

Philosophy and the Family
University of Birmingham Conference Park 29 Jun - 1 Jul 07

Abstracts

Brenda Almond, University of Hull

Conflicting Ideologies of the Family

The traditional family is fragmenting in many parts of the world. The reasons for this are diverse. They include shifting interpretations of ‘family’, the impact of the new reproductive technologies, changing views of the role of women in society, the influence of legal and fiscal change, and a shift in the concept of marriage, its durability and its status. ‘Family’ is now a contested concept in which both partnering and parenting are being reinterpreted in a gender-neutral way. Three developments that support the new ideology are: the weakening of the contractual aspect of marriage; the separation of partnering from parenthood; and the re-writing of parenthood as simply a legal and social convention.

David Archard, Lancaster University

Parental Obligations

A conception of parenthood outlines what rights are held and what duties are owed in respect of some particular child by which adults in consequence of the obtaining of which set of facts. Much debate in recent years has been devoted to the question of what are the relevant facts in grounding parenthood: causal, genetic, or intentional.

In this paper I want, first, to defend the view that parental rights and responsibilities do not, as some such as Bayne and Kolers hold, have to go together. In particular I want to argue that a set of facts that entails the holding of parental rights need not also entail that parental obligations are incurred, and vice versa. Second I want to argue that parental obligations arise, subject to certain qualifications, from causing a child to come into existence. I want to show that a strict responsibility claim – defended by Jeffrey Blustein and James Lindemann Nelson – is mistaken, and that there may be nothing wrong with transferring parental responsibilities to willing others.

Aliza Avraham, University of Haifa

Should the Non-Identity Problem prevent us from Licensing Parenthood?

The primary purpose of this talk is to discuss the connection between two different arguments. One is the argument for limiting procreative rights based on LaFollette’s suggestion that being a parent is no less dangerous than being a driver, hence both roles should be licensed. The other argument is based on the well-known non-identity problem, presented at length at David Heyd’s Genetics.

Heyd argues that it is impossible to compare a person's welfare once conceived to her welfare had she not been conceived. Therefore, existing human beings cannot be better off or worse off by not being conceived. The non-identity problem seems inconsistent with proposals such as LaFollette's, because limiting parenthood for the sake of protecting the potential children assumes that those children would be better off unborn than born.

In response to this inconsistency, two suggestions might be made: That the procreation rights of abusive parents might still be limited in order to protect society, or that only the rearing rights of the maltreating parents should be limited, and not their procreation rights. I shall explore both of these suggestions. My conclusion is that neither the protection of potential children, nor the protection of society can justify limitations on procreation of the kind that discussed above.

Elizabeth Brake, University of Calgary

Is Divorce Promise-Breaking?

Wedding vows, it seems, are promises. So they go: "I promise to love, honour, and cherish" But this raises a problem for a prevalent modern view of divorce. Leaving a marriage – when "irreconcilable differences" threaten one or both spouses' happiness – is no longer widely seen as a serious moral wrong. However, breaking a promise is widely seen as a serious moral wrong. This set of beliefs poses an inconsistent triad: (1) wedding vows are promises, (2) in the absence of release conditions or overriding circumstances, promise-breaking is *prima facie* impermissible, yet (3) divorce is not *prima facie* impermissible.

In this paper I consider first what I call the 'hard-line' response to this triad: divorce is indeed *prima facie* impermissible promise-breaking. I show that this view is more plausible than might be thought when combined with the 'hardship' response, which employs the proviso set out in (2) to argue that in most failed marriages the hardship caused overrides a spouse's *prima facie* duty to keep one's promise. However, I argue that the 'hardship' response faces serious problems, primarily because it seems to entail that promisors are released on grounds of hardship in far too many cases. I argue instead for what I call the 'hard-headed' response: wedding vows are not promises at all. We cannot promise to perform acts the performance of which is outside our control, and the intentions to love, honour, and so on expressed in wedding vows involve states of mind outside our control. I defend this view against several objections. I conclude that the important moral content of marriage depends on the rights and responsibilities exchanged in the legal marriage contract and on duties arising from a relationship of mutual love and trust – not on promises purportedly made in wedding vows.

Samantha Brennan, University of Western Ontario

The Intrinsic Goods of Childhood

Philosophers have been accused of ignoring children. I no longer think this charge is quite so well deserved. Indeed, there is a growing body of literature in moral and political philosophy which examines the rights of children and the responsibilities we have toward them. However, while we no longer neglect children our philosophical broadmindedness has not expanded to include childhood. Let me explain. Insofar as philosophers pay attention to children we tend to do in terms of the adults they will become. Consider the now classic paper by Joel Feinberg, "A Child's Right to an Open Future." In it Feinberg pushes for children's rights on the basis of the autonomous capacity to choose that children have the potential to develop. Likewise, when we inquire whether a particular practice or policy is good for children our usual entry into that problem is in terms of its long term effects. Thus, when philosophers ask about the morality of corporal punishment or turn our minds to the content of adequate education, we ask how people benefit as adults from this form of treatment or from this kind of education.

We tend to assume that our goal as educators, parents, legislators is to produce the best possible adult we can from the material that is the child. But I think that this gets it wrong. For example, it's not obviously the case that any parenting method which produces good adults would be justified. Suppose that all of our current social scientific research was wrong and that adults who were beaten as children were happier, more successful etc than those who were not. This does not mean that beating children would be required, or even allowed. There are a range of views here. One extreme view might discount all childhood goods in favour of adult goods. A more moderate view is one which counts childhood goods equally. But note that a maximizing across the life span view might get it wrong if the goods of childhood were incommensurable. It seems to me that we owe obligations to the child qua child, not just in terms of the future person she'll become. I have phrased this in terms of negative obligations but one might think that we also have positive obligations to the child as a child regardless of the impact that fulfilling these obligations will have on the adult person she'll become. Suppose that reading to children, or playing with them, did not in fact make a difference to their future reading or relationship skills. Still it might be that parents have a moral obligation to read to and play with their children because it's good for them as children.

So this paper addresses the following two questions:

1. Are there intrinsic goods of childhood?
2. How are we to weigh the goods of childhood against the goods of adult life?

