

On the Supposed Uniqueness of Parenting

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Questions regarding the value of the family and the norms that ought to regulate child-rearing are interesting and difficult and the answers to these questions can yield very radical conclusions for public policy. Practically speaking, rather a lot turns on these answers, including whether we should rear-children in orphanages and abolish the family and whether we should re-distribute children, *en masse*, to those parents who will do the best job. If the family is not very valuable, or if what is valuable about it can be obtained from some other sources, then, when it conflicts with other values, such as equality of opportunity, we ought to abolish the family. If, however, the family is especially valuable, then we should support policies that aim to encourage and support family-life at the expense of other values.

Harry Brighthouse and Adam Swift are amongst the greatest contributors to our understanding of the value of the family and its role within theories of justice. They both defend family-friendly policies by appealing to the distinctive or unique contribution parenting can make to the flourishing of some adults to do so. For Brighthouse and Swift, the special importance of parenting helps ground parental rights and sets limits on legitimate parental partiality.¹ In a recent paper, Daniel Weinstock and Jurgen De Wispelaere make use of Brighthouse and Swift's account of the value of the family to criticise Hugh La Follette's controversial recommendation of licensing of parents as a policy.² The authors appeal to this same special value of the family to argue that parenting is disanalogous to other activities that should be licensed, such as driving, because while one can find an adequate substitute for driving, for example public transport, one cannot find an adequate substitute for being a parent. Whether any of these arguments succeed depends on the plausibility of the claim that parenting is unique or distinctively valuable.

In this paper I provide an examination of the claim that the value of being a parent is unique and that this uniqueness has the implications it is thought to have. I will begin, in section 1, by explaining the role this claim plays in the arguments discussed. I will then consider some objections to the claim that parenting is unique. Conceding that parenting may be unique, I go on to consider whether this uniqueness is of the right sort to support Brighthouse and Swift and Weinstock and De Wispelaere's conclusions. Specifically, I examine whether the uniqueness of parenting enhances the importance of the activity relative to

¹ See Harry Brighthouse, and Adam Swift, *Family Values*, (Princeton University Press, forthcoming); Harry Brighthouse and Adam Swift, "Parents' Rights and the Value of the Family", *Ethics*, 117 (2006), 80-108 and Harry Brighthouse, and Adam Swift, "Legitimate Parental Partiality", *Philosophy and Public Affairs*, 37 (2009), 43-80.

² Jurgen De Wispelaere and Daniel Weinstock, "Licensing Parents to Protect Our Children?", *Ethics and Social Welfare*, 6:2 (2012), 195-205.

others or else gives it some other special normative status. Finally, I revisit the particular uses that have been made of this claim, in Brighthouse and Swift and Weinstock and de Wispelaere, to see what difference it makes to their arguments.

1

In their influential work on the place of the family in theories of justice, Brighthouse and Swift have argued that many accounts of the value of the family overlook something of great significance, the contribution participation in family-life makes for their adult members, parents. Many normative accounts of the family see its value reducible to the well-being of children.³ These child-centred accounts, however, appear to lack the resources to condemn the removal of children from perfectly good parents whenever a different arrangement, such as state run orphanages, would be better for the child. To paint a more vivid picture, imagine that some decent parents have their young child taken from them because other parents or an orphanage would be much better with respect either to equality or the child's well-being. If the value of the family is or should be understood in wholly child-centred terms what can the decent parent's complaint be? The only valid complaint such a parent can make, on this account, is that the child would be better off staying put. Such complaints cannot be valid when the child would in fact be better off elsewhere. A second concern that many have about the child-centred account is that even if state run orphanages are inherently worse than families at rearing children, a child-centred account of the family's value or justification would yield a fairly demanding account of parental duties to children and a very limited account of parental rights. What might this mean for public policy? Well, if the value of the family is understood in purely child-centred terms, on what grounds could parents argue for favouring their own interests over the child's? Could they take a night off from parenting when it suits them? Giving a more concrete example, would a mother be open to censure, or worse, for failing to breast feed the child (assuming breast feeding is better for the child than other feeding methods)? Such a demanding account of what parents owe to children is surely troubling but if the value of the family is reducible to the child's well-being, then, we may have to accept these conclusions.

Brighthouse and Swift are animated by these same concerns and they claim that we can and should reject these conclusions because the child-centred account provides an incomplete account of the value of the family. They offer a rival account of the value of the family, which stresses the parent's interest in fulfilling the role of parent in addition to the child's interest in well-being. They suppose that this interest is weight enough to establish,

³ Peter Vallentyne, "The Rights and Duties of Childrearing", *William and Mary Bill of Rights Journal*, 11 (2003),991-1009: 998.

