

# **Privacies**

## **Philosophical Evaluations**

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# Justice as a Precondition of Affection and Care

## A COMMENT ON AXEL HONNETH

*Herlinde Pauer-Studer*

In his stimulating article “Between Justice and Affection: The Family as a Field of Moral Disputes” Axel Honneth discusses the question of how we should approach the moral issues surrounding the institution of the family – more specifically, how we should cope with the tension between justice and affection. His answer is basically that we should leave it to the personal reflections of family members to set the boundaries for the applicability of universal principles of justice; it is up to them to decide whether rational insights into the demands of principles of justice should mold their affective attitudes. I do not want to dispute that the issue “justice and/or affection,” insofar as it remains on the level of personal attitudes of individuals, should be a matter of the individual deliberations and decisions of family members. My claim is that this suggestion is only part of the answer. Honneth’s answer is misleading because he relates two concepts that apply to different levels of moral reflection and that should not be contrasted with each other – namely, justice as a virtue of institutions and affection as a deeply personal attitude.

Drawing on Kant’s and Hegel’s reflections on the family, Honneth delineates two moral paradigms that we can use in analyzing the moral problems of the family: the legal model and the affective model. In the legal model, family members are primarily seen as subjects of rights and duties, and justice is regarded as a matter of applying general moral principles. In the affective model, the mutual giving of care and attention takes precedence over rights. Justice in this model means answering to the particular needs of individual family members, and justice in this sense can imply restrictions on pursuing one’s interests or life plans.

Honneth points out that the Kantian paradigm, the legal model, is often conceived as the progressive model that is able to correct injustices such as unequal chances, unequal division of labor, and hence unequal freedom, whereas the Hegelian model is often associated with conservative impulses to preserve a traditional conception of the family. Honneth criticizes this opposition. He claims that we have to rely on both paradigms to conceptualize the family adequately. Families are institutions whose members are bearers of rights, but families are also forms of life that are held together by specific bonds of love, affection, and care. All this is fine, but there is a tendency in Honneth’s paper to interpret the second model in a way that conflicts with recent feminist reflections on the family. This tendency seems inspired by his sympathy for the Hegelian claim that the moral quality of family relationships suffers if family members emphasize their rights, that there occurs a moral loss if the discourse shifts from the giving of care, affection, and attention to the

demand to respect rights. The problem is by no means that Honneth stresses the importance of affection and care. The problem is the way in which he contrasts affection and care with the demands of justice.

Toward the end of this paper Honneth puts forward the following conclusion: “[A]lthough, on the one hand, the extremely unequal distribution of housework currently represents a central challenge, this does not mean that families should simply be grasped as institutions that are being transformed according to universal principles of justice; for that would just further weaken that particular morality of affective bonds, whose exhaustion is already responsible for the wide-scale tendency toward the emotional impoverishment of families” (Honneth, this volume). But this statement draws on an erroneous opposition of concepts; it contrasts universal principles of justice as they apply to a basic institution of society with the moral attitudes of affection and care. This postulates an opposition between two concepts that apply to different levels of moral reflection and that cannot be in direct conflict with each other. Justice in the sense of universal principles that apply to the basic institutions of society is a public virtue and hence part of public morality, but affection and care as personal moral attitudes are concepts of personal morality.

On the level of public morality it is perfectly legitimate to see the family as simply an institution that should be transformed according to universal principles of justice. The family is a basic institution of society and as such it should live up to general principles of justice. It is misleading to claim that this perspective on the family could or does lead to a weakening of affective bonds. The weakening of affective bonds occurs in a different area—namely, the personal.

Justice is a public virtue and a personal virtue—that is, justice is a virtue of institutions and justice is part of personal morality; in the latter sense, it is an attitude we have toward other persons, to act in conformity with general standards of justice. Justice as a demand on institutions is not in conflict with bonds of affection. It is—something with which I think Honneth does agree—a mere precondition for the developments of personal projects like love and care for particular others.