David Ciavatta, Ryerson University

The Family and the Bonds of Recognition

In this paper, I argue for a phenomenologically-based definition of the family, according to which the essence of familial bonds resides, not primarily in specific objective factors (whether they be natural factors, rooted in our genetic, biological, or chemical make-up, or behavioural factors, as classified in economic or sociological terms), but rather in a distinctive, subjective experience of being in an enduring, intimate “relation of recognition” with certain other selves.

I adopt a version of the theory of intersubjective recognition, as initially articulated by G.W.F. Hegel, and then developed more recently by authors like Charles Taylor, Jessica Benjamin and Axel Honneth. According to this theory, the human self can attain an enduring self-identity and sense of agency only in and through its ongoing experience of being actively recognized for who it is by other selves. I argue that, besides meeting economic, reproductive, sexual, and educational needs, the family is above all a forum in which individuals strive to attain a certain kind of personal recognition from other individuals, and that this distinctive experience of recognition is a constitutive element in the formation of human self-identity.

I argue that we can turn to certain schools of psychotherapy in the 20th Century—primarily the existentialist, object-relations, and “family therapy” traditions—for phenomenological research into the precise nature of this distinctive experience of “familial recognition.” Such research suggests that the development of the individual psyche is structured through and through by the profound struggles for recognition that occur in the context of family life, and, indeed, that every individual “internalizes” the intersubjective dynamics of her family of origin within her very relation to herself. I close the paper with a brief discussion of certain common neuroses that, I argue, help to shed light on the way in which even developed adults continue to re-enact, in an unconscious manner, the intersubjective dynamics that characterized their families of origin, thus revealing how profoundly pervasive of our self-identities our familial bonds of recognition can be.

Ben Colburn, University of Cambridge

Autonomy-Promoting Liberalism and Family Relationships

One complaint often made against an autonomy-promoting liberalism is that it sanctions unacceptable interference in family relationships, in the name of promoting the autonomy of children as future citizens. This paper contributes to the proper assessment of those complaints by making clearer precisely what sort of interference this theory of liberalism requires. Contrary to the claims of the

critics of this form of liberalism, the autonomy-promoting liberal is not committed to ensuring that children grow up valuing autonomy. I show that this is a mistake: one can live an autonomous life without valuing autonomy. Nevertheless, the autonomy-promoting state is committed to ensuring that children can grow up to be autonomous. This is not the same thing, but does require that the state limit the authority parents have over their children's upbringing. I suggest, though, that the value of family relationships can be respected consistently with this liberal commitment, so long as there is a compulsory, non-sectarian and autonomy-promoting state education system. I conclude by noting that this will be an unsatisfactory position for some, for whom the sincere pursuit for what they consider valuable necessarily involves bringing their children up in a particular way; and I offer some reasons why we might be prepared to bite the bullet and take those parents' dissatisfaction to be a necessary evil if we are to find a political system which embodies equal respect for both them and their children.

Nat Coleman, University of Michigan, Ann Arbor

School Choice, School Selection, and Equal Opportunity

Harry Brighouse and Adam Swift, both opponents of private and selective schools, think the principle that there ought to be equal chances for equally talented, able and willing children (ECETAW) conflicts with the policies of parental choice of school and school selection of pupils. I agree. But rather than giving up on private and selective schools, we should give up on this conception of equal opportunity.

On the one hand, ECETAW has not received adequate justification from its key proponents. In its locus classicus in John Rawls's *A Theory of Justice*, it is justified with an argument from premises about what counts as luck. However, Rawls fails to show why we should have one standard for dealing with social contingencies and another for dealing with natural contingencies, one standard for the talented and another for the untalented, and one standard for talented adults and another for talented children. For his part, Brighouse attempts to justify ECETAW in his 'Basic Argument' for 'educational equality', relying upon premises about what counts as desert and responsibility. However, his argument can be shown to fall foul of what Susan Hurley has termed the 'Egalitarian Fallacy'.

On the other hand, what little criticism ECETAW has received has been made from controversial premises rooted in some political theory, be that libertarian or egalitarian. I argue against ECETAW from uncontroversial premises about the genus and species of equal opportunity conceptions to which ECETAW belongs. Against the genus, I argue that 'time-indexed' conceptions are arbitrary, since the reasons – if they are good reasons – for adopting a single reference point in time are also good reasons to adopt more than one point in time. Against the species, I argue that it is prudential, rather than moral, concerns that motivate us

to give each individual an equal chance of winning the good at stake, where many individuals have an equally strong claim on some indivisible good. I draw this conclusion since prudential concerns are necessary and sufficient conditions for randomising in such a situation.

An important implication of this rejection of ECETAW is that Brighthouse and Swift should cease to wield the principle of equal opportunity for the purpose of challenging the policies of school choice and school selection. Furthermore, I conclude with an ad hominem argument, noticing that Swift could give up ECETAW without prejudice to his opposition to private and selective schools. Stronger arguments against such schools can be made from commitments to liberty and to fraternity, rather than from a commitment to equality of opportunity. Moreover, if he is to avoid internal inconsistency, Swift must make the stronger arguments.

Daniela Cutas, University of Manchester

Towards ethical (regulations of) natural and 'artificial' parenthood

A distinction is commonly made between 'natural' (via classical, sexual, reproduction) and 'unnatural' (assisted either medically or socially, custody or foster) parenting, on the basis of which regulations are made, regarding the latter, but not the former. Whilst becoming a parent via the 'unnatural' way is unregulated in all European countries (and proposals of regulation raise vehement objections), there are, depending on the state, various criteria of access to 'unnatural' parenting (and their legitimacy is largely welcomed, objections regarding rather one or the other of their particularities). This separation between parenting via sexual reproduction on the one side and all other forms on the other, lacks a correct moral justification and leads to unfortunate consequences on both sides: it allows whatever mistakes and abuses in natural parenting until crushing proof to the contrary (thus harming a countless number of children), and it deprives potentially good parents (and the children they would have adopted/got custody of/fostered) from the chance to become parents (and offspring to them). My claim is that the same presuppositions and principles ought to apply in both cases. In practice, this would mean loosening the criteria and controls that are currently imposed on "unnatural" parenting in many European countries, and empowering people who can parent naturally to make responsible decisions (as well as sanctioning them if they don't). If we accept that (1) parents do not have property rights over children, (2) genetic parentage does not confer any special rights or privileges over one's offspring, and (3) the relationship between parents and children is not a private matter and therefore untouchable, then we are wrong to tolerate ignorance and abuse in one category, whilst submitting the other to invasive scrutiny and eventually denial of the possibility to parent.