- i) that children should be raised in families rather than orphanages, even when this involves costs in terms of equality and the child's well-being⁴
- ii) that re-distribution from decent parents to better parents is unjust, even when this creates costs of the child⁵ and
- iii) that we should have more extensive parental rights and less stringent parental duties. Even when this creates costs in terms of both the child's well-being and equality.⁶

To establish these conclusions Brighouse and Swift make a claim about the value of parenting. Not only must parenting be important for our well-being, it must have a special significance. This is because, if parenting were just one of the important sources of well-being, we could readily replace it or off-set it with another source. If the value of parenting were easily substituted for other values then we could re-distribute children to better parents so long as we gave the parents compensation, at least in the absence of a further argument. Moreover, if the value of parenting were just another source of well-being nothing would distinguish it, for the purposes of designing public policy, from an 'expensive taste' in caviar, for instance, and it is not plausible to think that we should subsidize caviar through public policy, even if consuming caviar does make a significant contribution to wellbeing. To illustrate the problem more clearly, consider those who do not want to have children or be parents, they may have other ambitions in life such as scuba diving in exotic places or owning expensive classic cars. While these ambitions also contribute greatly to the

⁴ Brighouse and Swift, "Parents' Rights and the Value of the Family", 97. "even if a state successfully used orphanages to foster diversity and fulfil children's needs excellently, there would be a serious loss of value and flourishing. Many adults would be unable to engage in activities and relationships that make an ineliminable and great contribution to their ability to flourish. They could not get access to the full package of these activities and relationship by becoming "teachers" at the orphanages, because, in the role of teacher they could not enjoy the relevant kinds of intimacy with, or exercise the relevant kind of legitimate partiality with respect to, a small number of particular children."; Brighouse and Swift, "Legitimate Parental Partiality", 50. We share the common view that familial relationships are valuable enough to make society A, in which people enjoy Rawlsian fair equality of opportunity but lack familial relationships, worse than society B, where there is a good deal of inequality of opportunity but plentiful family life. This means that parents should be permitted to engage in forms of partiality necessary for the realization of the most important familial relationship goods, and they would be justified in doing so, even where that would disrupt that version of equality of opportunity. P. 50

⁵ Brighouse and Swift, "Parents Rights and the Value of the Family", 86. "The child-centred and public goods accounts of the status of parents both leave open the possibility that it could be legitimate to redistribute children en masse... If parents' interests play no justificatory role, what would there be to impugn a well-intentioned and efficient government agency that distributed the children, who under a laissez faire system would be reasonably well raised, to adults who would be better parents, thus leaving some adequately good parents childless?"

⁶ Ibid, 102. "The sketch of distinctive value of the parent-child relationship supporting the claim that parental rights are fundamental also helps us to establish more precisely the content of parental rights. Insofar as the purpose of parental rights is to protect the parental interest in having and maintaining a relationship of that kind, parental rights are justified only insofar as they are required for protecting that relationship."; Brighouse and Swift, "Legitimate Parental partiality", p.49. "Our main aim is to offer a theory about what states must leave parents free to do to, with, or for their children if those parents and children are to enjoy the goods distinctively made available by familial relationships."

well-being of these individuals it is not thought that they are relevant to public policy in the same way that parenting is. Thus, it is not enough to say that parenting, or the family, is a source of well-being, it must be more than that.

Brighthouse and Swift argue that parenting makes a contribution to well-being in a distinctive way and it is in virtue of its distinctive contribution that parenting acquires special normative status that distinguish it from expensive tastes and make it weightier than some of the child's interests and fair equality of opportunity. To support their claim that parenting is unique or distinctive, they identify four features of the parent-child relationship that can be found elsewhere individually, but collectively, make the parent-child relationship stand apart from other relationships. These features are: unequal standing, inability to exit for one party, spontaneous and unconditional responses, fiduciary role and they are given more detail below. Summarizing their argument they claim that

“Our suggestion is that no other relationship contains all of these features and that these features contribute to well-being in a quite distinctive way.

