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Considerateness

A stranger entering the store ahead of you may hold the door open so it does not slam in your face, or your daughter may tidy up the kitchen when she realizes that you are very tired: both act out of considerateness. In acting considerately one takes others into consideration. The considerate act aims at contributing to the wellbeing of somebody else at a low cost to oneself.

Focusing on the extreme poles of the spectrum of human relationships, I argue that considerateness is the foundation upon which our relationships are to be organized in both the thin, anonymous context of the public space and the thick, intimate context of the family.

The first part of the paper, sections I–III, explores the idea that considerateness is the minimum that we owe to one another in the public space. By acting considerately toward strangers we show respect to that which we share as people, namely, to our common humanity. The second part, sections IV–VIII, explores the idea that the family is constituted on a foundation of considerateness. Referring to the particular distribution of domestic burdens and benefits adopted by each family as its “family deal,” I argue that the considerate family deal embodies a distinct, family-oriented notion of fairness.

The third part, sections IX–XV, takes up the notion of family fairness, contrasting it with justice. In particular I take issue with Susan Okin’s notion of the just family. Driving a wedge between justice and fairness, I propose an idea of family fairness that is partial and sympathetic rather than impartial and empathic, particular and internal rather than generalizable, and based on ongoing comparisons of preferences among family members. I conclude by characterizing the good family as the not-unjust family that is considerate and fair.

I. *The Considerate Act*

In acting considerately one shows thoughtfulness for others. As a variety of dictionary entries for ‘consideration’ tell us, the considerate act takes others into account: it takes sympathetic notice of others, displaying regard for the circumstances, feelings, and comfort of others.¹ To help explore the sense in which we sometimes act while *taking others into consideration*, let us consider a few examples:

- You enter the lavatory in an airplane. On the mirror above the sink a little note says: “Out of consideration for the next passenger, please use your paper towel to wipe the wash basin clean.”
- I am talking on a public payphone. It is intermission time at the theater, and I notice that someone is standing outside the booth, waiting her turn. I cut my conversation short.
- As you walk toward your parked car, you notice a desperate driver in search of a spot in the full parking lot. You motion to the driver to follow you, and you accelerate your pace.
- I am entering the department store. I push the heavy glass door, glance over my shoulder and hold the door open for the next person.
- You sit next to me at a meeting. You are momentarily called out of the room and I cover your cup with the saucer, to keep the coffee warm.
- Given how late you returned from your trip last night, I let you sleep a little extra this morning and I take over some of your morning chores.

These cases provide us with an initial stock of examples of considerate behavior. Looking for what they have in common we see that in acting considerately one takes others into consideration; more specifically, one takes into account the wellbeing of other people. Here is a preliminary way of describing the phenomenon:

¹ The thesaurus lists the following different roots for ‘consideration’: 1. *thinking* (as in argument, belief, contemplation, and more); 2. *importance* (as in esteem, regard); 3. *accounting* (as in taking into account); 4. *considerateness* (as in care, concern, attention/attentiveness, and more).

Here is a useful way of linking these four, seemingly disjoint, meanings in a chain of near-identities or causal/psychological connections: to think of X => to have regard for, and respect X => to take X into consideration => to care for X’s wellbeing. Interestingly, the Hebrew three-consonant root *kh-sh-v* serves all four meanings (*lakhshov*, *lehakhshiv*, *lekhshav*/*kheshbon*, *lehithkhashev*).

A considerate act is designed to decrease someone else's discomfort at near-zero cost to oneself.

Let me elaborate on this formula by taking apart its constituent elements, in light of the examples above.

1. *"Decrease the Discomfort."* When I act out of consideration toward you, I have your wellbeing in mind. My considerate act is typically intended to decrease your discomfort, alleviate your inconvenience, or minimize an injury to your welfare. Occasionally it is intended to prevent these altogether and sometimes indeed to contribute to your comfort or in general to increase your wellbeing.

Whether looked at in the positive or in the negative, the benefit to you is small: you are spared a longer wait, or the need to push the door, or the unpleasantness of an unclean sink. 'Small' is a relative and context-dependent term. Still, whatever one's yardstick, considerate acts involve benefits that are at the low end of the scale. Note however that their being small does not mean that they are trivial or negligible. At a low cost to myself my considerate act allows me to confer on you a benefit that, while small, is meaningful to you. Moreover, I judge the benefit, small as it may be, to be worth to you more than its cost to me. This presupposes that I can compare my cost with your benefit. Such comparisons, while quite often and naturally made, raise non-trivial issues to which I shall come back later.

A considerate act thus has leverage-power to transmute a low-cost gesture of mine into a small yet meaningful benefit to you. "For others expect of us only the deeds we can render without inconvenience to ourselves, nor do we expect more of them; but it often happens that deeds that cost others little profit us very much" (Montaigne).² Gestures involving larger benefits to you usually correspond to higher costs to me; in general, these are no longer acts of consideration but rather cases of altruism and sacrifice.

In choosing one's action or the manner of its execution, the considerate person takes into consideration the presence, needs, or interests of others. This "taking into consideration" has both a physical and a mental component. In being considerate, you acknowledge the impact on others of your bodily being as well as your potential impact on the others' feelings. You want to

² Michel de Montaigne, *Essays*, trans. M. A. Screech (London: Penguin, 1991), pp. 176–77.

minimize any unfavorable consequences that your bodily presence might have upon those around you. You might, for example, lower yourself a bit in your seat at the theater in consideration of those in the rows behind you, or stand on the right when stepping onto the escalator conveying people up toward the subway exit in consideration of anyone behind you who might be in a hurry, or eliminate your traces from the bathroom before you vacate it.

We often speak of being considerate toward other people's feelings. One wants to spare the other's feelings and to avoid hurting them unnecessarily, for example in telling a joke or breaking bad news. These cases are primarily about omissions: they concern what you avoid doing or what you refrain from saying, taking into account people's sensitivities. Here, as in the standard cases of considerateness, the cost to you of putting extra checks on your words or deeds is usually low. In any case, what matters is that you judge it lower – sometimes significantly lower – than the chagrin spared from the other. In omission as well as commission, the considerate person endeavors primarily to reduce to the minimum the adverse effects that his or her deeds and words might have on others.

2. "*Someone else.*" Who is the "someone else" who benefits from one's considerate acts? I intend to focus on two contrasting categories of people toward whom we may direct our considerate acts. One is total strangers, and the other is our immediate family. Friends, colleagues, acquaintances, and many others are to be found between these two extremes and may, of course, be on the receiving end of our considerateness as well. With regard to people located somewhere on the imaginary continuum that stretches between the utter strangers and the closest relatives, I assume that our considerateness toward them will best be understood in terms of some mix between the two ends of the continuum. (Consider the case of my covering someone's coffee cup, cited among the examples above. I may do this to a stranger or to an acquaintance, and the analysis will somewhat vary accordingly.)

In the anonymous context of the public space, I act considerately toward people I do not know: indefinite people, anyone and no-one-in-particular, *Jedermann*. In this case, if you benefit from my considerateness, it is not because of the particular person you are but because you happen to be in my orbit, whoever you might be. I am considerate toward a concrete yet anonymous person; a man (or a woman) without qualities, as it were. He or she has needs

and wants that, insofar as they pertain to my considerateness, are situational and not person-specific. In holding the entrance door from slamming in your face as you enter the store behind me, I am being considerate toward you as the person-who-enters-behind-me, not you as the highly individual person that you are. Your need or wish I am responding to is that the heavy glass entrance door should not slam in your face: it is a need or wish that anyone in that situation would have. I need to know nothing about you beyond this situational description; even eye contact between us is not required.

The beneficiary of my considerateness, then, is you as an accidental representative of humanity: it could have been anyone. In acting considerately, I do not expect gratitude.

You may say “thank you” – but then, you may not. Beyond the impersonal, fleeting moment of contact between us, my considerate act does not establish nor does it invite a more lasting relationship, let alone a relationship between gift giver and gift receiver.

We think of considerateness very differently in the context of the family. Here the beneficiaries of one’s considerateness are one’s nearest and dearest: parents, spouse, siblings, and children. Far from generic human beings, they are the highly specific people one knows most intimately. The family is the context of the thickest of human ties in contrast to the public space, where what ties people together is nothing but their shared humanity – the thinnest of ties. Even though considerateness plays out differently among strangers and among close relatives, I believe that many of our acts of considerateness we typically direct toward these two very different categories of people.

My goal here is to explore the idea that considerateness is the foundation upon which our relationships are to be organized both in the thin, anonymous context of the public space, and in the thick, intimate context of the family. The considerate public space and the considerate family provide us with the minimal pre-moral normative bedrock for the civilized society. The terms ‘just society’ and ‘decent society’ have become terms of art with rather strict and technical definitions.³ I think of the civilized society, with considerateness at its core, as the common denominator underlying both. I start with considerateness among strangers; I will take up the case of the family in section IV.

³ John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971); Avishai Margalit, *The Decent Society* (Cambridge: Harvard University Press, 1996).

3. “*Near-Zero Cost.*” A considerate act benefits someone else at near-zero cost to oneself. How small is ‘near zero’? The examples give some indication in what sense my considerate acts cost me little; still, this question cannot be given a precise answer.

The cost may be some slight discomfort to my self. If we had a system of interpersonally calibrated units of comfort and discomfort I would say that the degree to which I inconvenience myself by my considerate act is smaller, and often much smaller, than the degree to which I expect to be contributing to your overall wellbeing. We can often come up with such a rough judgment even without well-calibrated units of wellbeing. As I said before, while the small reduction of your discomfort due to my considerate act is not trivial, I think it is mostly the case that I judge the cost to me of such acts as trivial. The low cost is measured not only by its small size, however. Think of the cost as if it were a vector, so that it has direction as well. Considerate acts as a rule do not require me to change the course on which I am already set; typically, by acting considerately I do not go out of my way. While favorably affecting the beneficiary’s wellbeing, my considerate act often involves only a minimal disruption of the course I was pursuing anyway. It requires only slight changes in the pace, timing, or flow of what I am already doing.