Lucinda Ferguson, University of Oxford

Interpersonal Obligation, Spousal Support, and the Social Nature of Intimacy

In this paper I argue that available arguments for the spousal support obligation leave us with an obligation without the necessary interpersonal justification. I suggest how best to accommodate the recognition of the social basis of the spousal support obligation.

I examine spousal support on its own terms, as a justified interpersonal obligation. The legal obligation enforced against an individual to pay spousal support to his or her former intimate partner posits itself as an interpersonal obligation, namely an obligation generated by the two individuals concerned. The very structure of the legal obligation in both Canadian and English law asserts that the governing statutes are doing nothing more than recognizing a pre-existing obligation between the parties. When tested, however, this enforced partiality lacks theoretical coherence. Public policy concerns, such as compensating the female former partner for her reduced earning potential because of structural gender imbalances in the workplace may explain, but are incapable of justifying the legal enforcement of an obligation against one citizen in favour of another. In order for legal enforcement to be justified, the parties must be connected in some special sense. Spousal support turns on the persistence of a connection that has at that very moment been severed by the end of the marriage or cohabitational relationship.

The obligee's denial of obligation makes it difficult to draw on conventional arguments for partial, or special, responsibilities. Yet, prevailing legislation and case law analysis generally rely upon one or more reductionist arguments for partiality. I explore in turn the potential for various of these arguments to justify spousal support, particularly the notion of loss and compensation for loss prevalent in the American Law Institute's recent proposals, as well as conceptions of choice and consent, and reliance. I reject each of these accounts as failing to explain case law outcomes and individuals' felt obligations. As a result of this analysis, I suggest that, if spousal support is to be accommodated as an interpersonal obligation, it must be understood as distinct to all other interpersonal obligations currently recognized in law such as the tort law obligation to compensate for certain types of injury resulting from negligent conduct, liability for breach of contract, and liability in unjust enrichment.

I also reject a non-reductionist approach to spousal support, which suggests that the relationship itself, taken as a whole, gives rise to and sustains the obligation beyond the formal termination of the parties' connection. I propose that the answer to our justificatory quandary lies in the recognition of the social nature of the support obligation, and the interplay of this basis with the unique roles played by notions of risk and luck in the familial context.

Erica Haimes, University of Newcastle-Upon-Tyne

Applied philosophy, sociology and families: making connections?

A proliferation of morally challenging circumstances in contemporary societies arises from developments in, and applications of, genetic and reproductive technologies. Much debate concerns the implications of these developments for our understandings of families and kinship, and of the responsibilities and obligations that arise from different forms of ‘relatedness’. The last ten years have seen a rapid growth in sociological interest in such matters: what was seen as the domain of the ethicist has been opened up to social science analysis. However, it is also apparent that growing opportunities to work together, in the same field, present challenges for both sociologists and ethicists, however willing they are to attempt to overcome these in pursuit of more effective analyses and critical engagement with policy and practice. This presentation uses a number of case studies of recent and ongoing research in reproductive and genetic technologies to examine some of these challenges and to explore one possible theoretical framework through which they can be diminished: that of a ‘phronetic’ sociology.

Jonathan Ives, University of Birmingham

A framework for the acquisition of paternal responsibility and rights: the philosophical fruit of an empirical labour

There is a burgeoning literature on the subject of paternal rights and responsibilities (PRR), which seeks to establish a morally legitimate grounding for the acquisition, and withholding, of PRR. Throughout, the aim is to produce a theory that will ‘fix’ fatherhood for a man, or in some instances a group of men, and bestow or withhold the associated rights and responsibilities on the basis of who ‘the father’ is. Within this debate there is a tension between ‘genetic’ and ‘social’ accounts of PRR, which some commentators consider mutually exclusive.

This paper outlines a theory of paternal rights and responsibility based on empirically gathered ‘common sense’ moral notions. After briefly surveying contemporary theories, including ‘intentional’, ‘causal’ and ‘genetic’ accounts, and arguing that they are not adequate, it offers a novel framework that seeks to reconcile common sense with a rigorous philosophical theory. This framework is informed by empirical data gathered for a Wellcome Bioethics funded project looking at how men frame paternal rights and responsibilities, and might be described as an endeavour in ‘Empirical Bioethics’, seeking to ground bioethical debate in ‘real life’.

In this paper I propose a separation between ‘material responsibility’ and ‘paternal responsibility’, of which only the latter is a marker of ‘fatherhood’ in any meaningful moral sense. Material responsibility, it is argued, results from

a causal relation, but it is limited to providing ‘compensation’ for one’s actions, and the acquisition of this kind of responsibility is not a marker of fatherhood. Paternal responsibility, conversely, is acquired through choosing to be father, and is a marker of morally significant fatherhood. This distinction permits a number of, normally conflicting, independent normative claims such as ‘sperm donors should not be considered fathers’, ‘men should be responsible for their offspring’ and ‘fatherhood is more than a drop of sperm’.

Hugh LaFollette, University of South Florida

The Morality of Wishing

Suppose I wish that some horrible ill would befall another person: I wish that my colleague would develop cancer, that my neighbor’s house would burn down, or that some politician I abhor would die slowly and painfully. Are these wishes morally wrong? Most people would think so; they would at least think these wishes were a sign of a defective moral character. However, explaining precisely why is difficult. Especially since many of us have engaged in what appear to be morally similar forms of wishing. Perhaps, though, these latter forms of wishing are relevantly different from the former, in part because they often involve favoring friends and family over strangers.

Jacqueline A. Laing, London Metropolitan University

The new reproductive technologies And the family

Increasingly now we find IVF clinicians and social commentators alike defending the view that reproductive liberty is the defining principle governing questions relating to the use of the new reproductive technologies (NRTs). Accordingly it is thought to be an unjust infringement of individual liberty for the state to interfere with individual or group freedom artificially to produce a child. This has important implications for the concept of the family. A fundamental assumption behind the unfettered application of the principle of reproductive liberty is the related idea that the concept of the family is socially defined. Reproductive liberty has become the trump card of a highly profitable industry in human life and a powerful scientific research lobby. Even the negligible child welfare regulations of the Human Fertilisation and Embryology Authority are rejected by those who believe that the freedom artificially to produce a child is essentially a private contract between the infertile commissioning parties and their technical providers.