The intimacy one can have with one's children is quite different from the intimacy one can have with other adults. It makes a contribution to one's flourishing of a different kind and, for many, is not substitutable by relationships of other kinds. The challenge of parenting is something adults have an interest in facing, and it is that interest that grounds fundamental parental rights over their children.”⁷

Before I go on to interrogate the claims that these qualities make the relationship of unique value I will explain the role this special value plays in another argument. In a recent paper which examines Hugh La Follette's proposal that we license parents, much like we license car drivers and doctors, Daniel Weinstock and Jurgen De Wispelaere appeal to the special value of parenting to prove a disanalogy between parenting and activities that are rightly subject to a licensing regime. In his classic paper “Licensing Parents” La Follette argues that since parenting is relevantly similar to other activities that we rightly license in the following respects,

- i) is a potentially harmful activity,
- ii) that harms can be avoided by the practitioners having a certain competence and
- iii) we have a reliable procedure for testing that competence,

it should be licensed.⁸ In response, Weinstock and De Wispelaere provide at least three arguments for the conclusion that we should not license parents. Firstly, they claim that La Follette overlooks the fact that licensing parents will have harmful or detrimental side-effects those children who are taken into care since care is not acceptable alternative, at

⁷ Brighthouse and Swift, “Parents' Rights and the Value of the Family”, p. 96

⁸ Hugh LaFollette, “Licensing Parents”, *Philosophy and Public Affairs*, 9:2 (1980), 182-197: 184-6.

least at the present time.⁹ Secondly, they claim that La Follette is mistaken in claiming that we have a moderately reliable procedure for testing the competence of parents, at least at the present time.¹⁰ These two objections, however, are, in their own words, “practical”. Practical objections show that we should not implement that policy in conditions like our own. However, they do not provide reasons to oppose the licensing in other circumstances in the future. So, if these were the only arguments against licensing parents and circumstances were to change, licensing may be justified as a policy. Their third argument, however, does promise a principled rejection such that, even if the two practical objections fail or do not apply we would still have grounds for rejecting the policy. They argue that the value of parenting is different to the value of driving a car or being a brain surgeon and so, while it might be appropriate to have a pedestrian-centred or patient-centred approach to licensing driving and medicine it is not appropriate in the case of parenting. They say,

“We believe parenting is sufficiently different to warrant special treatment because parenting is not merely a valuable activity, it is also one that is non-substitutable. Those who are not allowed to drive a car can often use public transport or rely on the help of family or neighbours: they are inconvenienced in a narrow sense, but not necessarily restricted in their mobility more generally. Having a dream to become a brain surgeon likewise is very specific. There are many alternative ways of making a living, and many other professions confer roughly similar prestige and social status or allow one to make a difference in the world (or whatever is one’s reason for wanting to become a surgeon). Surely, society is under no obligation to accommodate what effectively amounts to one’s expensive tastes for a particular mode of transport or profession when reasonable substitutes are available. Parenting, however, lacks reasonable substitutes.”¹¹

⁹ Weinstock and De Wispeleare, “Licensing Parents”, 201-2. “We can cast further doubt on the performance of parental licensing policies by focusing on a different kind of trade-off. For we think licensing scheme contain implicit, but nevertheless real, invidious comparisons between children themselves; comparisons that emerge once we think through the practicalities of the proposed scheme.”; “Removing children from unlicensed parents (many of whom, we should keep in mind, are not putting their children at risk) and putting them up for adoption only works provided the adoption system can absorb this surplus. More likely, most of these children will end up in institutional care, at least temporarily, which many do not consider a proper alternative to being raised in a family.”; “Here is the main point. The purpose of the licensing scheme is to protect children, specifically from abuse or neglect by parents. The assumption is that implementing such a policy would be better for children, all-things, considered. But what if some children find themselves at risk precisely because of the introduction of a licensing scheme? After all, they may end up spending the better part of their childhood in the care of social services.”

¹⁰ Ibid: 201. “La follette not only appears to underestimate the cost to a person of being denied the right to become a parent (the inability to form a special intimate relationship with a child), he also considerably underestimates the number of parents who would innocently suffer this costs because of how unreliable predictive tests for parental incompetence really are.”

¹¹ Ibid: 198

Weinstock and De Wispelaere appeal to the uniqueness of parenting as a way of supporting a principled rejection of the licensing of parents. If we licensed parents, they claim, we would fail to respect the very great importance that attaches to unique or non-substitutable activities such as parenting.