When the cost to me is significant, and the benefit to you is positive and large, we do not say that I am being considerate to you. Rather, perhaps, that I am being altruistic toward you. When the cost is somewhere in the middle range we may say that I am being generous toward you or that I am doing you a favor. If my cost is so high that it goes beyond any reasonable scale, we tend to think of this as a case of sacrifice. I shall deal with some examples below.

Performed at near-zero cost to my self, my considerate act should not be considered, in and of itself, as self-effacing. In being considerate toward you, I am not being over-deferential toward you. The signal I am emitting is not that I hold you in higher regard than I hold myself: it is that I do not hold you in lower. Since the ‘you’ in the case of considerateness in the public space is impersonal, the message I am conveying is one of humanity-wide respect and solidarity.

II. Taking Others into Consideration

If you complain that I have not been considerate to you, what is the nature of your complaint? What charge can you press against me for inconsiderate behavior?

In being inconsiderate toward you, I am not infringing on any of your rights. You do not have the right to my parking spot before I have vacated it or the right to have the entrance door held for you. You may have expectations regarding these matters, but not rights. I may inconvenience, irritate, or aggravate you in my acting inconsiderately but I do not wrong you in the sense of depriving you of anything that is rightfully yours. Still, is there a sense in which there is a normative expectation of me to be considerate and in which it is something that I owe you?

There is wide understanding that in a decent society we owe one another a host of negations or abstentions, such as not to subject one another to cruelty, torture, or humiliation. There is also wide understanding that in a liberal society we owe it to one another not to violate each other's liberties. In a society ruled by law, the law backs up most of these expectations. Our expectations from one another, however, often reach further than what the law protects. We may expect non-rudeness and civility. These expectations are normative in nature; we hold up certain norms of behavior. The law does not back these expectations, however, and it does not punish their breach. The degree to which their breach is punishable by informal sanctions varies greatly from one social group or society to another.

To act considerately is to take into consideration others when one acts. 'Considerately' is an adverb; it tells us something about the way the action is done and it qualifies the action in a certain respect. To the extent that we take considerateness as a duty or a norm, its injunction to take others into account is general and vague. It does not specify how one is to go about satisfying it or what it is about the others that one is to take into account: their interests, needs, or wishes – or possibly something else altogether? In acting considerately toward people I know well, I may have an idea of what it means to take them into account. I may know not only their needs and wishes but also their vulnerabilities, so I have a pretty good sense how I may avoid inconveniencing them or hurting their feelings beyond necessity. But what of the case involving people I do not know? When I act with consideration toward strangers all I can take into account about them is what they have in common with all other human beings: that they have, in Shylock's words,

“hands, organs, dimensions, senses, affections, passions” – that they bleed when pricked and laugh when tickled and die when poisoned.

In other words, their shared humanity is what people take into consideration when they act considerately toward one another in the anonymous public space. And in being taken into consideration, common humanity is thereby respected. Considerateness thus encapsulates the minimal unit of one’s positive acknowledgement of the other qua fellow human being, with a body and a mind. It encapsulates the minimum that we owe to one another in a positive rather than negative way, giving content to the indistinct notion that our shared humanity is worthy of respect.⁴ The considerateness we owe one another falls short of kindness: kindness lies beyond the scope of what we might truly owe to one another in virtue of the barest minimum that we all share, which is our common membership in the human race.

Seen in this light, my considerate act toward you seems implicitly to be stating something like the following. I recognize that you are “in the orbit” of my action. I recognize that, to some extent, my person might inconvenience you as a person. I recognize that you and I temporarily share the same space (physical or mental) and that this very fact might have nuisance implications for you. In acting considerately toward you I mean to convey to you this complex of recognitions and at the same time to minimize the inconvenience I may engender in you. Implicit in this is my recognizing you as a fellow human being and my respect for you as such.

Another aspect of the message conveyed by acts of considerateness toward strangers involves reciprocity. In being considerate toward the anonymous other, I broadcast my expectation – both factual and normative – to be met with considerateness in return. This expectation need not mean that my considerateness toward you is conditional upon my belief that you will reciprocate in the short run. Rather, it is to be construed in the spirit of Ecclesiastes, “Cast your bread upon the water, for in the fullness of time you shall find it.” My act of considerateness thus expresses a hope that the world I live in is or will be inhabited by considerate people; at the same time my act does its share toward ushering such a world in.⁵

⁴ In his book entitled *What We Owe to Each Other* (Cambridge: Harvard University Press, 1998), T. M. Scanlon offers a fully fledged (contractarian) moral theory. My use of the expression is more literal: I explore considerateness as the minimum that we owe to each other irrespective of the particular moral theory we espouse.

⁵ The question may still be raised whether considerateness does not pay in the long

Returning to the question posed at the beginning of this section, we can now appreciate the nature of the complaint against inconsiderate behavior. While not wronging me in the sense of infringing on my rights, it is entirely appropriate for me to feel affronted, to take offense. Your inconsiderate act toward me is a disrespectful act; it is an insult to the genus ‘human being’. In contrast to being on the receiving end of impoliteness, inconsiderateness is a slight to a fundamental aspect of being a human being.

III. Considerateness Differentiated

To get a better grasp of considerateness is to get a better grasp of what it is not. It must be differentiated from notions that are its closest neighbors in our conceptual scheme, as well as from those notions that clearly contrast with it. Altruism, sacrifice, supererogation, gift giving, kindness, politeness, chivalry – all of these, and possibly more, come to mind as belonging to the first group; selfishness, rudeness, disrespectfulness, and ‘tit for tat’ are included in the second. The disparity between acting selfishly and acting considerately is perhaps the most obvious and the most telling. A considerate act, which takes into account other people, stands in stark contrast to a selfish act, which is self centered and oblivious to the existence and concerns of others. So too with rudeness and the other notions that contrast with considerateness; there seems to be little need to dwell on those. But to demarcate considerateness from its neighboring concepts is a less obvious task. Doing so thus holds the promise of casting considerateness in sharper relief.

1. *Supererogation.* I said earlier that the considerate act toward strangers involves low, or near-zero, cost to the actor. When the cost to the actor is higher and the benefit to the recipient is correspondingly larger, we no longer think of the act as one of considerateness but we think, rather, in terms of the

run and within the larger picture – and whether this might not be the motivation for considerateness. See Elster’s discussion of Becker’s example of an altruistic husband and a selfish wife: he likes reading in bed, but her sleep is disturbed. She may nevertheless let him read if she benefits from his reading in that “at the higher utility level ... he will more than compensate her for her loss of sleep.” Her behavior, Elster points out, is the same as that of a considerate wife, but the underlying motivation differs; see Jon Elster, “Altruistic Behavior and Altruistic Motivations,” in S. C. Kolm and J. Mercier-Ythier, eds., *Handbook of the Economics of Giving, Altruism, and Reciprocity* (Amsterdam: North-Holland, 2006).

actor doing the recipient a favor. We speak, in an increasing scale, of the act as being one of generosity, altruism, or sacrifice. The distinctions here are matters of degree but, imprecise as these degrees may be, they eventually amount to important distinctions in kind. In being considerate, one is not engaged in supererogatory acts; considerateness is distinct from generosity, kindness, altruism, or sacrifice.

Donating a kidney to a relative, risking one's life trying to save someone from drowning, or giving up one's annual vacation in order to do refugee relief work – these acts go way beyond acts of considerateness. They require one to go a very long way out of the way to perform them and they typically imply a major disruption in the routine of one's life. Acts of considerateness, in contrast, involve no disruption, or perhaps only a minimal one, in the course one was pursuing anyway. The examples just given are of course rather extreme cases of supererogation. Other cases of supererogation in the strict sense of the term, namely, going beyond the call of duty, need not be so dramatic. They may involve simple, everyday examples of kindness and generosity such as cooking a meal for a sick friend, standing in for a colleague who must leave work early, giving alms to a street beggar, or donation to a charity.

The Good Samaritan, we are told (Luke 10, 30–35), sees a wounded man lying by the side of the Jericho road and stops to help him. He sees that the wounded man is a stranger but he also sees him as a human being who needs help. The story contrasts the Samaritan with the Priest and the Levite who happened to be going down the same road earlier and when they saw the man “passed by on the other side.” Their moral failure, the story implies, is compound. The Priest and the Levite failed, first, in that they avoided seeing the wounded man qua fellow human being. But they also avoided seeing him qua co-religionist of theirs – a fact that is supposed to impose special obligations on them toward his wellbeing. The Good Samaritan went far beyond considerateness; his was a supererogatory act. He went much out of his way to help: “He bandaged his wounds, pouring on oil and wine.” Then he took the wounded man to an inn and even paid the innkeeper two silver coins for continuing to take care of the patient.

Still, in being considerate toward people, you are doing something for them. Are you not doing them a favor? Are you not being kind toward them? Well, I suppose in some sense you are. As evidence, we may cite the simple fact that often people respond with a “thank you” when they are

on the receiving end of a considerate act. However, this evidence does not go very far. Kind and generous people will be considerate people as well, but the opposite does not in general hold; to act considerately one does not have to have a kind or generous disposition. Invoking a somewhat artificial distinction here, we may observe that through the kind act one typically intends to contribute in a positive way to the wellbeing of the other. By the considerate act, in contrast, especially toward a stranger, one typically intends to reduce the discomfort one may be causing the other in virtue of one's mere presence.