It is my contention that a proper evaluation of the NRTs and of the relevance of liberty and personal autonomy will be sensitive not only to the desires of this generation i.e. ‘commissioning parties’ of NRTs and scientific research interests,

but also to public policy considerations. AR has implications for the common good, by involving matters of human reproduction, family, kinship, race, parenthood and identity. I argue that the principle of reproductive liberty must be limited by considerations relating to the common good. This necessarily draws us into a discussion of the interests of future generations. In considering the question of family and kinship, I discuss the significance of biological or blood relatedness. I argue that societies and cultures are not simply made up of people here and now. They are made up of both existing people and future generations. Unfettered use of the principle of reproductive liberty gives illicit precedence to the desires of present generations over the natural relationships and interests of generations to come.

Lawrence A. Lengbeyer, United States Naval Academy

Children, Gratitude, And Respect: Filial Piety As A Vice

Popular and philosophical thinking often holds that filial piety—encompassing things like care, love, emotional support, material support, attention, protection, appreciation, honor, reverence, respect, deference, or loyalty—ought to be granted to virtually all parents by their children. Some of the most persuasive accounts regard such caring filial conduct as a virtuous, and perhaps morally obligatory, response of gratitude for the remarkable range of important goods that parents have bestowed for the good of their children.

In this paper, we will see that such conceptions misguidedly exaggerate just how much filial gratitude is appropriate, because they overlook relevant general defeasibility conditions for appropriate gratitude: (i) where the benefits bestowed are unwanted; (ii) where the benefiting is accompanied or followed by mistreatment of the beneficiary; (iii) where beneficiary displays of gratitude meet with obnoxious receptions; and (iv) where the role-required benefiting suffers from an inexcusable incompleteness that could be avoided at little net cost, and the provider knows or should know both these facts. These conditions, in particular (iv), are satisfied, alas, all too commonly by parents in our society by virtue of their failure to accord due respect to their children. Parents, it will be argued, owe their children not merely elemental, but heightened respect—in essence, a heedfulness of the details of their particular points of view—but instead often treat them with disrespect.

With our refinements to the conditions for appropriate filial gratitude, it will be evident (though collection of supporting empirical data would certainly be in order) that many, many real-life cases require less, or no, filial piety from children—in which case its provision, if produced by a general or domain-specific deficiency in assertiveness or self-respect, would seem to bespeak a vice rather than a virtue on the part of the children.

Thornton C. Lockwood, Jr., Fordham University

The Nature and Moral Status of the Family in Aristotelian Social Thought

Within the tradition of Aristotelian social thought, the family is an association or community based in nature with a significant moral and political status. The family—or household—is both a source of the moral citizens of society and the basic component of which political society is composed. Furthermore, its “natural” basis seems to be the source of obligations within the family—between parents and children or between spouses—that are prior to duties we have to other human beings. Thus, the family seems to enjoy privileged status both as a natural institution within society and as a source of natural duties. At the same time, “the family” itself has a history which calls into question its status as an institution which exists by nature. Furthermore, the notion of “natural duties” which are prior to the duties which we have to others as such seems to conflict with modern notions of impartiality. To examine these tensions, my paper examines in what sense the family is natural and what significance its naturalness has for moral obligations in four authors writing within the tradition of Aristotelian social thought. I first examine the naturalness and moral status of the family in Aristotle’s own ethical and political writings to determine in what sense “nature” serves as a source of normativity. I then contrast Aristotle’s understanding of the family with that given by the 13th century theologian Thomas Aquinas, in selections from his *Summa Theologica*, and that given by Pope Leo XIII, in his papal encyclical on social justice, *Rerum novarum* (1891). I argue that although both Aristotle and this later Aristotelian tradition draw upon the naturalness of the family as a source of normativity, they do so equivocally. By means of contrast, the paper concludes with an examination of the moral status of the family in the writings of the contemporary Aristotelian Martha Nussbaum. I argue that Nussbaum presents a more plausible way of drawing upon nature as a normative concept in contemporary moral and political debate about the family.

Mianna Lotz, Macquarrie University

Does it matter why we parent? The moral significance of procreative reasons

Advances in reproductive biotechnology – in particular in pre-implantation genetic screening and diagnosis – have occasioned renewed interest in the moral justifiability of the reasons that might motivate the decision to have a child. The capacity to screen and select for desired blood and tissue compatibilities has led to the much-discussed ‘Saviour Sibling’ cases in which parents seek to ‘have one child to save another’. Heightened interest in procreative reasons is to be welcomed, since it prompts a more general philosophical interrogation of the grounds for moral appraisal of reasons-to-parent, and of the proper limits

of procreative liberty. In this paper I offer suggestions regarding the terms and grounds on which procreative reasons should be evaluated. I start with the claim that it is conceptually impossible to have a child for its own sake or 'good', and thus procreative reasons are unavoidably 'other-regarding' in nature. I argue, further, that procreative reasons are not pernicious for being so, since we can still differentiate good from bad other-regarding reasons. Proposing a distinction between the verdictive and the predictive dimensions of reasons, I consider the merits of the claim that in the case of procreative reasons we should concentrate primarily upon their predictive dimension. To do so is to focus moral evaluation on the question of what – if anything – the content of procreative reasons reveals about a would-be parent's expected capacity to nurture and provide for a child. I evaluate the predictive approach alongside its alternative, and conclude with some discussion of the state's role in assessing procreative reasons.

Bertha Alvarez Manninen, Arizona State University

Pleading men and virtuous women: Considering the role of the father in the abortion debate

Far too often in our society, the input of a potential father is not deemed relevant in a woman's abortion decision. Men, however, can suffer emotional strains due to the abortion of their potential child, and given this harm it seems that morality must make room for a potential father's voice in the abortion decision. I will argue that a man cannot have the right to veto a woman's decision to procure an abortion, yet there may be times where a woman may exercise her right to an abortion in a manner not indicative of a virtuous character. This is especially a danger in the face of a dissenting man who may suffer greatly if his potential child is aborted and thus I will delineate circumstances where a virtuous woman would concede to carrying a fetus to term in order to give a man the child he so desperately desires. In addition to using virtue ethics to make the argument, I will incorporate certain aspects of care ethics in order to further what may seem to some to be a rather contentious claim.