Brighthouse and Swift and Weinstock and De Wispelaere claim that the uniqueness of the value of parenting distinguishes it from the value of other ambitions and activities that merely contribute to well-being in a way that is normatively relevant. They claim that this uniqueness or non-substitutability has the implication that we should promote or protect the conditions necessary for its realization even at certain costs. At times it is hinted that this is a difference in size of well-being derived but it could simply be that it is a different sort of well-being benefit one that is worthy of special protection.¹²

In the next section I will examine whether the claim that parenting is unique is plausible by looking at whether it is unique in the ways suggested. In the following section, I will examine whether parenting is unique in a way that enhances the contribution it makes to well-being and whether parenting is unique in a way that ought to afford it special protection by appealing to other sorts of unique goods that might be thought that have this effect. In the final argumentative section of this paper I revisit the arguments of Brighthouse and Swift and Weinstock and De Wispeleare to see what this means for their conclusions.

2

Brighthouse and Swift claim that parenting is special. They tell us that parenting is unique in the following respects: unequal standing, inability to exit for one party, spontaneous and unconditional responses, fiduciary role. My first concern is to examine whether parenting really does meet these criteria, if not then their argument fails. I wish to cast at least some doubt on this but my arguments will not be conclusive. I take my lead from Weinstock and de Wispeleare themselves, who state that

“The next best thing to raising a child might be taking care of a cat, but surely no one would insist that cats, lovely companions though they are, are in any way reasonable substitutes for children.” p. 199.

Even if parenting is unique it is not obvious that other caring relationships do not meet the criteria set out by Brighthouse and Swift and endorsed by Weinstock and de Wispeleare. At

¹² Brighthouse and Swift, “Parents’ Rights and the Value of the Family”, 91-2. “even if a state successfully used orphanages to foster diversity and fulfil children’s needs excellently, there would be a serious loss of value and flourishing. Many adults would be unable to engage in activities and relationships that make an ineliminable and great contribution to their ability to flourish. They have a different moral quality, make a different kind of contribution to their flourishing, and so are not interchangeable with other relationships.” and Weinstock and De Wispeleare, “Licensing Parents”, 198. “We believe parenting is sufficiently different to warrant special treatment because parenting is not merely a valuable activity, it is also one that is non-substitutable.”

the risk of appearing unhinged I want to explore this thought by using the example of a pet I wish to explore the criteria in turn.

Unequal Standing

It seems plausible to suppose that a cat or other pet has unequal standing with respect to adult human beings. Animals are widely thought to have a different moral status, as are children. Though, it should be stressed that children have a different status to animals. Our reasons not to harm to animals or to benefit animals are not thought to have the same weight or significance as our reasons not to harm children or to benefit children. However, children are analogous to animals in the specific ways Brighthouse and Swift mention. Relations between pets and their owners “are not relationships among people with equal power or standing even in the minimal Hobbesian sense.”¹³ By this I take it that they refer to Hobbes’ claim that in the state of nature all are equals in that anyone can kill anyone, no matter their strength or intellectual ability. True some pets can kill their owners, but many cannot and cannot at will, so pet-owner relations fail the Hobbesian test too. In elaborating this criterion further Brighthouse and Swift claim,

“Children are vulnerable to the decisions and choice making of their primary caretakers and initially, wholly dependent on them for their well-being. Parents have power of life or death over their children, and this is not, at least when the child is young, reciprocated. But more importantly and less spectacularly, they have the power to make their children’s lives miserable or enjoyable.”¹⁴

Domesticated pets are obviously wholly dependent on their owners in the same way children are. For sure, if I neglect my cat someone else may take care of him, but likewise, if I neglect my child someone else might take care of him too. Moreover, pets, particularly cats, do not properly reciprocate. Anecdotally, cats are good at letting you know when they want something but one is never wholly convinced that a cat is grateful or would be willing to do the same for you. Children behave in this way too. The immediate reciprocal benefits of feeding a child are that it will stop crying. The immediate reciprocal benefits of feeding a cat are that it will stop meowing or circling your feet or kneading your lap with its claws. I think that we can say that some pets meet the criterion of unequal standing in the relevant way.

Inability to Exit

The second criterion is “inability to exit”. It is elaborated as follows.

¹³ Brighthouse and Swift, “Parents Rights and the Value of the Family”.

¹⁴ Ibid, 92.

“Whereas adults have the power to leave relationships with other adults, children lack this power with respect to their primary caretakers, at least until they reach sufficient age to escape... The difference between the relationships is that young children have no resources whatsoever to exit, whereas adults usually have, or should have, some resources to execute departure from their intimate involvement with other adults.”¹⁵

It should be clear that some pets, like children, have no resources to exit the relationship whatsoever. They cannot find new owners who will feed them and care for them at will. While some animals that can be pets can be fairly self-sufficient in the wild, such as rats and some cats and dogs, in some cases we will have pets who cannot exit. Of course, if dogs and cats or other pets are being mistreated there is a chance that the RSPCA will remove them from their owners and move them to new ones but this protection is similar to the protection of the law for children who can be re-homed. Thus, pets are similarly vulnerable and, unlike adult humans, cannot usually exit since they are not relevantly self-sufficient in the way most adults can readily be. So, pets satisfy the second criterion.