2. *Politeness*. Might not being considerate be tantamount to being polite to one another? Up to a point it is possible, I think, to see politeness as overlapping with consideration, but the overlap can only be partial. Much of politeness has to do with decorum and etiquette (think of table manners, for example). These involve highly conventional and rule-governed behavior, concerned to a considerable degree with demarcation of social hierarchies as well as with preventing social embarrassments. It would seem that this rule-following aspect of politeness has little to do with considerateness. A gentleman stands up when a lady enters the room or walks between the lady and the traffic because he knows that this is the polite way to behave, not out of considerateness. Except that this last example actually suggests that at least initially some rules of politeness may have evolved out of considerateness: the gentleman of some long-past century considerately wished to protect the lady's dress from the mud slung by the passing carriages in the narrow alleyways – and, with time, this became the rule. Examples like these abound; after all, connections between etiquette and ethics are not altogether accidental.⁶

Still, those aspects of politeness that might more clearly overlap with considerateness must surely be found among the more spontaneous, less non-rule governed expressions of politeness. Also, one may expect to find

⁶ For a wealth of examples and information on the history of politeness and etiquette consult Norbert Elias, *The Court Society*, trans. Edmund Jephcott (Oxford: Blackwell, 1983), and Elias, *The Civilizing Process: Sociogenetic and Psychogenetic Investigations* (Oxford: Basil Blackwell, 2000, first published in German in 1939). The following quote is from the latter book: "Politeness, *courtoisie*, required that one blow one's nose with the left hand if one took meat with the right. But this precept was in fact restricted to the table. It arose solely out of consideration for others."

an overlap where acts of politeness are not culture specific but are rather directly oriented toward people as people, regardless of culture or social rank. When one gives up his or her place in the queue for a frail elderly person to go first it is hard to determine – and somewhat pointless to try – whether this act is done out of natural politeness or out of considerateness. The line is fine here and not too much should be made to hang on it.

Suppose you belong to a culture or society in which not letting pregnant women or elderly people sit in the bus counts as flouting a norm of politeness. Still, by standing up and giving them your seat you are showing consideration. You are making a gesture that shows your recognition, or awareness, of their existence and of their particular physical condition. At the same time you are giving up a certain amount – small, to be sure – of your own comfort in order to decrease their discomfort by an amount that you judge to be more significant. And you make the gesture without much going out of your way.

Many years ago I used to take bus rides in England. I was surprised on more than one occasion to realize that unless I let a pregnant woman sit, no one did. Puzzled by this, I asked around for explanation. The answers I got suggested that the norm of respecting other people's privacy, and more generally of minding one's own business, was stronger than the ordinary norms of politeness. Getting up to let a pregnant woman sit implies that one had observed her and noticed her condition and this is taken as a violation of the code of strict non-interference in other people's life and affairs.

I do not know for sure if this explanation reports a true empirical generalization. But if it is true, I find the value system that it reflects puzzling. Gazes and stares, to be sure, are often unwanted and may at times be experienced as intrusive; spying clearly constitutes an invasion of privacy.⁷ But does noticing a woman's pregnancy fall in these categories? Looking ordinarily implies seeing, and seeing ordinarily implies the drawing of some immediate inferences. This is normal and expected in the course of

⁷ The idea of Bentham's *panopticon* comes to mind in this connection: the all-seeing viewer induces in the observed person (the prison inmate) a state of "permanent visibility" that assures the ultimate imbalance of power between observer and observed. See also Michel Foucault, *Discipline and Punish: The Birth of the Prison* (1975), trans. A. Sheridan, 2nd ed. (New York: Vintage Books, 1995), esp. pp. 195–228. The idea of the *panopticon* is in vogue in the current literature about the "war on terror" and the privacy-curtailing legislation it has given rise to.

normal, everyday life. So to behave as if you did not see would seem more like avoiding the other than like respecting the other's privacy.

Of course, if you know the person you are avoiding you may have a variety of reasons to want to avoid eye contact with her. But if she is a stranger, then in avoiding her you are treating her as if she were thin air: you are not avoiding *her* for the particular person that she is, but avoiding her qua fellow human being. Considerateness requires one not to be oblivious to people in one's environs: to look, and to see. And, upon seeing a pregnant woman in the full bus the considerate person is expected to recognize her condition and to help her to a seat. She may decline the offer, for whatever reason. Even if she does, this is not inconsistent with her recognizing the act of considerateness for what it is.

The notion of tact offers a further interesting comparison. In "Tact: Sense, Sensitivity, and Virtue," David Heyd analyzes tact as a virtue of sensitivity, lying between moral virtues and the virtues of politeness.⁸ Unlike either morality or politeness, tact is not rule governed. It is a skill, says Heyd, expressed in the right measure of sensitivity exercised in particular states of affairs and toward a particular individual toward whom the agent is sensitive and sympathetic. The position of tact between ethics and etiquette, or between the obligatory and the merely conventional, "opens the door to characterize it as supererogatory." Considerateness, in contrast, underlies both morality and politeness. It is a non-supererogatory norm enjoining one to recognize that one's presence and actions have consequences for others.

IV. *The Considerate Family*

The first part of this paper dealt with considerateness in the context of thin relations between strangers in the public space. The considerate person was presented as one who is not oblivious to the existence of relevant others in one's orbit of action and who takes them into consideration in the way one acts. Specifically, the considerate person designs his or her action so as to minimize the discomfort – or sometime to increase the comfort – of relevant others. Considerateness was described as the least that we owe to one another in virtue of our sharing public space as fellow human beings.

⁸ David Heyd, "Tact: Sense, Sensitivity, and Virtue," *Inquiry* 38 (1995): 217–31.

In the context of family relationships, the thickest of all human relationships, considerateness plays out very differently. The relevant others we take into consideration when we act considerately are our family members: not anonymous fellow human beings but the people we know most intimately. I shall now have to spell out more fully what it means and what it takes for family members to be considerate toward each other.

A word is in order first about the family as a social institution. It is often said that the family is a special social institution; that in some respects it is a social institution like any other, and in other respects it is different and special. As an “association of individuals”⁹ the family typically consists of a small group of people, yet it is often referred to by theorists as a “major” or “fundamental” social institution.¹⁰ Scholars ask whether the family is an inevitable social institution, and also to what extent the family can be seen as a natural institution, as distinct from a conventional one. Even if it can be argued that for any of us to belong to a family is natural, this is not quite the same as to argue that the family we belong to is natural.

The traditional, male-headed, monogamous, heterosexual family that for centuries was considered, at least in the West, unchallengeable as well as natural can no longer be taken for granted. Variations on the traditional theme of the family abound, as do questions concerning the definitional core of what the family is and what it is that remains constant under the plurality of current domestic arrangements. “Despite its importance,” says the entry on “Family, Anthropology of” in the *International Encyclopedia of the Social & Behavioral Sciences*, “the word ‘family’ has no clearly defined meaning. . . . Three elements are *interrelated* in complex ways in the various uses of the word family: marriage, relatedness, or kinship and domestic or household organization. Each usage of the term carries different combinations of these elements.”¹¹ I shall assume that for present purposes

⁹ Rawls, *A Theory of Justice*, p. 467.

¹⁰ “By major institutions I understand the political constitution and the principal economic and social arrangements. Thus the legal protection of freedom . . . , competitive markets, private property . . . , and the monogamous family are examples of major social institutions” (ibid., p. 7). Rawls also lists the family as one among several “fundamental institutions” in *Political Liberalism* (New York: Columbia UP, 1993), p. 258.

¹¹ J. S. La Fontaine, “Family, Anthropology of,” in Neil J. Smelser and Paul B. Baltes, eds.-in-chief, *International Encyclopedia of the Social & Behavioral Sciences* (Amsterdam: Elsevier, 2001), p. 5307.

we can make do with a broad characterization of the family as a small and intimate grouping of people that share domestic organization; and that it is the locus of individualized care in which a parental link of some sort typically exists.¹²

Considerateness within the family is supposed to be reflected in the first instance in the set of arrangements regarding the way the family members share or divide the burdens and responsibilities they face. I refer to these arrangements as the ‘family deal’ and I shall say more about it presently. The prime motive in arriving at a family deal is not “what’s in it for me” or “how can I get away with less.” Rather, it is the thoughtful regard for one’s family members. It is one’s parent, sibling, spouse, or child as concrete people, in their full particularity, that one is supposed to be taking into consideration when one is acting in the family context. About strangers one knows nothing, except that they are fellow human beings with bodies and minds. In taking strangers into consideration, therefore, one cannot be supposed to consider anything in particular about them, only what they have in common with everyone else. But of family members one has intimate knowledge. One knows their needs, tastes, wishes, and quirks, all of which have to be considered when one acts while taking one’s family members into consideration.

The family enterprise in the case of the good family is never a zero-sum game. One person’s loss cannot be another’s gain. Even though the interests of the family members need not be harmonious and cannot in general be assumed to coincide perfectly (contrary to what some thinkers maintain),¹³ their enterprise is nevertheless inherently a cooperative one. Moreover, it is characterized by an ongoing desire on the part of the family members to act in such ways that will alleviate pressures from the other members of the family

¹² See Veronique Munoz-Darde, “Rawls, Justice in the Family and Justice of the Family,” *Philosophical Quarterly* 48 (1998): 335–52, at p. 350.

¹³ Jean-Jacques Rousseau, *Discourse on Political Economy*, trans. from Rousseau’s *Oeuvres Complètes* (Paris: Pleiade, 1959–1969), 3:241–42; David Hume, *Enquiry Concerning the Principles of Morals*, ed. L. A. Selby-Bigge from the 1777 edition (Oxford: Oxford University Press, 1975), p. 185, and also *A Treatise of Human Nature*, ed. L. A. Selby-Bigge (Oxford: Oxford University Press, 1978), pp. 493–96; Michael Sandel, *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982), pp. 30–35; and see the discussion of this issue in Susan Moller Okin, *Justice, Gender, and the Family* (New York: Basic Books, 1989), pp. 26–33. See also the discussion below, in section XI.

and will in general ease and benefit their lives. By ‘ongoing desire’ I do not mean a burning all-consuming desire that is top priority for each member of the family at all times. I am thinking rather in terms of a steady “backburner” wish that is somewhere on the priority list of the family members and informs their activity, behavior, and decisions on an ongoing basis.