Rita Manning, San Jose State University

Reason, Sentiment and Family Obligation

Moral sentimentalism, the view that our sentiments rather than reason alone are the basis of moral obligation, has reemerged as a defensible account of moral obligation. Defenders of an ethic of care have cited Hume as one source of their moral philosophy, while Michael Slote appeals to moral sentiment as the foundation of his virtue ethics. This debate between moral rationalism and moral

sentimentalism has important consequences for accounts of family obligations. Moral rationalists, with their commitment to impartiality, have difficulty providing a defense for family obligation, or simply reject the idea that anyone has a prima facie special obligation to family members. Moral sentimentalists, on the other hand, are often criticized for their partiality towards intimates and have some difficulty providing an account of obligation towards strangers. In this paper, I shall argue that what is needed is a broader understanding of the concept of obligation. I shall argue that obligations can be created in a number of ways, including the following: through implicit or explicit promises, through the perception of need, as a response to harm, and as reciprocity. I then use this broader understanding of the foundation of obligation to defend a moral sentimentalist account of family obligation. I shall show that this account is not susceptible to the criticisms often made of sentimentalist accounts. It does not require us to deny obligations to strangers. Rather, we can use this account to explain why we have obligations to strangers, as well as obligations to family members. It does not require that we sacrifice our own projects in order to support the whims of our intimates, nor does it require that we maintain our existing relationships regardless of whether they are healthy or functional.

Joseph Millum, National Institute of Health Clinical Centre, USA

How to be a responsible parent

It is generally believed that men have parental responsibilities on the basis of their biological relationship to their offspring. If a man engaged in voluntary intercourse that resulted in pregnancy, he has a moral duty to support the resulting child. This applies even if the man did everything he is expected to do to avoid pregnancy. But this conflicts with more general principles of desert. Further, it implies that women have a moral power that men lack: the power to acquire or decline parental responsibilities through abortion. In turn this means that they can thereby assign responsibilities to or decline them for the biological father. This seems unfair.

In order to resolve this problem this paper develops a conventional-acts theory of the acquisition of parental responsibilities. On this theory convention determines which acts constitute taking on parental responsibilities. This contrasts with theories that assume parental responsibilities are natural duties, i.e. duties whose existence is independent of social conventions regarding them. I argue that such views cannot account for parental responsibilities even in unproblematic cases of parenthood. I give positive support to the conventional-acts theory through analogies with promising and tacit consent. Moreover, parenthood is not the only case where responsibilities are taken on in this way: the conventional-acts framework plausibly applies to the acquisition of other role responsibilities, such as doctors' duty to treat patients. Having argued for this theory of parental

responsibilities, I apply it to the case of reluctant fathers. I argue that the widespread belief that biological fathers are responsible for their offspring means that the act of intercourse normally constitutes taking on responsibilities for any resulting children. Finally, I suggest that we should distinguish the question of whether parental responsibilities have been acquired from criticisms of the fairness of conventions through which they are acquired.

Pete Morriss, NUI Galway

Marriage and Liberalism - An Underexplored tension?

This paper suggests that liberals should be worried about the nature of current marriage laws in all the current supposedly liberal societies. In these societies, the state determines the most important part of everybody's marital arrangements: by, for instance, banning polygamy and imposing its own regime for allowing divorce. It also often changes these arrangements, and does so retrospectively. I argue that liberals should find this a shocking infringement of liberty. I then consider an alternative, anarchist, model of marriage, and suggest that there are standard liberal reasons for rejecting this: state enforcement of agreements, here as elsewhere, can be beneficial. The main section of the paper then looks at possible arguments for not recognizing unorthodox quasi-marital agreements, and concludes that they are weak. I suggest that a truly liberal state should treat marital agreements much as it does any other form of contractual agreement, and allow freedom of contract in the sense of the freedom to determine the terms of the contract (subject to standard limitations). A final, historical, section suggests that in fact contemporary marriage law has developed out of a religious understanding of what marriage is; however, the standard liberal separation of church and state should not tolerate the legal enforcement of such religious perspectives.

Serena Olsaretti, University of Cambridge

Family responsibilities and liberal equality

Should our political and economic institutions offer support to the family for raising children? The dominant contemporary liberal egalitarian theory of justice seems to give a negative answer to this question. It holds that a society treats all individuals with equal respect and concern when it allows for inequalities that reflect their different choices and ambitions (see Ronald Dworkin 2000, G.A. Cohen 1989). Since most parents choose to have children and/or pursue parenthood as a life project they identify with, they are justifiably held responsible for the burdens of parenthood and have no claims to assistance from others in raising children. Indeed, our society would fail to treat non-parents as equals if,

under just conditions, it took resources away from them to subsidise child tax credits, education, and other forms of assistance to families.

This paper argues that a defensible liberal egalitarian theory that holds individuals responsible for their choices need not deny assistance to parents. The paper argues for this conclusion in three main steps. First, it rejects a recent attempt at showing that liberal egalitarianism can support assistance to parents, which appeals to all individuals' claim to equal autonomy (Anne Alstott 2004). Second, the paper defends an original version of the public goods argument for assistance to parents: children are a public good of an especially important kind, in that many of the valuable projects individuals (including non-parents) pursue presuppose the continuity of social practices and institutions over time. Such continuity requires that there be people who bear and rear children. Third and finally, the paper shows that, once we unpack the notion of responsibility that is unquestioningly assumed in these debates, the argument it offers in favour of support to families is compatible with holding parents responsible for their choices.

Adejoke O. Oyewunmi, University of Lagos

Socio-Cultural, Economic and Legal Dimensions of Child Labour - A Perspective on the African Family

Traditional African societies placed much value on child work, as a social and culturally acceptable, and indeed expedient way of preparing children for the challenges and responsibilities of adulthood. At that time, child work took place within the framework of the extended family system, where children were guided, chastised and otherwise nurtured, not only by their parents, but also by other relatives and members of community. However, urbanisation, and the consequent decline of the extended family system, coupled with the challenges wars and religious/ethnic conflicts, poverty, and ignorance confronting the present-day African environment have all combined together to rob families of the sense of unity and cohesiveness hitherto enjoyed, and families, particularly children and women appear to be the worst hit. This, coupled with economic hardship in many countries, has forced many families below the poverty line, with some resorting to the economic exploitation of their children as a way to shore up their finances. Thus, child work has given way to child labour, which manifests in the phenomenon of child slavery, child trafficking for forced or compulsory labour (including military service and domestic child servitude). The African girl child is particularly vulnerable, as she lives under the constant threat of sexual, physical and emotional abuse, and many end up emotionally and physically damaged, and may be infected with diseases such as HIV and other sexually transmitted diseases. Thus, the average African child living under these conditions is denied the joy of living fully and developing his/her potentials maximally, and this challenges the

ability to function as responsible and capable adults. This has implications for future family and societal well being.