Spontaneous Responses

The third criterion is spontaneous and unconditional response, which is elaborated as follows.

“The third feature concerns the quality of the intimacy of the relationship. The love one receives from one’s children, again especially in the early years, is spontaneous and unconditional and, in particular, outside the rational control of the child. She shares herself unself-consciously with the parent, revealing her enthusiasms and aversions, fears and anxieties, in an uncontrolled manner. She trusts the parent until the parent betrays the trust, and her trust must be betrayed consistently and frequently before it will be completely undermined. Adults do not share themselves with each other in this way: intimacy requires a considerable act of will on the part of adults interacting together.”¹⁶

Rather than try to show the plausibility of the possibility of pets loving their owners I will rest my analogy on the claim that pets can show spontaneous and unconditional affection, though not cats. That would be too much to ask. Certainly, this affection is out of their rational control in the same way that a child’s responses are. Dogs and cats are also capable of “trust”. The intimacy between pet and owner does not require a considerable act of will on the part of the pet, as it would with adults. Thus we can conclude that pets meet this criterion if we understand it as requiring unconditional or spontaneous affection and not

¹⁵ Ibid, 93.

¹⁶ Ibid, 94

love. Of course, it is, in the early stages that Brighthouse and Swift discuss, not clear that a child shows unconditional and spontaneous *love* rather than mere *affection* and so I believe this is a valid move.

Fiduciary Role

The final criterion concerns the moral quality of the role played by the parent or owner. It is explained as follows

“The final difference concerns the moral quality of the relationship. The parent is charged with responsibility for both the immediate well-being of the child and the development of the child’s capabilities. This is the fiduciary relationship emphasized by the child-centred argument for parental power. The child has immediate interests in being kept safe, enjoying herself, being sheltered and well nourished, having loving relationships with others, and so on. She has future interests in many of these same things, but also in becoming the kind of person who is not entirely dependent on others for having her interests met and the kind of person who can judge well and act on her interests.... Parents have an interest in being in a relationship of this sort. They have a nonfiduciary interest in playing this fiduciary role... The successful exercise of this role contributes to, and its unsuccessful exercise detracts from, the success of her own life as a whole.”¹⁷

We might think that this is where the pet becomes importantly disanalogous to the child. It is true that an owner is not responsible for the moral development of their pet and their powers of reasoning. However, owners have a fiduciary role and it is sensible to think that owners of pets have duties towards their pets.¹⁸ Animals, like children have immediate interests in being kept safe and it is plausible to think that, since they are not self-sufficient as discussed above, the owner is entrusted with this. A pet also has future interests in certain kinds of physical and mental development. Being potty trained has an obvious analogy with being house trained, having manners and behaving politely with guests is also important. Pets must be trained to interact with other animals and people in ways that respect them and this is analogous to the parental duty to rear a respectful citizen. Moreover, it seems plausible to say that if one succeeds in taming an unruly dog or succeeds in rearing another pet to be well-trained and well-behaved one has met a challenge in a appropriate way and that one can also fail this affects our well-being. We might think that failing to rear a child properly is worse than failing to rear a pet and that succeeding is much better and makes a larger contribution to wellbeing in the case of child than pet, but this is a matter of degree not a difference in kind. It is not obvious, therefore, that having a pet-

¹⁷ Ibid, 94-5

¹⁸ Steve Cooke, “Duties to Companion Animals”, *Res Publica*, 17 (2011), 261-274.

owner relationships are so different from child-parent relationships. Thus, it appears the uniqueness of parenting must lie elsewhere.

However, I accept that there may be some important difference that applies since owner-pet relationships are not human to human relationships which may be thought to be special in this respect and it is true that, as far as I can tell, no other human-human relationships seem to have the requisite features. So far, then, I think Swift and Brighthouse's argument may be intact. In the next section I will consider whether being unique, or being unique in these ways, could be sufficient to support their conclusions.

3

Does non-substitutability matter? If something is unique does that make it more important than other things? Does the fact that something is non-substitutable give it special importance? In this section I will examine whether being unique in the ways Brighthouse and Swift claim it is has the implications they think it does.