Honneth’s suggestion that we should leave it to families to decide where the borders between affection and justice should be set seems fine as long as we are aware that this suggestion applies only to the level of personal morality. It does not hold where justice as a public virtue is at stake. Personal morality is a private project. What makes morality binding is our autonomy, our will to respect certain insights, insights that tell us whether actions are obligatory, permissible, or forbidden. A liberal society does not force people to develop their moral capacities; it does not force people to be moral. It forces people to respect laws and thereby those fundamental rights of others that are legally protected. A liberal society does not force individual men to sustain personal relationships that meet demands of personal

justice like sharing housework with their partners and taking equal care of the children. On the institutional level a society is justified in establishing regulations that try to make the institution of the family more just and that make it easier for individuals to arrange their personal life in ways they consider more just. The state cannot force individuals to attain particular moral attitudes; the moral perfection of persons cannot be a legitimate goal of the state. But the state is justified to enact laws that aim at just institutions.

Honneth claims, more or less in agreement with Michael Sandel's familiar critique of a liberal rights-discourse, that seeing the family as an institution regulated by principles of justice would "weaken that particular morality of affective bonds" that characterizes stable family interactions. We should, however, be careful where to locate the moral loss in the transition from a language of affection and care to a rights discourse. It seems evident that the emphasis on public justice cannot lead to a moral loss. To aim at just institutions is a moral improvement. The attempt to realize just institutions creates institutional regulations that open up space in which people can pursue their personal projects. We can only conceive the question whether a moral loss occurs in the transition from the perspective of love and affection to the perspective of justice as the problem of a conflict between two personal moral attitudes. Seen from this angle it seems highly doubtful that a moral loss occurs if we shift from the perspective of affection to that of justice. To demand that both attitudes are adequately realized seems a plausible ideal of personal morality. It would be a strange conception of love that explicitly demands excluding considerations of justice from it. The personal integrity of a person is at stake if she loves someone who treats her in ways that seem deeply unjust. Again: to decide issues of justice and affection on the personal level, whether they are in tension or in harmony, is up to individuals and how they understand and define their relationship. We cannot assume that a transition from affection and love to considerations of justice automatically entails a moral loss. Equally, a moral loss in a relationship might occur if aspects of personal justice are neglected.

I do not want to be unfair: Axel Honneth several times emphasizes the importance of justice in the family. As he points out, appeals to justice are legitimate if family members are treated in a morally unacceptable way. Nevertheless he writes: "With such a universalist appeal [to justice], however, a form of moral interaction is abandoned, one that is typical in families as long as the emotional bond does not seem to be broken. Here, one's own needs or interests are usually introduced by referring to obligations that follow not from universal principles but from commonly shared feelings" (ibid.). Honneth sees two moral orientations at work: in the first model we appeal to universal principles of justice; in the other model we appeal to shared feelings that make us sensitive to the specific needs of others. How he draws this dichotomy suggests that in the case of intact family structures only the affective model of reasoning need operate. The prevalence of the justice-model indicates that certain

emotional bonds have been lost. I think we should reject the idea that the concepts of justice and affection correspond to two different moral orientations and that only one of these is paradigmatic for intact families. Moral deliberation is a form of reflection, a reflection about which kinds of reasons can count as good ones. Moral reasons can be diverse. Sometimes considerations of justice are good reasons for certain actions, sometimes the fact that we have certain feelings toward others or stand in a particular relationship to particular persons constitutes a good reason to treat them in a certain way. This means that justice and affection both enter moral deliberation as specific forms of reasons. In certain situations moral reasoning means to discover whether one of these reasons is overriding, or how we can reach a balance between both demands. There are not two different moral paradigms; there is one model of moral deliberation. Moral deliberation is connected with various moral reasons: among others, considerations of justice and those of affection. What weight they have in certain circumstances depends on the particular context, and it is the task of our capacities for moral judgment to decide which reasons are overriding. It is by no means the case that in healthy family structures moral reasoning always gives precedence to moral reasons that correspond to feelings of affection and care.

Honneth rightly points out that the distinction between considerations of justice and affection does not coincide with the public/private distinction. But if we acknowledge that one reason for this is that justice is a public and a private virtue, then we can conceive the relationship between justice and affection differently. I think we can then conceive it in a way that does more justice to important feminist criticisms of idealized conceptions of the family.

#### Note

I would like to thank Jane Flax for helpful suggestions on improving the text.