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## Parental Partiality and Educational Justice

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### I

According to our everyday moral judgements, parents are permitted – and even have the duty – to be *partial* with regards to their own children. This means that parents are entitled to devote more attention, care or financial resources to their own children than to other children. Parents' special concern for their children is an important source of social inequalities.

In this talk, I discuss the problem of parental partiality with regards to the distribution of educational goods. Two understandings of the notion of *legitimate parental partiality* should be distinguished: According to the first understanding, the term refers to parents' *conduct* with regards to their children. The second meaning focusses on the *effects* of partial conduct, that is, the effects on children's interests and the distribution of relevant goods.

The debate on educational justice is mostly concerned with the second issue. According to Harry Brighouse and Adam Swift's *meritocratic* principle, for instance, "[a]n individual's prospects for educational achievement may be a function of that individual's talent and effort, but it should not be influenced by her social class background" (Brighouse/Swift 2008, S. 447). This principle seems to leave no room for parental partiality (in the second sense), at least not to forms of partiality that are rooted in social and economic advantages.

According to so-called adequacy or sufficiency views, by contrast, some forms of parental partiality are legitimate. This kind of view is currently defended by Elizabeth Anderson (2007) and Debra Satz (2007). Anderson and Satz start from the idea of democratic or civic equality and claim that each child should have an education that enables him or her to live as an equal in a democratic society. This does not require – according to Anderson and Satz – that all are equally educated, but that all reach a threshold level of education that is *adequate* to the aim of civic equality. As Anderson and Satz point out, educational inequalities above the adequacy threshold should not be considered as unjust, even if they are brought about by the financial investments of parents. Against this background, then, some forms of "elite" private schooling might be seen as justified.

The main objection that can be put forward against the adequacy view is that it does not appropriately address the problem of fair competition for social status and income.<sup>1</sup> In this

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<sup>1</sup> For a critique of the meritocratic view, see Giesinger 2011 and 2014.

competition, it might not suffice to be *adequately* or well educated – it is crucial to be better qualified than other competitors.<sup>2</sup> So, when a standard of adequacy is defined, this works as an incentive for certain groups of parents to improve their children's social opportunities by providing them with an education that is *more than adequate*. So – contrary to Anderson's and Satz's view – it seems inevitable to complement the adequacy view with at least a weak egalitarian or meritocratic principle that ensures everyone fair access to advantageous forms of schooling.

In what follows, I take this for granted. My considerations focus on parental partiality in the *first* sense. The question is, then, whether some forms of partial parental conduct are legitimate although they are likely to undermine the realization of impartialist principles of educational justice (however these are spelled out in detail). Brighouse and Swift propose a principle of parental liberty and partiality that has the function of constraining the pursuit of educational justice (Brighouse/Swift 2006b, 2008, 2009, 2013).

In this talk, I discuss their *relationship account* of parental partiality (introduced in II) in relation to an interesting alternative that I call the *liberty-based view* (introduced in III).

## II

Living in a family, Brighouse and Swift explain, provides those involved with a sort of goods that cannot be otherwise attained – so called relationship goods. Only within a family, they write, can children enjoy the sort of loving bond with particular adults that is necessary for their emotional development. Moreover, they say that family life provides children with a special feeling of security and a sense of continuity with the past. But – as they point out – family relationships are not only good for children, but also for parents. Living together with one's children provides a kind of good that is not available in a relationship with an adult (Brighouse/Swift 2009, p. 53).

Against this background, Brighouse and Swift claim: "There must be permission, and social support, for activities and interactions between parents and children that facilitate the realization of the goods that justify the family" (*ibid.*, p. 56). This means that parental partiality is permitted to the extent that it is intertwined with activities that sustain the parent-child-relationship.

As Brighouse and Swift point out, prohibiting private educational investments or banning private schools altogether does not touch on those goods that ground justified forms of partiality. By contrast, reading bedtime stories to one's children should not be prohibited although it is likely to be a source of educational inequalities. This is a form of partiality that is embedded in a common practice and cannot be separated from it.

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<sup>2</sup> In this context, education functions as a so-called positional good (Brighouse/Swift 2006a).