Firstly, it should be obvious that the mere fact that something is unique, unique and valuable or uniquely valuable should make little difference to how we regard it for the purposes of justice. So, for instance, that my finger prints or my wife's sketches of trees are unique does not give us any independent reason to care about them more than say the protection of 1,000 identical copies of John Rawls' *A Theory of Justice*. Moreover, all things are unique under some description. Even two qualitatively identical copies of *A Theory of Justice* are not numerically identical. This shows that being unique alone is not sufficient to establish special normative status.

There are two ways that uniqueness of parenting could be understood as establishing its special status and we can spell these out by paying special attention to the role they play in Swift and Brighthouse's theory. Swift and Brighthouse are concerned with parenting insofar as it contributes to the well-being and flourishing of adults. They state on a number of occasions that parenting makes a distinctive contribution to well-being.¹⁹ Weinstock and De Wispeleare most often use the phrase non-substitutable contribution to well-being.²⁰ Thus their appeal to uniqueness is really an appeal to a certain kind of uniqueness, namely, unique contribution to well-being. Now, well-being, as we have seen is also not sufficient to establish the right kind of special importance of parenting to justify parents' rights and to

¹⁹ Our suggestion is that no other relationship contains all of these features and that these features contribute to well-being in a quite distinctive way. The intimacy one can have with one's children is quite different from the intimacy one can have with other adults. It makes a contribution to one's flourishing of a different kind and, for many, is not substitutable by relationships of other kinds. p. 94 B&S "In order to ground a rights claim we have to show that the object of the right fulfils a very weighty interest: that, for example, it makes a very important contribution to their wellbeing or flourishing. Can this argument be made?... Relationships of the specified kind make a distinctive and important contribution to the flourishing of the adults involved

²⁰ Our claim is only that there is something distinctive about this kind of relationship and that for many people nothing will fully substitute." P. 100 109

undermine the licensing policy. The uniqueness of the contribution parenting makes to flourishing must set it apart from expensive tastes, for instance.

One possible explanation of the significance of uniqueness appeals to the claim that *uniqueness amplifies the importance of the contribution to well-being or the size of the contribution to well-being*. However, even if it is true that those things that make a unique or distinctive contribution to well-being have greater weight than non-distinctive or substitutable contributions, this would not be the right sort of argument for Brighthouse and Swift, and perhaps Weinstock and De Wispeleare. This is because it does not distinguish parenting from an expensive taste. Other people who lack the parenting ambition may get huge well-being benefits from performing well in their roles, for example as a doctor or social worker. They may also derive huge amounts of well-being from exotic holidays or consuming plover's eggs and pre-phalloxera claret. Moreover, that parenting makes a large contribution to well-being would mean that we could re-distribute children without fear that the cost cannot be off-set by other policies. Whether we should prefer the family depends on the numbers. Thus, this claim cannot provide a robust defence of the family.

An alternative argument, however, does seem available if we place the emphasis on the non-substitutability of the value of parenting and make the general claim that non-substitutable values should have special protection for reasons other than the fact that they make a large contribution to well-being. The fact that for those who have the ambition being unable to pursue it is devastating in a distinctive way. Nothing else can replace that ambition.²¹ There are no adequate substitutes. If this sort of argument is sound then it could establish the kinds of conclusions Swift, Brighthouse, Weinstock and De Wispeleare would like since the plight of those who have this ambition are not only worsened but they are worsened in an irredeemable and non-compensable way. Now, we can examine this claim in two ways. We could examine whether parenting really is non-substitutable, in this way, or we could examine whether, even if it is non-substitutable, that fact is relevant. I will take the second strategy because I think the first route would depend on the distinctive kind of relationship parents have with children, which has been sufficiently explored above.

Should non-substitutable contributions to well-being be given special protection? Maybe nothing really tastes quite like plovers eggs and maybe nothing else feels like riding a motorbike without a helmet, it is plausible to think that such things also make a distinctive contribution to our well-being, but they are not plausibly worthy of protection. Moreover, if

²¹ Now, two caveats are necessary. First, it is obviously not the case (for the vast majority of adults) that it is impossible for them to flourish at all without relationships of this kind. People do indeed go to great lengths in order to have and raise children, but some cannot, and few (if any) of them regard their lives as worthless. Nevertheless, many regard themselves as having missed out on an experience that would have been necessary for them to have counted their life as fully flourishing. Second, a significant proportion of people have no desire to have and raise children, and for many of them the absence of this desire is not an epistemic failing but a response to the fact that, indeed, having and raising children is not essential for their flourishing, and perhaps would contribute nothing to it. So the claim that the relevant "relationship goods" make a powerful contribution to the flourishing of the rights holder does not commit us to the claim that those goods are good for everybody. P. 99 B&S

they were deemed worthy of protection so would so much else that parenting would lose its relatively high place in the hierarchy of goods worthy of protection. In order to identify whether parenting is non-substitutable in the right way we need to make further distinctions. For sure, many goods are non-substitutable. We can list the properties that distinguish a thing from other things, the particular combinations of properties and say it is unique, and claim that there's no substitute, but we need to do more. It needs to be unique, distinctive, non-substitutable in a certain way.