As an aside, I note that the English language is missing a verb. The meaning of the German verb *vergönnen* is ‘not to grudge’, for which there is no equivalent word in English.¹⁴ But in fact this verb denotes more than just not-begrudging or wishing someone else well. It conveys the sense of delighting in the success of someone else, of taking active pleasure in the wellbeing and good fortune of the other. When I am *vergönnend* to you, my wellbeing increases when yours does. Good teachers or mentors may be *vergönnend* to their pupils and close friends may be *vergönnend* to each other. But the clear cases of *vergönnend* are surely to be found in family relationships, most paradigmatically in the attitude of parents to their children. The desire of parents to see their offspring thrive and the positive, heartwarming pleasure they take in their child’s success is what the notion of *vergönnend* is essentially about. This often applies in the case of siblings as well.

V. *The Family Deal*

A family is established, typically, when two people decide to share their lives. They start a joint household; with time children are added. There are many variations on this conventional theme. Current trends tend toward ever greater diversity of family structures that are increasingly acceptable socially as well as recognized by the law. Families are formed by couples of opposite or of the same sex and sometimes by a single person of either sex. Families break, unite, and start again in a variety of configurations. Children are had in the natural or in high-tech kinds of ways; no fixed assumptions hold about the biological relation of a child to the one or two heads of the family who raise it or to the other children in the family. Membership in the family unit is constantly negotiable and in flux. This must all be borne in mind even when,

¹⁴ My native tongue of Hebrew also lacks this verb but it has imported the word from the German via its Yiddish form. And so in current spoken Hebrew there is much usage of the verb *le-fargen*, from which a noun is also formed, *firgun* (to rhyme with the Hebrew word *Irgun* that will be familiar to some readers from an altogether different context).

for the sake of non-cumbersome presentation, the discussion that follows seems to focus on the conventional family.

Even under the most romantic circumstances the sharing of a household involves ongoing series of decisions to be made, domestic labor to perform, and in general a multitude of chores, tasks, and duties. Upon establishing a family, the “founding” members arrive at a certain initial understanding how they are going to share or divide all of these. The initial understanding reached by the couple is usually only partially explicit; it is often the product of subtle and largely tacit negotiations. It would be wrong to think of this understanding as a contract. ‘Covenant’, ‘treaty’, and the like will also not quite capture the nature of the process that is going on or of its product. It is not easy to pin this notion down with an appropriate term and yet I believe that there is something important here that needs to be captured. I shall refer to it as the *family deal*.

The array of divisions of tasks and responsibilities that the parties arrive at reflect the delicate, initial balance of power between them that they bring into their union, as well as their mutual caring and intimate knowledge of each other. It reflects their preferences and aversions, their different competences and skills, their relative strengths, weaknesses, and vulnerabilities, as well as their fantasies, whims, and special needs. Who shops and who cooks, who cleans and who launders, who takes care of the bills and who deals with the social calendar, who makes the decisions about work or leisure or about how the family budget is to be allocated, and (typically at a somewhat later stage) who does what with regard to the burdens of child care – these are some of the most mundane and familiar examples. They belong perhaps to the repertoire of the traditional urban middle-class family, but they can easily be generalized to (or replaced by) examples pertaining to different sets of circumstances as well as to non-traditional kinds of family.

The initial family deal reached by the founding couple is in constant flux. With time it gets modified and extended in response to changes in circumstances. It stands in need of adapting to the unfolding life cycles of the members of the family. This is true in particular when a child is added to the family and at each new stage in the children’s lives. But it is also true when someone falls ill, goes away or starts new work, when an elderly relative moves in or when the family moves out. Family arrangements regarding the allocation and distribution of burdens and benefits are continuously renegotiated and redefined.

The parties who reach the family deal and who keep renegotiating and redefining it partake of this process as highly concrete individuals who are known to themselves and to each other in the most distinctive and intimate details. Contrary to what economists and welfare theorists might tell us, couples and siblings know each other's preferences very well. Moreover, they have a pretty accurate sense of the intensities of these preferences too. They know to whom that extra hour of sleep is worth more and who minds less doing the dishes. And so, in the process of establishing and revising the family deal, the parties are typically engaged in fully fledged interpersonal comparisons of utilities.

VI. "*Little Women*": *The March Family*

A chord will no doubt be struck in some readers' minds to be reminded of the way the March family is portrayed in the opening pages of Louisa May Alcott's *Little Women*. In particular, let us recall the role considerateness plays in the lives of members of this family:

The clock struck six and, having swept up the hearth, Beth put a pair of slippers down to warm. Somehow the sight of the old shoes had a good effect upon the girls, for Mother was coming, and everyone brightened to welcome her... Jo forgot how tired she was as she sat up to hold the slippers nearer to the blaze.

"They are quite worn out. Marmee must have a new pair."

"I thought I'd get her some with my dollar," said Beth.

"No, I shall!" cried Amy.

"I'm the oldest," began Meg, but Jo cut in with a decided –

"I'm the man of the family now Papa is away, and I shall provide the slippers, for he told me to take special care of Mother while he was gone."

"I'll tell you what we'll do," said Beth, "let's each get her something for Christmas, and not get anything for ourselves."

"That's like you, dear! What will we get?" exclaimed Jo.

A little later the "tall, motherly, noble-looking" Mrs. March arrives home. Casting her "can-I-help-you" look about her and making a series of maternal inquires,

Mrs. March got her wet things off, her warm slippers on, and sitting

down in the easy chair, drew Amy to her lap, preparing to enjoy the happiest hour of her busy day. The girls flew about, trying to make things comfortable, each in her own way. Meg arranged the tea table, Jo brought wood and set chairs, dropping, overturning, and clattering everything she touched, Beth trotted to and fro between parlor and kitchen, quiet and busy, while Amy gave directions to everyone, as she sat with her hands folded.¹⁵

The loving and affectionate March family is a highly idealized case of the “good” family in the sense I here seek to explore – sweetened to a point just short of parody, perhaps. Still, there is something to gain from examining the quoted passages with the notions of considerateness and the “family deal” in mind.

The girls brighten to welcome their mother, engaging in a cheerful sisterly conversation peppered with endearments. For the mother, homecoming is the happiest hour of the day. We note the gesture of warming Mothers’ slippers before she arrives, and the girls’ efforts “to make things comfortable, each in her own way” in what amounts to a cooperative family enterprise, tacitly undertaken. We note also the competition between the sisters, who will use her only dollar to buy Mrs. March new slippers, the idea being that the one who gets to make this sacrifice is the winner. In addition, we learn from this passage that adjustments needed to be made in the life of the family when Father left home to fight in the war. Tomboy Jo sees herself now as the “man of the family” and it appears that she was in fact singled out by Father, who conferred on her the extra responsibility of taking special care of Mother when he is away.

Let us look a little closer at the way the girls “make things comfortable, each in her own way.” Looking at what each of them is described as doing, it is quite evident that the way they go about the various chores does not exactly amount to an equitable distribution of labor among them, objectively speaking. Nor is it intended to be. What we have here is a description of a natural, familial division of labor, not an artificially imposed one. It is meant to convey to the reader a preliminary sketch of the different personalities, abilities, and characters of the four sisters as these are reflected in the way the girls self-select and divide the various domestic tasks between them. What matters, for our present concerns, is that each of them does what she is

¹⁵ Louisa May Alcott, *Little Women*, 1868 (New York: Alfred A. Knopf, 1988), pp. 6–9.

inclined to do and possibly does best. The sisters naturally complement each other in what they do. The resulting arrangement – we must assume – is on the whole acceptable to them as fine and fair; presumably it also works in the sense that it gets things done.

Toward the end of the book Amy says to her mother, “I never ought to [despond], while I have you to cheer me up, Marmee, and Laurie to take more than half of every burden” (p. 475). Wanting to take “more than half of every burden” just about sums up the essence of domestic, familial considerateness at its most idealized. One of the OED dictionary entries for ‘consideration’ is, we recall, “Regard for the circumstances, feelings, comfort, etc., of another”; a more apt example may be hard to come by.

VII. A Second Tier of Considerateness: Gestures

Considerateness as characterized in the first part of the paper had a caveat concerning cost. The considerate act is not only supposed to contribute to someone else’s wellbeing but to do this at near-zero cost to the actor. Acting considerately toward strangers, it was pointed out, typically involves no going out of one’s way but rather incorporating regard for relevant others while proceeding in one’s own business. In the case of the family this caveat does not necessarily apply. Considerateness in the family often involves going out of your way toward your spouse, child, sibling, or parent at a more-than-trivial cost to yourself. This brings me to discuss a second point of entry for considerateness in family affairs. I want to claim that considerateness plays a two-tier role in the life of the good family: first, when the family deal is set up or revised and, second, when the deal is honored in instances of its considerate breach.

Let me explain. I am distinguishing here between two types of things that can happen to an existing set of arrangements. One may, on the one hand, adapt, adjust, or revise them in light of changing circumstances, or one may deviate from them, or go beyond them without actually challenging them, on the other. The family deal, as I see it, is a configuration of tasks, responsibilities, benefits, and privileges that is not only revisable but also invites friendly deviations from it. And it is considerateness that plays a key role in both revision and deviation. That is, in the good family considerateness largely determines the configuration of the family deal in each of its evolving phases, and it also often motivates breaching the family deal in any of these

phases. Since I have spoken about the role of considerateness in setting up and revising the family deal, I need to say more about the role of considerateness when the deal is flouted.

I am of course not talking about “bad” deviations from the deal but about “good” ones; it is after all the exemplary family I am concerned to explore. Bad deviations are exploitative while good deviations are considerate; the former go against the family deal and the latter go beyond it. For example, Ann may go beyond whatever it is that her family deal calls on her to do and surprise her father by picking him up from the airport on his return from a particularly grueling trip. Or Ben may decide to get up early tomorrow morning to make breakfast for his sister who is taking an important exam and had too little sleep lately preparing for it.