### III

According to the relationship account, parental liberty is *instrumentally* valuable with regards to parents' and children's relationship interests. Liberty-based views, by contrast, consider the value of parental liberty as independent from parents' or children's interests. According to one version of this view, parental liberty is valuable because it allows parents to raise their children in the spirit of their own conception of the good. In other words, it enables them to express their deepest values in the upbringing of their children (see e.g. Galston 2002). Restrictions on parental liberty might then be seen as forms of disrespect, as assaults on parents' autonomous choices regarding their form of live and their children's education.<sup>3</sup>

This account justifies constraints on state interventions into the internal workings of the family, independently of relationship-oriented considerations. It is important to note that it protects *all* types of parents' value-based decision-making – that is, not only those embedded within common practices. By contrast, the relationship account, as outlined so far, does not seem to protect parental choices in general. Prohibiting school-related decisions, for instance, does not touch on the core of familial relationships. If medical decisions on behalf of the child were not taken by the parents, but by medical experts, this would probably not undermine the realization of relationship goods.<sup>4</sup>

So, the relationship view seems to allow for certain restrictions on parental liberty that we would intuitively reject. The liberty-based view, by contrast, does not only justify all types of (value-based) parental-decision-making, but also private educational investments. Within this theoretical framework, then, it seems hopeless to establish an argument against

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<sup>3</sup> Anderson and Satz seem to subscribe to a view of this type. They say that those parents who specially value education – or a certain type of education – should not be hindered from paying for their children's schooling. Anderson states that educational opportunities should not be levelled down to "the tastes of the median voter" (Anderson 2007, p. 605). Satz writes that many "parents want better education for their children – including private lessons because they believe that education is intrinsically valuable" (Satz 2007, p. 634).

It should be noted that Anderson and Satz do not use this type of argument – that they do not elaborate on – to justify restrictions on the pursuit of educational justice. Rather, they claim that parental liberty is fully compatible with the adequacy account of educational justice.

<sup>4</sup> The relationship view implies parents' entitlement to raise their children in the spirit of their own conception of the good, but only to the extent that this is necessary for the realization of relationship goods. For instance, parents are entitled to take their child to church (Brighouse/Swift 2009, p. 57). Relationship-oriented considerations might be used to argue against those who are opposed to any form of religious or ethical education in the family (e.g. Clayton 2006): It could be argued that the realization of relationship goods necessarily entails some forms of value-based education. But it is not clear whether this line of argument also justifies forms of paternalistic parental decision-making that are not tied to social practices.

those forms of private or selective schooling that tend to distort the competition for social rewards. So, while the liberty-based view seems to leave too much room for parents to promote their children's educational interests, the relationship view seems too restrictive.

In developing an appropriate account of parental partiality, then, we might either expand the scope of the relationship view (IV) or take second-thoughts on the liberty-based view (V).

## **IV**

Consider the first of these strategies: It might be said that parental decisions regarding children's well-being are one aspect of the loving and caring relationship that parents should have with their children. Thus, parents' relationship interests entail the interest in deciding for their children, independently of whether these decisions are intertwined with common practices. Brighouse and Swift subscribe to this broad conception of the relationship view.<sup>5</sup>

But expanded in this way, the relationship view faces the same problem as the liberty-based view – it seems that it can be used to justify all forms of parental partiality in education, including private investments. Brighouse and Swift react to this problem by stating that only those relationship interests entailed by the narrow understanding of their view are weighty enough to justify partiality. They state that the second type of relationship interests must be subordinated to considerations of educational justice or equality of opportunity (Brighouse/Swift 2009, p. 63). Thus, these second-rate relationship interests are not very strongly protected. There are many types of parental decisions that are likely to have direct or indirect impact on children's opportunities in social competitions. Even parents' choice of a child's first name might influence her social opportunities. Or consider parents' decision to send – or not to send – the young child to a nursery. Or think of parents of a child with ADSD who have to decide about the right kind of medical treatment. Brighouse and Swift seem to think that parents' freedom to take these and similar decisions is legitimately restricted if this proves necessary to promote equality of opportunity. Thus, subordinating parental decision-making to an egalitarian principle of this kind might lead to far-reaching constraints on parental liberty.

## **V**

The liberty-based view puts special weight on decisions that are rooted in parents' ethical, religious or educational commitments. Acting against those decisions might be seen as a form of disrespect. The question is, then, whether parents' decision to provide their children

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<sup>5</sup> They write that "parents' freedom to promote their children's well-being in general is indeed susceptible to justification by appeal to the value of the family" (Brighouse/Swift 2009, p. 61).

with competitive advantages falls into the category of decisions that deserve special protection. I think that this question should be answered in the negative.

We can make a normative distinction between parents' value-based choices and their will to privilege their children – possibly in unfair ways.<sup>6</sup> We can say, then, that only the first sort of choices deserves respect, according to liberty-based view. Being unfairly privileged – and conferring unfair advantages on loved ones – might be very important for persons, but they cannot rightly feel degraded or disrespected if their interest in unfair privileges is neglected.<sup>7</sup> The will to directly undermine the conditions of fair competition cannot be protected by a liberal account of educational justice.<sup>8</sup> By contrast, parents' value-based decisions – that might *unintendedly* promote a child's competitive opportunities – should not be overriden, according to the liberty-based view.