One way that a good may be non-substitutable is by being a necessary component of any (or any feasible) good life. For instance, we might think that autonomy or endorsement has this kind of value. Unless one sets oneself a certain aim in life one cannot flourish or live well either in an optimal or minimal sense. This claim is controversial but it is only used to illustrate one way in which a good can be thought to be special because non-substitutable. One cannot substitute autonomy for another good, on this view, because without autonomy there is no other relevant good. I take it however, that Brighouse and Swift do not want to claim either that parenting is necessary for one to flourish, in either sense, or that it is necessary for some people to flourishing in the minimal sense at least. They do, at one point claim that for some people parenting is required for *some people* in order for them to *fully* flourish.

“Relationships of the specified kind make a distinctive and important contribution to the flourishing of the adults involved. Now, two caveats are necessary. First, it is obviously not the case (for the vast majority of adults) that it is impossible for them to flourish at all without relationships of this kind. People do indeed go to great lengths in order to have and raise children, but some cannot, and few (if any) of them regard their lives as worthless. Nevertheless, many regard themselves as having missed out on an experience that would have been necessary for them to have counted their life as fully flourishing. Second, a significant proportion of people have no desire to have and raise children, and for many of them the absence of this desire is not an epistemic failing but a response to the fact that, indeed, having and raising children is not essential for their flourishing, and perhaps would contribute nothing to it. So the claim that the relevant “relationship goods” make a powerful contribution to the flourishing of the rights holder does not commit us to the claim that those goods are good for everybody.”²²

However, for some people in order to fully flourish does require having a particular role in society or a particular job. In order to flourish some require loving romantic relationships but we are not required to subsidize speed-dating for example. Our fully flourishing often requires that other people act in certain ways. For instance, if one of my ambitions is to win an Olympic gold medal or to become viceroy of India this requires that

²² Brighouse and Swift “Parents’ Rights and the Value of the Family”, 99

certain people do not prevent me from doing so by being fast than I am or by bringing down the British Empire in India.²³ However, public policy should not inhibit these actions of other people precisely because other demands of justice are more important than even the opportunity for individuals to live a fully flourishing life based on their current ambitions or even any ambitions they might have. If, as seems plausible, individuals are to take responsibility for their ends then it seems that the fact that one cannot fully flourish without something (given one's conception of the good), is not a good reason to provide them with it as a matter of justice at the expense of other values, such as fairness towards others.

One possible way out is the following. It may be true that parenting is special because once one has the ambition of becoming a parent it is very costly to forgo the pursuit of the ambition or to change one's ambitions. However, this picture sees a parent in a similar position to that of an addict. Our primary responsibility might not be to allow this person to retain their child and a particular set of rights over her, but rather to help her overcome her ambition much like we treat drug addicts.

In summary, I think that Brighouse and Swift's arguments for the special treatment of parenting are based on an ultimately unconvincing claim about the special importance of non-substitutable goods. The fact that parenting is a unique and distinctive good, in that one cannot "fully-flourish" without it, is not sufficient to establish that it is worthy of protection and promotion. Though parenting may make an especially large contribution to well-being for some adults might provide some practical justification for the type of parental rights and protections against redistribution that they defend, it will not provide a principled defence of the family and the other policies they recommend. In the next section I explore the implications for the arguments in more detail and the options available to defenders of family values.

4

Brighouse and Swift claimed that parenting was unique and non-substitutable and that this meant that we could sometimes favour the parents' interests over the child's interests in allocating rights and duties to parents; that we could allow sub-optimal parents to retain custody of children when others would do better; and that we could favour family-friendly policies at the expense of fair equality of opportunity. Whether these things would follow even from a satisfactory argument is not something I have explored here. Rather, I have examined whether parenting is unique and whether the non-substitutability is normatively relevant. I concluded that while parenting maybe unique nothing in particular follows from its uniqueness. I also concluded that while parenting is non-substitutable, since many cannot flourish without it, this does not give it special normative status.

