

City University of New York (CUNY)

## CUNY Academic Works

---

Publications and Research

Borough of Manhattan Community College

---

2016

### The Ethics and Politics of Child Naming

Eldar Sarajlic

*CUNY Borough of Manhattan Community College*

[How does access to this work benefit you? Let us know!](#)

More information about this work at: [https://academicworks.cuny.edu/bm\\_pubs/73](https://academicworks.cuny.edu/bm_pubs/73)

Discover additional works at: <https://academicworks.cuny.edu>

---

This work is made publicly available by the City University of New York (CUNY).

Contact: [AcademicWorks@cuny.edu](mailto:AcademicWorks@cuny.edu)

## **The Ethics and Politics of Child Naming**

---

**ELDAR SARAJLIC**

**ABSTRACT** *This article examines the issue of justification of government's intervention in the parental acts of child naming, a neglected topic in the recent philosophical literature. It questions the ability of some of the current theories in family ethics to respond to this problem, and argues that both permissive and restrictive theories fail to provide a plausible argument about the proper limits of government regulation of child naming practices. The article outlines an alternative solution that focuses on the child's right to authenticity and suggests that only those names that infringe upon this right invite justified state intervention.*

### **1. Introduction**

Article 7 of the United Nations Convention on the Rights of Child posits that every child has a right to a legally registered name. Article 8 states that governments must respect a child's legally given name. However, the Convention neither specifies what kind of name can be given to a child nor what does government's respect of a name amount to. Does this right imply that any kind of name can be given to a child, regardless of its meaning, aesthetics and other symbolic implications? Should governments respect all parental decisions about names for their children?

The issue of naming a child is far from trivial. It is not only a problem of aesthetics, tradition or culture, but also a matter of distinct ethical, and even political concern. It belongs to the domains of moral and political philosophy, where questions about the permissible or desirable forms of child rearing, as well as about the limits of government's intervention in family issues are addressed.

However, there has been surprisingly little philosophical interest in this question. Despite substantial expansion of philosophical literature about the ethics of family, parenthood and the role of government in child upbringing in recent years, there is a conspicuous lack of normative analyses that would elaborate on the ethics of child naming.

One of the reasons this is so may be the fact that most philosophers concerned with ethics of parenthood subscribe to a form of what David Archard called the liberal standard.<sup>1</sup> According to this view, provided that parents do not harm their children the content of the principles of child rearing is primarily an internal matter of family life, a domain that is to be isolated from the external, societal or governmental, concern. Therefore, the question about names parents give to their children is a private discretionary matter and governments have no rights to pry.

But claiming that there should be absolutely no legal limits to parental child naming may be somewhat odd. Think of the little boy from New Jersey whose parents named

him ‘Adolf Hitler’, in honour of the notorious Nazi leader.<sup>2</sup> Does it sound right to say that governments should be neutral to these kinds of practices?

This article has a twofold aim. First, it aims to fill in this gap by addressing the issue of moral and political significance of child naming. I will suggest that this question is not only interesting, but also deeply troubling for the liberal political philosophy. As I intend to show, the existing normative frameworks give us little guidance about how to address it. While it is difficult to say if any alternative framework could do any better, I will offer a tentative proposal.

Second, the article will challenge the initial assumption that the content and meaning of the name parents choose for their child is a private matter outside of legitimate purview of the state. I will argue that the liberal state has a direct interest in ensuring that child naming practices correspond to a particular ethical standard.

The article will first establish the theoretical and practical relevance of this issue, and then proceed to discuss the normative approaches that could help us address it. I will draw on the literature concerned with issues of parental autonomy and children rights. In terms of practice, I will primarily draw from American cases and examples. However, this being a normative analysis, it will have a broader appeal.

## 2. Why Are Personal Names Important?

Most Americans today opt for names derived from the Western cultural tradition. In 2014, ‘Sophie’, ‘Olivia’ and ‘Emma’ were the most popular names for baby girls, while the most popular names for baby boys were ‘Jackson’, ‘Aiden’ and ‘Liam’.

Despite the popularity of traditional names, Americans have also had a certain propensity to choose odd names for their children. According to a recent book, some of the most outrageous examples include ‘Dracula’, ‘Freak Skull’, ‘Toilet’, ‘Typhus’, ‘Cholera’, ‘Leper’, ‘Cash Whoredom’, ‘Hugh Jass’, ‘Al Coholic’, ‘Post Office’, ‘Ghoul Nipple’ and similar.<sup>3</sup> There are also curious cases from history, such as when the Governor of North Carolina in the first half of the 19<sup>th</sup> century named his son ‘States Rights’ (who ended up dying during the Civil War fighting for the Confederate side).<sup>4</sup>

How do parents choose their baby names and why? Presumably, culture serves as the main source from which most parents derive their children’s names<sup>5</sup>. Baby names reproduce parental culture by extending the communal symbols and meanings through time. They serve as a community boundary by outlining the scope of group memberships, delineating between insiders and outsiders.