It should be noted that the relationship account puts *no* special normative weight on parents' value-based decision-making. The broad version of this account entails an interest in promoting the child's welfare by making paternalistic decisions. This implies the entitlement to decide on the basis of one's own values. However, value-based decisions are *not more important* for sustaining the parent-child-relationship than decisions that aim at providing privileges to the child.<sup>9</sup> The will to decide on one's own values is just one aspect of the general will to promote children' interests. If we want to provide special protection to the former type of decisions, we have to rely on liberty-based considerations. We then have to accept that parental liberty matters *independently* of relationship goods. We have to accept that constraining parents' value-based decision-making violates, first and foremost, parents' autonomy – not their relationship interests.

My critique of the relationship account is, then, that it does not appropriately account for parents' value-based decision-making. It should be noted that in subordinating parental li-

<sup>6</sup> The term "unfair" refers – in this context – to a pre-given conception of justice. Recall that these considerations presuppose that it would be – in some sense – just to restrict parents' or students' freedom. The question is whether there are nevertheless good reasons for *not* doing so.

<sup>7</sup> Parents might claim that their will to advantage their children as much as possible is one aspect of their "conception of the good" and therefore deserves respect. But it is clear that not all conceptions of the good have to be respected in the same way.

<sup>8</sup> Parents might claim that their will to advantage their children as much as possible is one aspect of their "conception of the good" and therefore deserves respect. But it is clear that not all conceptions of the good have to be respected in the same way. It should be noted that respect for parents' values is – in principle – compatible with fair opportunity. By contrast, it is impossible to grant all parents' the right to confer unfair competitive advantages on their children, because in this context, one person's advantage amounts to a disadvantage for others.

<sup>9</sup> After all, children's interests might be better served by the second type of decision. It is often debatable whether the first type of decision – e.g. with regards to religious matters – is fully in the children's interest.

berty to equality of opportunity, Brighouse and Swift propose an ordering of principles that differs from Rawls's position in *A Theory of Justice*. So, should the protection of parents' value-based decision-making have strict normative priority over principles of fair opportunity? In this context, we do not need a clear-cut answer to this question because respect for parental liberty is – in principle – compatible with educational justice. My claim is that justice-oriented educational reforms should be sensitive to parents' value-based decision-making – but not to their will to privilege their children. A special problem arises with regards to schools that are typically chosen on value-based grounds, but also have the effect of promoting their students' career opportunities. Within the relationship perspective – it seems – closing down such schools is a serious option. The liberty-based view, by contrast, urges us to develop other reform strategies – that might then also be acceptable for defenders of the relationship account. Instead of banning the sort of schools just mentioned, it is possible – for instance – to establish attractive alternatives to them, that is, forms of schooling that provide similar career opportunities and are accessible for members from all social backgrounds. Offering such alternatives diminishes the competitive value of traditional "elite" schools, but leaves the opportunities for parental choice intact.<sup>10</sup>

## VI

In this talk, I have made two basic claims. My *first* claim is that an argument against elite schools that are designed to promote students' competitive interests cannot only be established within the relationship perspective, but also on liberty-based grounds. My *second* claim is that the relationship view – in strictly subordinating parents' second-rate relationship interests to principles of justice – does not appropriately account for parents' value-based decision-making and tends to be too restrictive with regards to parental liberty.

### Literature

Anderson, Elizabeth (2007), Fair Opportunity in Education: A Democratic Equality Perspective, *Ethics* 117, pp. 595-622.

Brighouse, Harry/Swift Adam (2006a), Equality, Priority, and Positional Goods, *Ethics* 116, S. 471-497.

Brighouse, Harry/Swift, Adam (2006b), Parents' Rights and the Value of the Family, *Ethics* 117, pp. 80-108.

<sup>10</sup> With regards to elite private schools, this means that attractive public alternatives are established. In the selective schools systems of Germany or Switzerland, the most demanding school type – the *Gymnasium* – is commonly seen as a source of educational injustice. The *Gymnasium* is in principle open to students from all social backgrounds, but in fact, socially privileged students are clearly overrepresented, in this school type. The *Gymnasium* provides special career opportunities, but is also chosen – by parents and students – for its educational profile that is connected to the traditional ideal of *Bildung*. Instead of closing down the *Gymnasium*, it is possible to build up attractive alternatives, especially in the field of vocational education

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## Commentary

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### Introduction

Johannes states his main question as follows: Are some forms of parental partiality legitimate although they can be in conflict with impartialist principles of educational justice? The principles that he seems to have in mind are egalitarian principles concerning chances, opportunities, education and so forth. To start with: I am not sure about Johannes' answer to this general question because his paper ends with discussing the very specific case of private elite-schools. His conclusion seems to be that private elite-schools are legitimate as long as parents don't have the intention to give their children unfair advantages against other children, and as long as comparable schools are accessible for children from all social backgrounds. The argument of the paper proceeds alongside the dialectics between two accounts of parental partiality: the relationship account on the one side and the liberty-based view on the other. According to Johannes, both views lead to implausible results: while the relationship account doesn't properly respect parental discretion in educational questions the liberty-based view is too inclusive in this respect.