²³ Here I am thinking of Enoch Powell who's express ambition was to become Viceroy of India but that position was unobtainable after 1947, when Powell, who would have been 35 at the time, was still too junior, despite an impressive climb through the ranks of the British Army, to achieve his ambition.

However, I have admitted that parenting may make an especially large contribution to well-being and indeed this seems plausible. Revisiting Swift and Brighthouse's arguments we can say that their arguments provide a partial defence of parenting as a protected activity. Since parenting makes a large contribution to well-being it is plausible to think that the rights and duties and limits to custody of children should be designed in ways that permit sub-optimal parenting. However, if a child can do sufficiently better elsewhere, even whilst at a good or decent parent, their argument offers us no reason for thinking this cannot be justified. Instead, our calculation would take into account that parenting makes a big contribution to well-being and we should set the threshold at a level such that we can deny parents custody when the loss to the parent in terms of well-being can be outweighed by the potential gains to the child of being moved. Since we are merely talking about well-being on both sides of the calculation not special protection is given to decent parents. We can deny decent parents custody when super-parents are available.²⁴

This focus on well-being may be thought disturbing for additional reasons, however since it sounds worryingly perfectionist for two reasons. Firstly, focussing on well-being as the currency of justice is thought by many to be an inappropriate focus, but I will not rehearse those arguments here. Secondly, even appeal to the privileged status of parenting, if a decent argument can be given in support of it and I have argued one has not yet been given, will not be available to those who take public reason seriously since public reason requires that individuals can share our reasons because they have different conceptions of flourishing. At least some people do not, or need not, have the ambition of being a parent, though they will all have an interest in having a good upbringing, even on Brighthouse and Swift's own analysis. Thus, in accordance with a public reason justification of principles of justice we have reasons to privilege children's interests and to neglect parental interests.

It remains possible, however, to single out parenting and give it some special status in a non-perfectionist liberal account of justice, but at this status will be inferior to the one Brighthouse and Swift attribute to it. Matthew Clayton's anti-perfectionist account of justice in child-rearing identifies the parent child relationship as a valuable loving relationship, which we all have an interest in having. This argument might succeed in safe-guarding a special place for the parents' interests but it does so at the cost of distinguishing parenting from other forms of special relationship, such as that between spouses. This is a more promising strategy for those interested in the justifying a dual-interest account of child-rearing, though it does not provide the robust defence of the family since it is an open question as to whether we subsidize family-friendly policies or other opportunities for meaningful loving relationships, by subsidizing speed-dating or friends- re-united websites.

Finally, I should say something about the clash between the value of the family and equality. Though I cannot go into the detailed argument required to weigh values against one another we can say that the value of parenting is weakened and this might have affects

²⁴ See my "How Bad Can a Good Enough Parent Be?"

for the threshold, as discussed, and the justifiability of parental partiality that disrupts fair equality of opportunity since it is not now clear that the value of parenting is more important than fair equality of opportunity. This should lead us to question Brighthouse and Swift's conclusions.

In contrast to Weinstock and De Wispeleare may appeal to be on slightly safer ground, though the criticisms regard perfectionism still stand. They argued that there is an important, principled, disanology between rights licensed activities and parenting due to the latter's non-substitutability. However, parenting's non-substitutability was found to confer no special importance on parenting as an activity or ambition. Thus, the disanology does not hold. Weinstock and De Wispeleare could, to my mind, claim that parenting is disanalogous with rightly licensed activities because it is more important and thus, the costs of licensing are far greater for those excluded, particularly those inevitably wrong excluded by the policy. However, this is not a principled objection it is a practical one. It is contingent on parenting's being more important than being a doctor, for example, which has not been proven, but a disanology may still be available to them.

5

In this paper I have examined the claims a) that parenting is a unique and non-substitutable valuable activity and b) that as such an activity it is worthy of special protection because unique and non-substitutable. I have found arguments for a) to be unconvincing, but I concede that parenting may be unique and non-substitutable in some valuable way. However, in so far as a) is correct I believe nothing follows in terms of the special status of parenting for the purposes of public policy and social justice. Other goods that are similarly non-substitutable, i.e. because one cannot fully flourish without them, are not plausibly the object of concern of social justice and so, we can say that it is not plausible that this property makes the difference it is thought to make in the arguments of Swift and Brighthouse and Weinstock and De Wispeleare. Finally, I have shown that this is problematic for Swift and Brighthouse since their arguments do not yield principled justification of their favoured policies of redistribution of children and their favoured account of parental rights and partiality, I have also shown that Weinstock and De Wispeleare's only principled argument against licensing parents.