This paper examines the economic and socio-cultural issues involved in child labour, from an African perspective, and the implications for future families. It also discusses some of the efforts made by governments at different levels to deal with the challenges, including statutory and constitutional provisions and international instruments, as well as the enforcement machineries. It opines that these have largely been ineffective because the provisions are somewhat divorced from the realities of Africans to whom many instances decried as constituting child labour / abuse are actually considered an inherent part of the socio-cultural values and customs. It concludes that to successfully stem the tide of child labour, while at the same time preserving the values of child work, there is a need to aggressively implement a multifaceted approach, a critical component of which is an effective legal and enforcement framework, coupled with socio-cultural re-orientation,(including promotional efforts in churches, mosques and other religious groups, which are fast replacing extended families), and the re-integration of affected children into families and societies.

Muireann Quigley, University of Manchester

A Right to Reproduce: Interests, Liberty, Equality, and Brute Bad Luck

The advent of the new reproductive technologies (NRT's) or the assisted reproductive technologies (ART's) has thrust the issue of reproductive liberty into a whole new dimension of debate. In this paper I am not going to discuss the moral rightness or wrongness of this technology but am going to investigate the idea of reproductive liberty itself. I specifically want to discuss the so-called right to reproduce as a part of the right to reproductive liberty, which, itself, is usually seen as deriving from a more general right to liberty. It is claimed that certain practices or policies interfere with a person's reproductive liberty. The denial of treatment using NRT's such as in vitro fertilisation (IVF) is an example of this supposed interference. In such cases, in addition to a right against interference with reproductive matters, there is purported to be a positive right to procreation or to raise children, and to the assistance required to achieve this.

Conventional candidates for a right to reproduce are justified on the grounds of either overriding interests (interest theory of rights) or the necessity for protected choices (choice theory of rights). I reject these arguments looking instead at whether or not a right to reproduce can be vested in the concept of equality of opportunity. I look at whether or not people who choose to have children should have an equal right to the 'goods and opportunities' that society has to offer regarding this, including the reproductive technologies when applicable. This entails looking at infertility as an instance of brute bad luck and asking whether or not there is a right to be compensated (through access to the ART's) for this.

Ingrid Robeyns, Radboud University Nijmegen

Are children public goods?

This paper is part of a larger project on the question what society owes to children and parents as a matter of social justice. On what grounds could one justify that (part of) the cost of having children should be born by the political community (which includes the voluntary and non-voluntary childless), rather than by parents themselves?

Philosophers and social scientists have proposed a number of arguments to justify support for parents and children, including child-centred arguments (e.g. children should be supported qua children, since they are a vulnerable group that needs to be protected), or parent-centred arguments (to protect the personal autonomy of parents (Alstott 2004) or based on a more perfectionist account of why parenthood is a desirable good, as argued by Brighouse (2005), for example.)

This paper will, however, focus on another alleged ground for support for parents and children which is much more dominant in political discourse: children should be considered to be like public goods whose presence will benefit all in the future (Folbre 1994). I will analyse the premises of this claim, and the validity of the argument. In addition, the paper will analyse the strengths and limits of using economic concepts for thinking about parental justice, both from an internal and external perspective. If we work within an economic discourse, are children then most appropriately conceptualised as future public goods, or rather as choices which create externalities? And what (if any) difference does that make? Finally, is it appropriate to use economic terminology for thinking about the grounds for parental distributive justice, and what could be the (instrumental) advantage of using such economic discourse, rather than the concepts and arguments offered by moral and political philosophy?

David Shaw, University of St Andrews

Rawls, Children and Abortion

John Rawls famously asserted in a footnote to *Political Liberalism* that no reasonable political system would prohibit abortion. He later clarified his comments, but he continued to believe that a society's stance on abortion could be decided without recourse to comprehensive moral doctrines. The three aims of this paper are to argue: (i) that a society cannot decide on its abortion policy using purely political values; (ii) that Rawls' stances on abortion in his two major works are incompatible; and (iii) that neither of Rawls' conceptions of justice could permit abortion.

This paper will argue that it is impossible for a society to decide whether to

permit abortion without making moral judgements. Rawls argues that the three important political values concerning abortion are “due respect for human life, the ordered reproduction of political society over time, including the family in some form, and finally the equality of women as equal citizens.”

It emerges that, in weighing these values, Rawls himself was guilty of importing a comprehensive moral doctrine to the sphere of public reason.

This paper will also illustrate the contradictory stances on abortion proffered by *A Theory of Justice and Political Liberalism*. Whereas the latter argues that any reasonable balance of values will permit abortion, Rawls’ earlier work implies that we owe justice to the fetus. An analysis of Rawls’ views on children and future generations will help to clarify this seeming contradiction, via an examination of the moral status of premature babies and fetuses. Differences between the moral status of the embryo and that of the fetus will be analysed and applied to this problem.

Ultimately, the exploration of the role and rights of children in Rawls’ two schemes reveals that the familial and intergenerational obligations generated by his theories tend to rule out abortion. A rigorous interpretation of both Rawls’ early and later work leads to the conclusion that abortion would neither be chosen as a permissible policy by those in the original position, nor permitted by those engaged in political liberalism’s process of public reason.

Mark Sheehan, University of Oxford

Unnatural Choices and Unnatural Children: Designer children and interfering with nature.

Modern biotechnology has brought with it the possibility of significant changes to the way in which human beings are able to reproduce and the kinds of reproductive options that are available. One quite extreme example is the possibility of ‘designer children’. A very common response to this possibility and to these technological developments generally is to claim that they are wrong because they constitute interferences with nature; that they are violations against nature.