**1) What is the normative relevance of the intentions of the parents?**

Johannes claims against the relationship account that parents should have the freedom to send their children to private elite schools. Hence he seems to endorse a version of the liberal-based view. But he doesn't think that this freedom should be permitted to parents unrestricted. He explicitly denies that "parents' decision to provide their children with competitive advantages belongs in the category of decisions that deserve special protection". To make his point Johannes introduces the distinction between parent's value based choices and parent's will to privilege their children. While parent's value based choices should be respected, their will to privilege their children shouldn't because it would directly undermine principles of educational justice. My question is: Why is the will to privilege one's children the relevant normative criterion and not the fact that one privileges one's child? In my point of view the fact that I privilege my child is the decisive criterion. We should keep in mind that we talk about justice or legitimacy. The question is if parents act legitimately if they privilege them. I find it a very strange answer to say: as long as they don't intent to privilege them. Consider the following two cases:

Case A: Parents don't intend to privilege their child Sara by sending her for one year abroad in an English speaking school. When Sara comes back she speaks English fluently and is much more confident in general.

Case B: Parents intend to privilege their child Philip by sending him for one year abroad in an English speaking school. When Philip comes back he speaks English fluently and is much more confident in general.

As the result is the same in both cases while the intentions are different I cannot see which further normative role the intentions of the parents could play. If Sara and Philip got an unfair advantage then not because of the intentions of the parents but because of the fact that they received better opportunities in life. Furthermore I think that Johannes' line of argument is better captured by this consequentialist account. At the end of his paper he points out that elite-schools must not necessarily contradict principles of fairness when they are accessible to members of all social classes. However, this would not be a restriction of the intentions of parents to send their children to elite-schools where they get unfair advantages but a restriction of their factual opportunities to do so.

**2) Does the relationship account lead to counter-intuitive consequences?**

According to Johannes, the relationship account leads to counterintuitive consequences because it justifies parental partiality only insofar as it is useful for the promotion of family goods. For Johannes this leads to implausible restrictions of parental decisions and his examples are: children's first names and decisions in medical contexts. I wonder if these consequences are really as counterintuitive as Johannes claims. Consider parental decisions

about first names for their children. There is no doubt that we don't want the state or other third parties to decide which names our children should have. Yet most countries restrict parental freedom in this context. In Germany, for example, parents are not allowed to give their children the names of trade-marks like Armani or Gucci. The same is true for parental decisions in medical contexts. Again, any Walden-Two-like expert-dictatorship, in which parents have no say in medical contexts, wouldn't be very attractive for the most of us. But, to take Germany as an example again, parents are forced to bring their children to medical routine check-ups. To summarize: restricting parental liberties is already implemented in many countries. My intuition is that most people take this to be a desirable political situation. This is why I don't see that the relationship account is doomed to lead to counterintuitive consequences in the sense mentioned by Johannes.

**3) What are the merits of the liberty-based view concerning the question of the legitimacy of elite schools?**

It seems to me that both accounts – Johannes' refined version of the liberty-based view and the relationship account – draw very similar conclusions concerning the legitimacy of elite schools. Both hold that elite schools are an illegitimate form of parental partiality if they privilege children for contingent reasons like having wealthy parents. Both accounts are, as accounts of educational justice, concerned with the just allocation of primary goods like chances and opportunities, but contingent facts like the social background don't count as normative reasons. Furthermore both accounts accept the so called meritocratic principle according to which individual achievements should be honored. This entails that the best students should be able to visit schools that meet their talents. In other words: both accounts seem to endorse the idea of 'meritocratic elite' schools. Up to this point both accounts seem to me quite similar in their basic claims. Yet Johannes seems to favor the liberty-based view because it gives more weight to parental value-judgment in educational questions. Contrary to that he criticizes the relationship account because it considers the value of such judgments as derivative from its contribution to the promotion of the family-goods. This is indeed a fundamental difference between both accounts. However, I don't see why this difference is related to the question if elite schools are legitimate.