The way consideration plays a role in going beyond the family deal is typically through considerate *gestures*, small or large.¹⁶ Gestures usually involve some sacrifice – buying a gift, making a special trip, getting up early, giving up a coveted concert ticket, standing in for someone, or taking up their turn in performing some household chore, and the like. As considerate gestures, they are also characterized by their motives, namely, other-regarding motives such as the desire to please others, to decrease their pressure or increase their comfort, and in general to contribute to their wellbeing and flourishing. Considerate gestures are not supposed to be made on a tit-for-tat basis or to be subjected to bookkeeping. Still, the possibility is not excluded of a tacit understanding to the effect that, under opportune circumstances, gestures of considerateness will be reciprocated in kind. This is true in the family, as well as in other social institutions.¹⁷

A gesture is an expressive action. It is an action intended for effect, for a demonstration of feeling or attitude. An act is perceived as a gesture,

¹⁶ My view of gestures in this context is meant to contrast with a received view according to which there is room for “free donated labor” and “voluntary work” within the family, above and beyond the rights-based organization of domestic labor. See, for example, Munoz-Darde, note 12 above, p. 349.

¹⁷ The expectation of eventual reciprocation can go to extremes and get sinister and manipulative, as in the case of the Potlatch. This ceremonial feast of the American Indians of the northwest coast is marked by the host’s gestures of giving lavish gifts to demonstrate wealth and generosity, with the expectation of gifts in return. See also Colin Turnbull, *The Mountain People* (New York: Simon & Schuster, 1972), for an account of gift and sacrifices among the Ik (esp. at p. 146).

typically, when there is a surprise element to it: when it stands out in that it was not quite to be expected in the normal run of things. So when we are given a neutral description of an action – for example, ‘he held the door open for her’ or ‘she drove him home’ – we cannot tell that it is a gesture. We need to know more about context, intention, and expectations to determine whether or not it is a gesture.

People in love often make gestures toward their beloved. The gestures of people in love tend to be big, oversized, at times “crazy.” He might serenade outside her window, she might send him a bouquet of a hundred roses. When we focus on loving relationships in normal, ongoing family life, however, we realize that what the family members feel for each other often also gets expressed through gestures, though they tend not to be oversized. Considerate gestures within the family, as distinct from lovers’ gestures, will typically occur by way of going beyond the current family deal. *Tier I considerateness* is incorporated into the deal that forms the background against which the gesture is made; *tier II considerateness* is the gesture that honors the deal in its considerate breach.

VIII. Going Wrong

How might things in the family go wrong? The question surely strikes us as odd. We are more likely to want to ask instead, can things in the family ever go right? Or, perhaps, why is it so difficult for things in the family to go right?

The account I gave of the considerate family was meant as a conceptual and normative analysis, not a descriptive one. I set out to explore the ideal-type of the family, the institution of the family at its best – not the average or median family. But we may nevertheless wish to judge empirical families in light of this account and to assess the distance of the typical from the prototypical. Two points, pointing in opposite directions, need to be made. First, the considerate family is not an empirical impossibility: considerate families, or near-considerate families, can and do exist. Second, considerate families are likely to be rare: to achieve the standard of the considerate family requires a highly delicate balancing act; many things can go wrong, in many different ways.

Rawls makes the point that family members on occasion exhibit such higher moral virtues and sentiments as benevolence, mercy, and self-sacrifice

in relation to one another. But he also points out that only saints and heroes, not ordinary people, can consistently adhere to such standards of morality.¹⁸ I agree, yet I emphasize that the considerate family is not predicated on saints and heroes or on supererogation generally. The reason why it is rare must be located elsewhere.

To be considerate toward our family members is to be disposed to take their wellbeing into consideration in our choices and actions. It is not difficult to make considerate gestures toward someone we love. Difficulties begin with securing the coordinated and sustained considerateness of every member of the family, upon which the considerate family deal depends. Ordinary family life takes place in circumstances of close physical proximity. Family members share space that is often tight, and facilities that are often scant; they share bedrooms, bathrooms, living rooms, and kitchens. When we consider the normal friction of human relationships under such conditions and the objectively taxing nature of many of the domestic burdens involved we realize what a feat it is for a family deal to be a considerate one. This is true regardless of social class and socio-economic status. But of course the lower the circumstances of the family are, the more difficult it becomes to be considerate.

One member of the family who does not quite cooperate may destroy the whole delicate balance. Dealing with recalcitrance is particularly vexing in the family situation. Sanctions of various sorts are likely to misfire in the sense that, even if they achieve their purpose in the short run, they may lead to an overall loss of good will, and lack of good will on the part of all involved, as already indicated, is detrimental to the project of the considerate family deal. While we are in principle supposed to love all members of our family, we do not in fact always do, and anyway not equally so. Familial love, quite apart from its complex relation to romantic love,¹⁹ is volatile and ambiguous. Moreover, in too many people's minds familial love is compatible with bad and even monstrous behavior, such as exploitation or abuse (and worse).

¹⁸ Rawls, *A Theory of Justice*, pp. 191, 479; also Okin, *Justice, Gender, and the Family*, note 13 above, pp. 28–29. Rawls's use of the expression 'saints and heroes' is meant to evoke John Urmson, "Saints and Heroes," in A. Melden, ed., *Essays in Moral Philosophy* (Seattle: University of Washington Press, 1958).

¹⁹ Harry G. Frankfurt, *The Importance of What We Care About: Philosophical Essays* (Cambridge: Cambridge University Press, 1988).

It is not uncommon for family members to think, or say, that they love each other. But this is not quite enough for the family to be good. If our standard for the good family is that it is a considerate family then we must accept that good families are not likely to be prevalent. This standard requires, as we saw, that family members should genuinely want “to take more than half of every burden” and that they should be able to stick by this for the long haul; it requires, moreover, that they should want and be able to go even beyond this with considerate gestures every once in a while. While not supererogatory, this standard is quite demanding. It is certainly more demanding than in the anonymous public space context, where the typical cost for one’s considerate act is near zero.

Familial love helps a great deal; where there is love considerateness may come naturally and costs are liable to be easily met, even dismissed as irrelevant. Still, familial love is not a sure guarantee that the considerateness standard will be met. On the other hand, it is not a necessary condition either. People may find it in them to behave considerately toward their family members, even consistently so, in the absence of love, or after it has faded away.

IX. Family Fairness

In forging the family deal considerations of fairness apply. They apply as well in the subsequent process of continually readjusting the deal in response to changing circumstances. Members of the good or exemplary family will want to be fair to each other and will attempt to ensure that their family deal, as it evolves and changes, is guided by considerations of fairness.²⁰ However, family members’ notion of family fairness is likely to reflect an understanding of fairness that is different from the way fairness is understood in the context of other social institutions. In particular, ‘fair’ within the family tends not to be equated with ‘equal’.²¹

²⁰ I am here taking issue with Sandel, for whom the appeal to fairness in the “more or less ideal family situation ... is preempted by a spirit of generosity in which I am rarely inclined to claim my fair share”; see Sandel, *Liberalism and the Limits of Justice*, note 13 above, p. 33.

²¹ Consider: “Many of the individuals who might recognize the inequalities within their [domestic] relationships also consider their circumstances fair. ... Family members are trading in different currencies”; see Christopher Carrington, *No*

A basic intuition about justice is the idea that similar cases ought to be treated similarly. What is to count as similar and when do differences make a difference that would justify departure from similar treatment – these are questions of both principle and interpretation, on which different theories of justice differ. Now the flip side of this “justice coin” states that dissimilar cases allow for, or indeed require, dissimilar treatment. I take this as the clue for the notion of fairness in the family. Treating similarly-placed family members similarly is a hollow precept: each member of the family is uniquely placed. The considerate family deal embodies the idea of treating the dissimilarly situated members of the family dissimilarly, yet fairly.

To appraise the fairness of my family deal I must take into account my spouse or partner in his or her fullest particularity. Furthermore, I must engage in a comparison of our preferences and of their intensities: the economists’ myth notwithstanding, in the context of the family we do this all the time. If my family consists of more than myself and my partner I must take into account all the members of my family in their fullest particularity too, and engage in similar inter-personal comparisons among all of us. ‘Fullest particularity’, as already indicated earlier, comprises more than needs and desires. It must comprise all aspects of the personality, such as each family member’s competences, talents, and strengths as well as their problems, special needs, weaknesses, and vulnerabilities; even their idiosyncrasies and fantasies. Moreover, fullest particularity includes family members’ positional and comparative attributes, in addition to the ordinary non-comparative ones; ‘old’, ‘younger than’, or ‘neediest’ illustrate the point.

Reaching beyond synchronic time slices, the comparisons of preferences have a diachronic dimension as well. Families are communities of memory. Family history matters; past deprivations, sacrifices, privileges, or bonuses count. For my family deal to be fair, the distributive package that constitutes it must also be path dependent. Family fairness takes the long view. It has to take into account how each of us got to be where we are and it has to have corrective, compensatory, and rewarding aspects. Furthermore, in appraising

Place Like Home: Relationships and Family Life among Lesbians and Gay Men (Chicago: University of Chicago Press, 1999), p. 21. This is an observation based on Carrington’s ethnographic study of “family life” among fifty-two (lesbian and gay) families. The broader point he makes is that the blurring of the two quite distinct categories of fairness and equality is necessary for many in order “to maintaining the myth of egalitarianism” (p. 177).

the fairness of my family deal I must be conscious that the future weighs too, not only the past. The plans, projects, and fantasies of my family members must often be accommodated by the family deal whose fairness I am trying to appraise. My teenage daughter's hope to go to college, for example, and the various ramifications of this hope, might have to be factored in.

I have used first-person language in the previous paragraph advisedly. I think that while we have a license to try to appraise the fairness (or otherwise) of our own family deal, we do not have a license to appraise that of another family. To be sure, we may sometimes form opinions, even strong ones, about other families. We may think that a family we know has managed to work out a wonderfully fair deal, or we may assess another family's deal as rotten unfair. But then we are advised always to be careful to add to this opinion a caveat like "but of course what do I know, I am not a member of that family" or "still, this is only how it looks from the outside."