Unfortunately this very strongly felt claim is rarely developed. More often than not the claimant takes this to be the end of the matter and no further discussion is possible. In this paper I will consider claims of this kind and their best defence. I will then explore the way in which this defence might work in the case of designer children. My conclusion supports what I take to be a moderate view that some preimplantation interventions are acceptable — for instance those designed to avoid serious diseases — and some are not — for example, those designed to ‘enhance’ the intelligence or capabilities of the child.

Part of this exploration will examine the idea that parenting and the choices surrounding parenting are best understood in the context of background conditions that help to define the practice. These background conditions give the achievements

and choices of parents meaning and significance. They are those against which or in the light of which the achievement makes sense. Importantly, ‘interfering with nature’ claims involve situations where these background conditions are no longer fixed. The result is that these achievements and choices are undermined and lose the sense that they would and ought to have had. So claims that the genetic enhancement of children is interfering with nature look to be claims about the kinds of contexts in which choices are made and can make sense.

Sally Sheldon, University of Kent

Fragmenting Fatherhood

A number of commentators writing in sociology, philosophy and law have noted a ‘fragmentation’ of the family. As a matter of empirical fact, such fragmentation has tended to result in fracture lines more deeply drawn in the context of fathering, with post-separation families most likely to divide to leave the mother as the residential parent and the genetic father living apart from his children and potentially sharing a fathering role with the mother’s new partner. Fragmentation is also particularly clear in the context of a legal system in which marriage has historically been a crucial tool for attaching men to children but which is now faced with significant numbers of extra-marital births. In such a context, law faces difficult choices in determining how to recognize men’s attachment to children and has relied on various factors (notably genetic links, social parenting, the relationship with a child’s mother, the intention to create a child) at different times and in diverse contexts.

In this paper, I will trace some of the different bases on which the legal status of ‘father’ and various paternal rights and responsibilities have been awarded in an attempt to tease out the various values and assumptions at play. I will use this as a basis for raising the a number of normative questions, including who should count as a ‘father’; on what basis should law recognize a man as such; and whether a child should be able only ever to have one father.

Bonnie Steinbock, University at Albany/SUNY

Wrongful Life and Procreative Decisions

Many people would agree that if a child is going to be born under very disadvantageous and unavoidable conditions, it would be wrong to reproduce, and indeed unfair to the future child. However, it turns out surprisingly difficult to support this claim, once we realize that nothing can be done to prevent the disadvantage, except to prevent the child’s birth. To capture this unique feature, David Heyd terms these cases “genesis problems.” Genesis problems raise the

question, Can there be an obligation to avoid reproduction, out of concern for the welfare of the child? In this paper, I defend the common-sense intuition that the welfare of offspring is always a morally relevant consideration in procreative decision making in light of the puzzles raised by genesis problems.

Judith Suissa, University of London

Parents and Parenting: Recovering the Philosophical Terrain

There is currently a great deal of debate in the UK media about parents and parenting. Following on from existing policy initiatives, the government recently announced plans to establish a National Parenting Academy to train staff to “deliver high quality parenting support” and “support the government’s parenting agenda”. Meanwhile, the perception of parents as powerless to bring up their children has seen a proliferation of popular literature and TV programmes such as “Supernanny”, promoting “good parenting”.

Critique of these trends generally takes the form of a political argument against the dangers of the nanny state, implying that the state has no right to intervene in family life. Yet what is missing from this debate is a normative discussion which focuses on the ethical aspects of the parent-child relationship. In a climate where education is equated with schooling, the role of parents is conceived as a functional skill. Accordingly, both popular and academic literature on parenting is written from an overwhelmingly empirical and descriptive perspective, focusing on “what works”. I suggest that the work of philosophers of education can and should be brought to bear on the realm of the parent-child relationship, reclaiming the educational, and thus inherently normative, aspects of this relationship. While most philosophical work on education is confined to the public realm of institutions, drawing its language and ideas mainly from political philosophy, other philosophers have developed rich accounts of the aims and meaning of education. Acknowledging that the parent-child relationship is, amongst other things, an educational one, will allow us to draw on such philosophical resources in creating a space in which this relationship can be theorised in a way which takes account of its conceptual and normative aspects, and thus offers a more adequate account of what it means to be a parent.

Adam Swift, University of Oxford

Legitimate Parental Partiality

The paper discusses the conflict between the family and equality. We offer a ‘relationship goods’ account of the value of parent-child relationships and claim that this yields a helpful framework for thinking about the ways in parents may

legitimately act partially in favour of their children. Our account does not tell us to what extent parents may properly pursue their own or their children's interests, compared to the interests of others, but it does identify and elaborate the particular realm of value that is the family, and derives from it an analysis of what kinds of partial activities and stances must (and need not) be permitted in order to realise it. Our aim is to recognise the distinctive role of familial relationships for human flourishing while insisting that such relationships not become excuses for abandoning seriously egalitarian goals.

Femke Takes, Radboud University Nijmegen

The child's best interests' in the debate on gamete donation

In this paper, I analyse the debate on gamete donation as this has been conducted in the Netherlands in the second half of the twentieth century. In the first part, I situate this debate in its historical and cultural context. The top three issues relating to 'the child's best interests' were secrecy, donor anonymity, and the question whether a child needed to have both a father and a mother. I conclude that there are a number of striking discontinuities in this debate. Conceptions of 'the child's best interests' underwent a radical swing. Where it was first thought proper to conceal the truth from the child, it was then considered important to share this information with the child. A child has the right to know its origins and its genetic pedigree.

In the second part, I analyse and evaluate this changed conception of 'the child's best interests'. I do so using several views on the child derived from the debate on children's rights. The first such view is derived from the children's liberation movement, which takes the child to be a suppressed citizen and puts freedom rights first. The second view centralises the child's future autonomy and its development into an autonomous citizen. The third view takes issue with the dominance of autonomy and centralises fulfilment of the child's needs rather than the protection of its rights. These three views each provide a different interpretation of the child's moral and political status, within the overarching spectrum of autonomy and protection.

I conclude that the liberation perspective has played a dominant part in changed views on secrecy and donor anonymity, and that the developmental perspective has served as a ruling ideology. The outcome of the debate on gamete donation is the result of a view of the child that focuses on autonomy and citizenship and that frames the child's interests in a legal sense. Finally, I annotate this view by pointing out some effects. I champion a view which I would call 'the embedded child'. Such a relational view goes beyond what can be articulated in law and will help to establish a more balanced interpretation of 'the child's best interests' at the practice and policy levels of gamete donation.

