* partiality with regard to equal citizenship.

If we relate criteria for permissible partiality to a political idea of citizenship equality need not appear as a competing value to liberty. It rather gives freedom a positive direction: freedom means living under conditions of justice.<sup>17</sup> But what does justice actually require if it doesn't mean treating ones own children as if they were strangers? The distinction between positive and negative duties is helpful here. Positive duties allow for weighing up who is closer and who is more distant, who is entitled to make which claim on me. Because they are dependant on the existence of particular relationships positive duties allow for partiality. But negative duties do not. They demand refraining from doing something, avoiding harm, notwithstanding who the person is. We harm others unjustly if the success of our actions impedes

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<sup>16</sup> Behind the freedom to be partial (and the implication of a necessary conflict with equality) seems to stand a Berlinian idea of negative liberty (to do whatever one wants without being interfered with) and value pluralism: value conflicts can be mediated but not solved (striving for equality unavoidably restricts our freedom and vice versa).

<sup>17</sup> From a Kantian perspective justice is dependant on living under general rules. Everybody is entitled to equal freedom and that is why we are obliged to bring about conditions in which everybody's freedom is compatible with the freedom of everybody else.

others from acting the same way. What degree of mutual support does citizenship demand? One might argue that refraining from doing something (e.g. denying support) constitutes a harm and hence a violation not only of a positive but of a negative duty.<sup>18</sup> We harm others by withholding equal chances of acquiring the status of free and equal citizens. If we understand equal citizenship as a common reference point this gives us reasons for virtuous self-limitations even in those contexts where the law is unsuitable to provide definite guidance. We are committed to defend the autonomy and integrity of a social sphere ('the family') but only within the overall framework of justice as equal freedom.

Within the Rawlsian framework it is clear that we need certain basic goods for the realization of equal freedom.<sup>19</sup> But a theory of justice should not lay down a canonical list of basic goods. It should rather presuppose a flexible dividing line between justice-relevant and justice-irrelevant goods, taking into account changing social conditions (cf. Miller 1999, chap. 1). Where to draw the line is matter of public debate and thus open to change. The relationship goods account provides reasons why we should consider meaningful relationships to particular others as a justice-relevant good. It is not surprising that the claim to a 'good' is not explicitly expressed until its realisation no longer appears self-evident, i.e. that it is only considered worth protecting when it is threatened. In this respect Brighouse/Swift's empirical diagnosis is significant. They plausibly point out that obstacles increase: changes in the professional world, exigencies of flexibility and availability that impede the compatibility of familial commitment and career. Moreover the unequal distribution of basic goods increases in

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<sup>18</sup> Thomas Pogge makes a similar argument with regard to global justice: if we are supporting by our actions an unjust system of cooperation, refraining from doing something is not enough to fulfill our negative duties (Pogge 2002: 432ff.)

<sup>19</sup> One might ask whether it makes sense to speak of relationships as 'goods'? Doesn't this imply a problematic commitment to a distributive paradigm? I would answer that what is implied is not to distribute the good ('special relationships') itself – it cannot be distributed equally anyway. But the advantages or disadvantages effected within families are rightly regarded as a 'basic question of distribution': Firstly, they are always already an effect of social regulation – and therefore not somehow prior or 'natural' – and secondly they are of fundamental importance, because they concern a basic level of the development of personality (Walzer 1983: 227). In this sense it appears plausible to consider familial relationships from the point of view of distributive justice. The aim is not to distribute the *goods*, but to form the general conditions for their realisation fairly – general conditions that make conceptions of life (and the including relationships) possible without any grave disadvantages, and that minimize the impedimentary effects of familial relationships on the equality of opportunities.



the sense that the general conditions make it even more difficult for already disadvantaged classes to realise relationship goods. And finally the change in gender relations attributes to the fact, that men too increasingly experience the one-sided orientation towards career requirements as a privation.

To come back to the question posed above: Is it possible to integrate an individual-based justification of the family in the framework of a *political* liberalism? Doesn't it necessarily slip towards an ethical perfectionism because it refers to a certain (controversial) notion of the good life? Why is a political liberalism an attractive framework anyway? Let me try a brief answer. To cultivate and shape particular relationships to special others can be regarded as an expression of individual freedom. However, the freedom to live as one likes and with whom one chooses also has a social side: If these special others are children society takes a particular interest in their existence, their socialisation and, according to the normative foundations of egalitarian liberalism, in their relative equality of opportunities. This justifies asserting the public importance of this relationship, while, on the other hand, not opening all elements to public scrutiny. There is a genuine claim of parents and children to be undisturbed in particular constitutive respects of their relations – a claim to be 'private' in the sense of being free from obligations of justification towards third parties.<sup>20</sup> An individual-oriented justification of the family implies a conception of freedom that relates the development of autonomy to certain social contexts. This means that the freedom to entertain special relationships must be regarded as a basis for the development of autonomy. Under changing social conditions a reinterpretation of basic goods becomes necessary. Today the justification of the family can refer to an argument of social sustainability: protecting those social contexts that are worthy for the individual *and* the reproduction of a political community of free and equal citizens. The virtue of liberal self-containment is attractive because it makes possible a plural-

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<sup>20</sup> This argument is in line with Corey Brettschneider's defence of a reconstructed political liberalism (Brettschneider 2007). Brettschneider makes it clear that the public/private distinction itself must be formulated with reference to the values of free and equal citizenship.

ism of conceptions of life, and attempts to pacify possible conflicts by distinguishing between a private and a public sphere – while at the same time reflecting on the relativity and political controversy of this distinction.

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