Such caveats suggest that we intuitively sense two important points. First, that we take the category of fairness to apply, in some broad sense, to family deals; second, that the appraisal of the fairness of a family deal is essentially an internal affair. It has a perspective dependent aspect and can therefore only be undertaken from within one's own family. In other words, a counterfactual seems to be implicit here: if we knew everything that is to know about the other family and its members, we would be in a position to pass judgment about the fairness of its deal. At the same time, however, we recognize that we cannot ever know everything there is to know about another family.

Having said that, I note that even to appraise the fairness of one's own family deal is a tricky matter. One complication here concerns children. Until a certain age children are not capable of making fairness evaluations and it is the parents who make them on the children's behalf. (A twist on this point is that at the same time that parents may wish to ensure the fairness of the deal they are giving their children, they have to be also fully aware that one of the things young children need most is to be treated *partially*).²²

²² Aware of this point, I encountered a problem when my twin daughters were little and would ask me which of them I loved more. My strategy was to tell T "I love you most" and then tell R "and I love you even more" and then repeat to T "I love you still more" and so on and on, tirelessly. My sense was that the "proper" answer, namely, "I love you both exactly the same," is not what little children want or need to hear. It is partiality children need, not logic or consistency.

From a certain age children think they can make fairness claims and indeed they make them, even with vengeance. But it is not at all clear that they are competent to make them, much less to assess them. As for grown-up children (which is, after all, what we all are), we often wonder whether they can ever really be fair in their appraisal of the fairness of their parents in general and of the deal their parents dealt them in particular.²³

Generally speaking, there are no set criteria for the fairness appraisal of one's family deal, and it is not clear that there is a "right answer" whether or not one's family deal is fair. There is no algorithm to calculate the fair deal or a systematic way for working out how it is to be achieved, beyond assuring that it passes the not-unjust test. Yet it does seem to be the case that family members are capable of weighing whether the current family arrangements in their own family are fair toward them. I ponder this matter vis-à-vis the other members of my family and also as compared to alternative family arrangements my family might have adopted. In addition it seems to be the case that it is possible for me to ponder whether current arrangements are fair not just toward me but, say, toward my son – again, vis-à-vis the other members of the family. Some notion of everyone getting their weighted due seems to be operative here.

Moreover I can be quite clear about the various considerations that do and should enter this appraisal. I can also well envision a family dinner-table conversation about this issue. In light of what gets aired in such a conversation, it might result in a decision to change some of our current arrangements so as to improve on their overall fairness. But I cannot envision such a dinner-table conversation taking place behind a veil of ignorance, masking from view the family members' particularities. The notion of fairness that drives the process of forging the family deal is heavily weighted by the particularities of the participants and the idiosyncrasies of the family circumstances. Consequently, useful generalizable principles can hardly be expected to emerge from this process; nor can the specific deal itself be expected to be usefully generalizable to other families.

²³ Recall Philip Larkin's immortal lines: "They fuck you up your mom and dad / They may not mean to, but they do; / They give you all the faults they had, / And add some new ones just for you." But note that this is from the point of view of the children, not the parents. (At the end of the poem he gives his advice, whether sad or tongue in cheek, "Get out as quickly as you can, / And don't have any kids yourself.")

Two newspaper reports in late 2004 highlighted families with autistic children and their “fight for the ordinary.”²⁴ The reports make the point that “it is a relentless, labor-intensive and harrowing task, overwhelmingly performed by mothers.” This is a task that “tests the strength of marriages, the resilience of siblings and the endurance of the women themselves.” The first story goes on to describe what this means in the case of the Krieger family, affording us a glimpse into their family deal: “For Ms. Krieger it has meant accepting that her husband’s patience with Gina is more limited than her own; being careful not to overburden or ignore her 6-year-old daughter, Nicole; and arranging occasional telecommuting so she can continue working.” In the second story we are told that “Derek can certainly be annoying, but [his brother] Mark is used to it and sees the silver lining. ‘He brings us together more, because we’re in it as a family’, Mark said. Still, he is hyper-vigilant, more an auxiliary parent than a brother to Derek no matter how many times his parents tell him that it is not his job.”

Is it fair that Mr. Krieger gets away with having less patience than his wife? Is it fair that Ms. Krieger should be the one who makes career changes so that she can work from home?²⁵ Is it fair that 15-years old Mark takes upon himself to be an auxiliary parent to his younger brother Derek? These are vexing questions. The overall picture that emerges, however, is of two families who are by and large admirably successful in their struggle to work out a family deal that adjusts to the trying circumstance of autism in the family, and remain functional. Here is how the story about Derek ends, providing a touching instance of a son’s considerateness toward his mother: “One blustery evening, for instance, his mother was enjoying a cup of tea when, upstairs, Derek’s steady gait turned to jump-up-and-down pounding and his high-pitched singsong to a shriek. That usually means his brother is happy, Mark said, but you can never be too careful. ‘I’m going up to check on him’, he said.”

²⁴ Jane Gross, “For Families of Autistic, the Fight for Ordinary,” *New York Times*, October 22, 2004, and “For Siblings of the Autistic, a Burdened Youth,” *New York Times*, December 10, 2004.

²⁵ Given gender stereotypes, the case would have served as a more poignant example had the Kriegers’ roles been reversed – as relates both to their different patience levels and to their jobs.

X. Partiality

Family fairness, as presented and discussed above, is not impartial. On the contrary, it relies in an essential way on the family members' intimate acquaintance with the full particularity of each other. It is also predicated on comparisons of preferences among the members of the family and even on comparisons of their intensities. We saw moreover that the fair family deal has to be sensitive to the past and to the future, and that in any case its appraisal is highly perspective dependent and hence internal.

The capacity for empathy, which is the ability to see things from the perspective of others, is sometimes mentioned as essential for the sense of justice.²⁶ I suggest that sympathy, the capacity for fellow-feelings,²⁷ is essential for the sense of family fairness. It is the power not only to see things from the perspective of others but to be favorable to their perspective. What the blindfolded goddess Athena is prevented from seeing might, for the purpose of doing justice, be irrelevant. But for the purpose of appraising family fairness, what she does not see may be highly relevant.

Is Rawls's notion of the veil of ignorance applicable to the family deal? Could family members have "hypothetically agreed to their structure and rules from a position in which they did not know which place in the structure they were to occupy"? (Okin, p. 94). Rawls developed his idea of the original position as a device of representing impartial concern in the attempt to arrive at social institutions that are just. With regard to the family, Rawls's view has been the focus of much criticism, most especially his definition of the contracting parties behind the veil of ignorance as "heads of family" or "heads of households." (Rawls subsequently modified this position somewhat.)

In Rawls's general scheme of things the deliberating parties behind the veil of ignorance are supposed to be mutually disinterested individuals, devoid of any "ties of sentiment."²⁸ They do not know who they are. They

²⁶ See for example Okin, note 13 above, p. 21.

²⁷ Adam Smith, *The Theory of the Moral Sentiments*, 1759, part I, section I, chapter II ("Of the Pleasure of Mutual Sympathy").

²⁸ For the purpose of his "just savings principle" and the cause of intergenerational justice, however, Rawls does allow for ties of sentiment between generations. Each head of family in Rawls's original position is supposed to care about the wellbeing of some persons in the next generation (Rawls, pp. 128, 146, 292; Okin, p. 92). Commentators continue to debate, however, whether care about descendants contradicts the idea of the original position as a device of representing impartial concern.

are all assumed to think identically, none of them being in a position to tailor principles to their own personal advantage. The “direction of fit” in this scheme goes from the principles arrived at by these abstracted, disembodied, veiled agents to the flesh-and-blood people who will then apply the principles to their real-life situations. That is to say, the real and particular people must abide by the principles they arrive at when behind the veil of ignorance, and in this sense they must fit themselves to these principles. If they fail to do so then the failure of fit is with them, not with the principles.²⁹

Matters are different when we come to apply these ideas to the case of the family. The participants forging the family deal – the founding couple, initially – bring themselves to the task in their full particularity. After all, when deciding to marry, it is a highly particular person – warts and all – that one marries, not an imaginary person who would score highest on a “partner’s description” devised ahead of time. People who decide to share their lives do so not as mutually disinterested bargainers but, to the contrary, as mutually interested parties who intend to work out their domestic arrangements in a way that reflects the strongest “ties of sentiment” between them. They are to be thought of as being in a position to tailor the package of domestic burdens and benefits to their mutual advantage and sometimes even to each other’s advantage rather than to their own personal advantage.

Moreover, as already pointed out, interpersonal comparisons of preferences are a matter of routine in family life. “You mind this more, so let me do it” is a common feature of sound domestic arrangements. The “direction of fit” in the case of the family is thus the reverse of what it is in the case of other social institutions, flowing from the particular members of the family to the principles and arrangements. We, as the highly concrete individuals that we are, arrive at the set of domestic arrangements that fit us best and that give each of us our weighted due in the broad sense here expounded. Should there be failure of fit, it is typically the arrangements we have arrived at that are at fault and in need of being re-thought.

²⁹ This remains essentially true even after we take into account Rawls’s notion of “reflective equilibrium.” The method of reflective equilibrium determines a set of principles rooted in the human sense of justice. It is a coherentist method for the epistemic justification of moral beliefs that allows for some give-and-take – but this remains on the level of the principles and beliefs. The give-and-take does not affect the direction of fit that eventually flows from the set of principles, properly adjusted and stabilized, to their application to concrete cases.

XI. Justice and the Family

According to Rawls an institution is just if its rules and workings could in principle be established by its members agreeing to them from behind a veil of ignorance. For Susan Okin this applies to the family as well. What she calls a “better-than-just” family is one that, in addition to being just, is regulated by intimacy and love. Okin holds that the institution of the family must be built on a foundation of justice before it can be adorned (as it were) by “the best of human motivations and the noblest of virtues” (p. 32): justice first, noble virtues – optionally – later.