Stanley Vodraska, Canisius College, Buffalo

The Human Family is not essentially a Civil Institution

The human family cannot be a civil institution (except accidentally) for the reason that “the family” and “civil institution” belong to different logico-metaphysical genera. I take “human family” to be a subclass of “family”, which I understand to be “a set of cross-species practices that aim at reproduction by means of courtship, union of male and female, care of little ones, and such a kind and degree of (economic) self-sufficiency as to achieve these things”. In turn I take “family” to be a subclass of “cross-species practices that aim at reproduction”, and this to be a subclass of “cross-species practices”. The remote genus of “human family” seems to be “cross-species practices”.

On the other hand I take “civil institution” or “civil society” to be one subclass of “species-specific practices that aim at conservation of rational life”. In turn I take this to be a subclass of “species-specific practices”. The remote genus of “civil institution” or “civil society” seems to be “species-specific practices”. It then follows that the human family cannot be essentially a civil institution or civil society for the reason that the human family does not belong, as to its genus, to “species-specific practices”.

The human family, although sharing in cross-species familial practices, is different from them in one sense. In the human family the cross-species familial practices are or should be “controlled” or directed or ordered by practical reason, that is, by habits of virtue. So the human family may be said to be, in the ideal case, a set of cross-species practices that aim at reproduction by means of virtuous courtship, virtuous union of male and female, virtuous care of little ones, and virtuous kinds and degrees of household self-sufficiency.

Mark Vopat, Youngstown State University

Justice, Religion and the Education of Children

Parents are generally viewed as having broad discretion when it comes to the decisions they make for their children. With the exceptions of outright abuse and neglect, society does not interfere with many of those decisions. Nowhere is parental decision making considered more sacrosanct than in the area of the religious upbringing of children. Parents are assumed to have the right to instill their particular religious beliefs and practices in their children, provided that this inculcation does not harm the child. While granting parents this authority, society generally refrains from evaluating the particular content of the beliefs being transmitted. Nor does it consider the long-term consequences for children this deference to parental authority entails. Religions or religious sects that preach intolerant, sexist, misogynistic, or racist ideas to children are generally free to do

so under the guise of the religious freedom due to parents.

While wide deference has been given to the religious convictions of parents, I believe this deference is based upon a number of mistaken views regarding nature of the parent-child relationship. First, the supposed right to educate a child within a religious tradition or the correlative view that a child's education may be restricted in order to promote or protect a particular belief system, is based upon a conflation of a parental rights with parental privileges. Secondly, there has been a tendency in both society and the philosophic literature to pay little more than lip service to the legitimate interests of children. Beginning with the assumption that a theoretical balance needs to be struck between the interests of parent and those of children (or in some instances a balance between children, parents and the state), theorists such as William Galston and Shelly Burt quickly find their attention focused on the rights or interests of parents and the state, with little serious attention given to children.

Lying at the heart of these issues is a question about the extent of parental power. In this paper I argue that parental rights do not include the right to pass on a particular religious view, though we may view parents as having a privilege to do so. The difference between a right and a privilege carries with it serious implications for parental control in the area of education. Parents may do their best to instill their particular set of beliefs in children, but if children encounter alternate or even contrary worldviews or ways of living in school, parents are not justified in shielding children from such influences. The religious freedom of parents does not justify their curtailing their children's education on religious grounds.

Bryan R. Weaver and Fiona Woollard, University of Reading

Forsaking All Others: The Norm of Monogamy

We consider whether it is reasonable for partners to hold each other to a norm of monogamy. Despite the revolution of sexual norms in recent decades, monogamy remains a default norm. Partners are expected to refrain from some range of sexual activity outside the relationship. Yet the value of monogamy is mysterious. A norm of monogamy requires an agent to forgo opportunities for two things of value—sex and erotic love—in exchange for his partner doing the same. But why is this mutual-restriction desirable?

A norm of monogamy involves two links. Sex is linked to erotic love: sex is only permitted within relationships with this kind of emotional intimacy. Erotic love is linked to exclusivity: partners are only permitted one relationship with this kind of intimacy. We consider both links.

Our discussion of the first link focuses on the intimate nature of sex. The intimacy involved in sex can lead partners to connect sex with the emotional intimacy in a relationship, thereby imbuing it with unique significance. If sexual

activity in general is imbued with this significance, then sex without emotional intimacy is seen as a parody of sex within the relationship and so sex is restricted to relationships of emotional intimacy. This is one of several reasonable ways to respond to the value of sex.

Our discussion of the second link focuses on the value of deep, long-term partnerships. These partnerships require substantial investment. Other relationships of erotic love can deflect important resources, so it is reasonable to restrict such relationships. This argument does not justify the restriction of non-erotic relationships and projects as these form distinct aspects of a well-rounded life.

Our conclusion is conciliatory. If the series of conditions of a relationship we consider obtain, then monogamy is appropriate. If they do not, then non-monogamy is appropriate.

Anthony Wrigley, Keele University

Harm Claims in Wrongful Life Cases?

Cases of ‘wrongful pregnancy’, ‘wrongful birth’ and ‘wrongful life’ present one of the most philosophically interesting aspects to legal tort cases for damages in reproductive ethics. The different aspects of these cases mean that whereas in the first two it is parents who bring harm claims and seek damages, often against a third party; in the final case it is the child (or at least on someone on behalf of the child) who brings the harm claim. I focus on two interesting aspects of the wrongful life case: whether the child in question has been harmed and whether there is a case for claiming damages, either against parents, third parties, or society. Crucial philosophical components of wrongful life cases in particular revolve around a counterfactual account of harming and the pervasiveness of the non-identity problem in order to deflect the possibility of harm being attributable to the child born. I examine how advances in the metaphysics of modality and personal identity allow a clear account of how the child born in wrongful life cases can, indeed, be the victim of harms and how the non-identity problem dissolves in cases where a counterpart-theoretic view of modality is adopted. I go on to consider whether wrongful life cases are the sorts of things for which damages – as might be understood in the tort law system – can be awarded even though there may be clear cases of harm.