The position I am putting forward here is that the institution of the family should be built upon a foundation of considerateness, which embodies a distinct notion of fairness referred to as family fairness. But where does this leave the question of justice in the family?³⁰ Can the family be just? Should it be just?

Rawls’s view is that justice is the “primary virtue” of all social institutions. If so then the family cannot be thought of as falling outside the bounds of justice.³¹ Rawls does not explicitly address the question of justice in the family as such, however. For various purposes he needs the family to be thought of as a just institution and so he posits it as just: “I do assume that in some form the family is just.”³² At the same time however Rawls upholds the separation of the public from the domestic sphere. He sees questions concerning the division of domestic labor as private family matters which are governed by natural sympathy rather than by principles of justice.³³

Susan Okin has written a powerful book, *Justice, Gender, and the Family*, to champion the cause of applying the standards of justice to the family.

³⁰ A distinction is sometimes invoked between the question of justice *in* the family and the question of the justice *of* the family (see Munoz-Darde, note 12 above). The first concerns, primarily, the division of labor within the family; the second asks whether the very existence of the institution of the family is not an impediment to social justice, for example because of the way it can be a barrier to equality of opportunity. I am here concerned with the first question only.

³¹ “In Rawlsian terms, the only thing that can be demanded is ... that the family should fit together with other main institutions so that the principles of justice operate” (Munoz-Darde, p. 347).

³² Rawls, *Political Liberalism*, note 10 above, p. xxix; see Okin, p. 27 and chapter 5.

³³ For more, see Will Kymlicka, “Rethinking the Family,” *Philosophy and Public Affairs* 20 (1991): 77–97, at p. 79.

She criticizes classical liberal thinkers who take the family to be a male-headed natural unit and consider internal relations among family members as falling outside the bounds of justice.³⁴ Okin argues, on the descriptive side, that “typical current practices of family life . . . are not just” and, on the normative side, that “until there is justice within the family, women will not be able to gain equality in politics, at work, or in any other sphere” (p. 4). For Okin the family is not merely one among many institutions that have to be just in order for society to be just. Her position, rather, is that the just family is the very basis for a just society; the family, she says, is “a school of justice.”

To defend her claim that the family ought to be based on justice Okin must go beyond the attempt to extend Rawls’s theory of justice to the domestic sphere. In fact, it is not even clear that the project of extending Rawls’s ideas to the family unit is entirely coherent and free of internal contradiction. In a fairly straightforward sense, the just family is an essential building block in Rawls’s edifice. Yet, as indicated, he relegates the family to the private sphere, and he maintains that behind the veil of ignorance men make their deliberations and choices *qua* heads of families and not strictly *qua* individuals. These considerations stand in the way of seeing the family simply as one more social institution to which Rawls’s principles can and perhaps should apply.

Rawls’s position on the family as a just institution, then, is not free of ambiguities. Entirely unambiguous about the question of justice in the family are two different clusters of doctrines that must be briefly considered in the context. Both of them stand in clear opposition to the notion that the relationships among the members of the family ought to be regulated by justice. Each of these doctrines holds that it is inappropriate to apply the category of justice to the family, but for different reasons. Michael Sandel is considered by Okin the most prominent contemporary proponent of one of these doctrines and Allan Bloom, who is following in the footsteps of Rousseau, of the other.³⁵

The first doctrine sees the family as an intimate group characterized by harmony of interests. As such the family is taken to be above justice;

³⁴ See Kymlicka, p. 78.

³⁵ Sandel, *Liberalism and the Limits of Justice*, note 13 above; Allan Bloom, *The Closing of the American Mind: How Higher Education Has Failed Democracy and Impoverished the Souls of Today’s Students* (New York: Simon & Schuster, 1987).

it is an institution that is expected to be “more than” just or “better than” just. Justice on this view is considered inappropriate to the family in that it belittles the family or misses its point, as it were. While justice is a virtue, it is taken by this doctrine to detract from the nobility of family relationship. The second doctrine considers justice inappropriate to the family because it sees the institution of the family as inherently and naturally unjust. Given the hierarchical structure of the family and the gender differences between its members, the family on this view can not and should not be thought of as an arena for just divisions of burdens and benefits. Justice on this view is a virtue alien to the family, even harmful to it.

The second, old fashioned approach is more extreme in its outright rejection of the notion that family relationships be based on principles of justice. It rejects equality for women as contrary to nature and embraces the notion that nature determines a gender-dependent, hierarchical structure for the family that is necessarily unjust. The first, sentimental approach, in contrast, does not altogether reject the notion of the just family but rather sees justice as irrelevant for the ideal family. Maintaining that the interests of each member of the family are entirely convergent with those of the family’s patriarch, this position sees the insistence on justice in the family as pointless. On this view, in Okin’s words, “An intimate group, held together by love and identity of interests, the family is characterized by nobler virtues” (p. 26).³⁶

Okin’s vigorous rebuttal of both these doctrines is animated by her thesis that underlying the social inequalities that exist between the sexes in our society is the unequal distribution of labor in the family. I believe that it is possible to agree with Okin on this general thesis and yet not to accept her view that the institution of the family is on a continuum with all other social institutions and that as such it must, like them, be built on a foundation of justice.

XII. The Good Family

My own unease with the idea that the family is to be constituted on principles of justice is by no means an endorsement of the idea that the family should be allowed to be unjust. To the contrary, the argument I offer is that a

³⁶ See also Susan Moller Okin, *Women in Western Political Thought* (Princeton: Princeton University Press, 1979), p. 202, and Kymlicka, note 33 above, p. 78.

precondition for the good family is that it is not unjust. In other words, the elimination of injustice is in my view a threshold condition for the good family. Putting it this way, in terms of a double negative, indicates that I do not see ‘just’ and ‘unjust’ as complementary adjectives. To characterize an institution as not unjust does not amount to characterizing it as just. An institution might be in an interim zone as it were, where it will be considered not-unjust and yet it will not quite qualify as just either, in light of some positive strictures of justice.³⁷

Aiming to explore the idea of a family that “works” and is functional (as distinct from dysfunctional), I refer to it as a “good” family. The thrust of my discussion of the good family is normative. Yet I choose not to talk about the *ideal* family in order to avoid the impression that the good family is unattainable. An ideal alludes to the notion of a regulative idea, a high-above star that shows you the way by shining bright at the end of the path but remains distant and unattainable the closer you think you have approached it. The considerate family is a good family. This is a reachable ideal; it is a normative notion that is also descriptive. From experience as well as from literature, we all know good, considerate families; the lucky ones among us recognize in this notion their own family.

Tolstoy famously said that happy families are all alike. A happy family may perhaps be easy to recognize even if it is not so easy to pin down conceptually, and anyway it may be that only the good family, in the sense here expounded, can be happy. All good families are also alike, in some important respects. It is these respects that I focus on: my account of considerateness attempts to explore what they have in common and what makes them good. Tolstoy may have meant to imply that the happy family is intrinsically uninteresting and only the unhappy ones – each unhappy in its own way – are of interest. With regard to the good family, however, I want to make the opposite case. I believe that breaking the code of the good family, examining what it is that makes it work and function, is a worthwhile undertaking.

Once a prototype, in any domain, is better understood, the countless ways of deviating from it can also be better understood; indeed in some instances a metrics can be devised to measure the distance of the deviants

³⁷ Consider the analogy to trust and distrust: my not distrusting you does not amount to my trusting you; see Edna Ullmann-Margalit, “Trust, Distrust and In-Between,” in Russell Hardin, ed., *Distrust* (New York: Russell Sage Foundation, 2004), pp. 60–82, at 60–61.

from the prototype. Regarding the family it may remain true, perhaps even be reaffirmed, that each dysfunctional family is dysfunctional in its own way. But then these less fortunate cases will stand a greater chance of being better analyzed and understood.

A family whose domestic arrangements are unjust cannot be considered good. The absence of injustice is a threshold condition for the goodness of the family. Purged of injustice, the good family is one whose family deal is considerate. The not-unjust, considerate family is fair, in the distinct family-oriented sense of fairness discussed earlier.

XIII. "Not Unjust"

I need to say more about the elimination of injustice in the context of the family. Injustice is here meant to refer to clear cases of injustice as judged by prevailing standards of justice. These include as an important special case any practice or arrangement that is legally unjust. "Legal constraints that apply to all individuals and associations should also apply to the family" (Munoz-Darde, p. 349). We would nowadays consider it unjust for a wife not to be allowed to inherit her husband, or for a daughter not to be allowed to inherit her parents if she has brothers.³⁸ The eighteenth-century doctrine of "coverture," according to which the married woman's property as well as her body, her children, and her legal rights belong to her husband, would be considered unjust by the standards of the twenty-first century.

Blatant inequality, gender-based or otherwise, in the access to family resources such as property, money, or leisure, would likewise be judged unjust. Male tyranny within the family over his womenfolk's bodies and lives, systematic exploitation, discrimination, coercion, and physical abuse all count as clear cases of injustice by our current societal standards.³⁹ Also

³⁸ This is the biblical law (see Numbers 27:8). The Mishna goes further and rules that even if a father wills his property to his daughter his will is null and void. To circumvent this injustice a writ of gift was invented; three cases of such gifts were found among the Judean Desert papyri.

³⁹ As evidence of changing societal norms regarding justice in family matters, consider the recent twist in the struggle against family injustice offered by the British movement "Fathers 4 Justice." "The divorced and separated fathers who belong to Fathers 4 Justice say they hope to accomplish one thing: ensuring they get a fair shake at equal custody of their children ... there are many fathers – and the number

unjust are domestic arrangements that are based on the systematic sacrifice of one particular, usually female, family member⁴⁰ (the wife/mother, an eldest daughter, or as folklore would have it, a “spinster aunt”). To be sure, sacrifice gestures do and perhaps should occur in the course of normal life of the normal family.⁴¹ But the reliance on systematic self-renunciation, especially if it is habitually expected of the same person, is no different from exploitation.

I believe that to eliminate unjust family arrangements, as appraised in light of prevailing standards of justice, is a move in the right direction. Still, this leaves room for a margin of troublesome borderline cases. If in a poor family the man is out of the home, breadwinning all day long, and the woman is charged with all of the responsibilities of home and children, the division of labor in this family may strike us as unfortunate but it can hardly be pronounced unjust. If the man in this family does not bring home his daily wages but drinks them away in the local pub every evening, this will strike us as unjust.⁴²

But consider now an ultra-Orthodox Jewish family, for example in the Me’a She’arim quarter in Jerusalem. The man is out all day studying, while the woman stays home to take care of their many children, having to make do with the small state allowance that her husband receives for devoting his life to study. Voluntarily entered into by both husband and wife, the domestic arrangements of this family are quite typical of a sizeable community. A man’s lifetime devotion to the study of Holy Scripture is, for the members of this community, the highest value; the wife enjoys reflected glory to the

is growing – who want to see more of their children and are unsatisfied with their custody arrangements ... They say judges have been slow to recognize the changing roles of fatherhood, including the fact that 50 percent of the British work force is made up of women. Fathers argue that the system is biased against them... What is really needed, they emphasize, is for the court to presume a 50-50 custody arrangement from the start, and then work from there”; see Lizette Alvarez, “Disobedient British Fathers Act to Reclaim Children,” *The New York Times*, Nov. 11 2004.

⁴⁰ “The supererogation that is expected in families often occurs at women’s expense” (Okin, *Justice, Gender, and the Family*, p. 31, and further references there).

⁴¹ On the idea that family members commonly exhibit such higher moral virtues as heroism and self-sacrifice in relation to one another, see Rawls, *A Theory of Justice*, pp. 129–30, 438–39.

⁴² See, e.g., Frank McCourt’s harrowing autobiographical account, *Angela’s Ashes* (New York: Scribner, 1996).

extent that her husband excels in his studies. How are we to appraise the division of labor in the families belonging to this community? It may be tempting to hurl accusations of “false consciousness” at the women in this community, inasmuch as they express contentment with their lives. I suspect that Okin would assail these families’ division of labor as outright unjust. But I find this case troublesome. While hardly to be seen as just, I would hesitate to qualify the domestic arrangements of these ultra-Orthodox families as unjust either.

XIV. Equal Sharing of Domestic Labor?

Injustice makes for the badness of the family, as it makes for the badness of any other social institution. The elimination of injustice is a necessary condition for the working of the good family. As was pointed out already, to eliminate injustice is not quite the same as to instate justice. But what does ‘just’ mean in the context of the family anyway?

For Okin the answer is unambiguous. Her ultimate, long-term goal is a “just, gender-free family” that is part of a just, gender-free society. In the just family there will be “equal sharing by men and women of paid and unpaid work, or productive and reproductive labor” (p. 171). In particular, it is the equal sharing of domestic labor that is in Okin’s view the condition for justice in the family.⁴³ I find this view wanting and too restricted in several respects. In general, the condition of equal sharing of domestic labor is in my view neither a necessary nor a sufficient one for the good family.

Let me note, first, that labor cannot be the sole concern here; there is more to justice in the family than equal distribution of labor alone. Family life involves an intricate package of domestic burdens and responsibilities, as well as benefits and privileges, the distribution of all of which is relevant to the issue of justice. Let us notice, also, that from much of Okin’s writings one might form the impression that the family unit consists of a couple or even,

⁴³ Since same-sex families carry an obvious potential to corroborate or undo this hypothesis, many scholars have recently been developing this research agenda. “These scholars offer the lesbi-gay family as a model for the future,” notes Carrington. His research, however, “seriously challenges the effort to place the lesbi-gay family in the vanguard of social change, a model of equality for others to emulate. Such assertions are based on the ideology of egalitarianism, not on its actual existence” (Carrington, note 21 above, p. 218).

more accurately, of a man-and-woman couple.⁴⁴ Since her primary concern is justice between the sexes, her interest in the family is primarily as a major locus of sexual inequality. But the wider-ranging questions regarding the working of the good or functional family do not interest her beyond making the point that men and women should be equally responsible for domestic life and that all assumptions about male and female roles within the family should be abolished.

Okin's cause is equality for women and her book is a crusade for the recognition of women's unpaid domestic labor and against women's domestic exploitation. Let us imagine, however, that domestic labor has indeed been sufficiently recognized by society for its worth and let us suppose further that, given this recognition, a particular woman opts of her own free will to take upon herself the domestic labor of home and children. Of course, as in the case of the ultra-Orthodox family discussed above, the question of how free is free choice in such instances is hard to settle and the lurking danger of false consciousness, here too, is a complicating factor. Still, given these caveats, would it be possible for Okin to sanction this woman's choice? If, as I suspect, it would not, I find it troubling.

When Okin's discussion goes beyond the couple unit and includes children as part of the family, she tends to see the children merely as contributing additional domestic labor to be shared by both their parents. This may be understandable given Okin's perspective of concern with justice for women and sexual equality. But if the focus is the functioning of the good family then we must be thinking in more general and in more dynamic terms. For example, we must be thinking that in families with children the children may be expected, from a certain age, to share some of the burden of domestic labor. Indeed children have to be thought of as continually growing up and as being gradually initiated by their parents into the family's ever-evolving array of domestic burdens, responsibilities, benefits, and privileges.

We must also be taking into account that questions concerning the distribution of resources and responsibilities apply horizontally, among siblings, as well as vertically between the generations. Sometimes the vertical axis eventually changes direction and the children may have to

⁴⁴ "Okin seems to equate a 'gender-free' society with a society of heterosexual couples who (inter alia) share domestic labor. She often treats 'adult members of the family,' 'parents,' 'both parents,' 'couple,' and 'mother and father' as synonyms" (Kymlicka, note 33 above, p. 84).

assume responsibilities toward their parents. In addition we must allow for the open-endedness of membership in the family. People are added to the family, as when a new child is born or a grandparent moves in, and people leave the family, as when somebody goes away or dies.

I take all of these considerations to show that Okin's position is too restricted. But quite apart from these considerations, I question the idea that "equal sharing of domestic labor" is, in and of itself, adequate for capturing the working of the good family. At any rate not when equality is "measured with a plumb line" (Carrington, p. 206). The idea that the couple can be imagined to go through some procedure in which they list all the domestic tasks and chores and then divide them more or less mathematically down the middle, possibly even drawing lots as to which half should fall to each, is a recipe for frustration and failure. In the workplace it is possible to compile lists of tasks and job descriptions and then to hire suitable people to perform them and to fire them if they fail. But the family is a radically different sort of institution. Family is for life,⁴⁵ and "home is the place where, when you have to go there, they have to take you in."⁴⁶ The family is expected to cater for its members throughout their full life cycles and continually to accommodate their personalities and problems, strengths and weaknesses, whims and vulnerabilities, foibles and fortunes.

Of course, if the notion of justice in the family is stretched to apply to any not-unjust distribution of domestic labor that "works," in the sense that the members of the family accept it and feel comfortable with it, then by stipulation the good family will be just. But this stipulation comes at a price: the notion of justice as it applies to the institution of the family will be very different from the notion of justice as it applies to all other social institutions. This implies accepting that the family is an exceptional sort of institution, or taking family justice as an exceptional sort of justice, or both.

I suspect that most liberal theorists and some feminist ones will reject both options. They will want to see the family as continuous with all other social institutions and to see the notion of justice applying to it as to all

⁴⁵ Even if marriage can no longer be assumed to be for life, as it was in previous times (see Okin, p. 32).

⁴⁶ Robert Frost, "The Death of the Hired Man." The fuller quote is interesting in the present context; it is a dialogue between two voices:

– "Home is the place where, when you have to go there, / They have to take you in."
 – "I should have called it / Something you somehow haven't to deserve."

other social institutions.⁴⁷ The position I present here in effect embraces both options and sees them as intrinsically connected. I embrace the notion that the family is an exceptional sort of institution, and I maintain that the set of domestic arrangements – the family deal – is assessed not for justice but rather for fairness, in the sense here expounded.⁴⁸

XV. Conclusion

The family, I argued, is constituted on a different foundation than other social institutions. Family fairness, not justice, underlies the working of the good family, via the notion of the considerate family deal.

Social institutions other than the family are assessed for their justice. Within the Rawlsian framework, the assessment is made in reference to a set of principles and practices impartially adopted by the members of the institution with “eyes wide shut” – namely, in an imagined original position, behind a veil of ignorance. Within the family, in contrast, the array of not-unjust and continually re-adjusted domestic arrangements is being assessed for its family fairness. This assessment, as I have shown, is in principle internal, in the sense that it can be made only by the members of the family themselves. The fair family deal is adopted considerately and partially, with “eyes wide open” – namely, with the family members sympathetically taking into account the full particularity of each, and in light of fine-grained comparisons of preferences between them. I conclude that it is the not-unjust, considerate, and fair family that is good.⁴⁹

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⁴⁷ For Okin the family remains “a peculiarly *preliberal* anomaly in modern society” which would improve if it were to conform to contractual liberal principles (p. 122). Kymlicka believes that if one pushes this position to its logical conclusion one ends up with Hobbesian and Orwellian views that no liberal is willing to endorse (pp. 91–92). Munoz-Darde says that “the only thing that feminists should ask from Rawls is that he should *refrain* from saying too much about the family, and that he should treat it exactly as any other association” (p. 348).

⁴⁸ Discussing long-term same-sex families, Carrington observes that “Interestingly, these ... families conceive of their circumstances as *equal*, although I suspect they really mean *fair*. They consider things fair in light of a whole series of spoken and unspoken matters ranging from the number of hours someone works for wages to the pleasures one garners from domesticity” (p. 187).

⁴⁹ The editors are grateful to Professor Maya Bar-Hillel for proofreading this essay.