Importantly, yet not exhaustively, children’s names serve as indicators of parental values. By naming their kids parents express their own value commitments. These commitments may be to the culture they belong to, but they may also be more specific, in terms of expressing their respect for particular values or modes of behaviour exemplified by certain members of their group, or particular aesthetic standards. For example, when a Scottish parent names her child ‘William Wallace’ she may not only express her membership in the Scottish cultural community but also her valuation of bravery exemplified by the historical figure that had originally borne that name. In terms of naming, children often serve as a ‘raw canvas’ for parents to express their personal and cultural values.<sup>6</sup>

Although strictly personal, child names are socially relevant too.<sup>7</sup> If they serve as transmitters of culture and value, it is not implausible to imagine a larger societal concern about parental child naming practices. A person's name is used not only by himself, or his parents and family members, but also by the wider society, including other members of their culture. This is especially the case in modern societies, in which bureaucratic apparatus and the diversity of cultures demand a just, systematic and administratively manageable practice of recording and using personal names.

Starting in the mid-19<sup>th</sup> century, a number of American states began providing regulatory statutes constraining the parents' latitude in picking their children's names. Most of the rules apply to this day, although they vary from state to state. For example, New Jersey prohibits numerals as names, so one cannot be named '31' or similar. Massachusetts limits the word count of name, middle name, and surname to only 40 letters. California prohibits diacriticals, such as in José or René. Nebraska prohibits obscene names. Connecticut and Michigan laws do not require names on the certificate at all, so a child can go nameless. Kentucky, Delaware, Maryland and Montana have no limitations whatsoever.<sup>8</sup>

The United States is not the only country that regulates child naming. Other democracies, such as Portugal, Germany, Denmark or Hungary have a list of government pre-approved names, so parents can choose from the list. For example, Denmark's list includes around 7,000 government-approved names; a special institution created to review parental naming choices must approve names that are off the list.<sup>9</sup> France also legislates this matter by prohibiting names that are considered detrimental to the child's wellbeing.<sup>10</sup> Predictably, some non-democracies, such as North Korea, posit certain limitations, for example by prohibiting parents from using the name of the country's president for their child.

The motivation behind many of these legal provisions varies. Unlike some of the European cases, in most American cases limitations derive either from purely procedural difficulties that would arise if persons were allowed to have certain names, such as unusually lengthy names, as well as diacritics that require administrators to use more advanced keyboards, or from the belief that some names are insulting to the community. Apart from slurs and obscene insults, the meaning and cultural value of names has been rarely considered a yardstick for governmental regulation. This is because American lawmakers are not too eager to meddle with an issue that has traditionally been considered a matter of privacy, a domain where individual will reigns supreme.<sup>11</sup> For example, in *Henne v. Wright*, the Eight Circuit Court held that:

... a parent's right to name his or her child is protected under an extension of the right to privacy that is founded upon the Fourteenth Amendment's protection of individual liberty.<sup>12</sup>

This approach postulates that parental discretion in child naming is of paramount moral and political importance, and should be constitutionally protected. It somewhat echoes William Galston's argument that:

... the ability of parents to raise their children in a manner consistent with their deepest commitments is an essential element of expressive liberty.<sup>13</sup>

But, should liberal institutions be led by this approach in legislating, or refrain from regulating child-naming practices? Should parents have unlimited latitude in choosing

names for their children? Is naming your son ‘Adolf Hitler’ or ‘Toilet’ morally wrong and should the government stop you from doing so?

### 3. What Should the State Do: Parental Autonomy and Children’s Rights

Since no theories about the ethics of child naming currently exist, we have to rely on conceptual frameworks addressing comparable issues. The literature that focuses on parental discretionary rights for shaping the values of their children is sufficiently similar to the one about children’s names, and therefore provides a good starting point.<sup>14</sup> This is because, as already indicated, child names express and represent parental commitments. Both are questions about the nature and the extent of parental prerogatives and responsibilities in bringing up children in light of conflicting interests: first, the children’s interest in leading good lives, and second, parental interests in having meaningful relationships with their children.<sup>15</sup>

If the wider theory about justice in the family is ‘remarkably elusive’, as Colin Macleod has put it,<sup>16</sup> the problem of the child naming is even harder to address. As I will show in the next several sections, the existing normative frameworks do not provide a fully satisfactory solution to this issue.

In the following, I will examine if some of the existing theories can resolve this problem. This examination will serve as a good litmus test for assessing the ability of these theories to address an issue hitherto untreated in the philosophical literature, which I will call the child’s right to authenticity.

I will start by examining the permissive theories. The biggest challenge these theories pose is the view that child naming is an issue of exclusive parental and not governmental concern. After I meet the challenge and show its problems, I will take on restrictive views and see if they offer a plausible solution of this issue. Only after I examine each of the two, will I turn to discuss a possible alternative.

#### 3.1. *Permissive Theories*

##### 3.1.1. PRIVACY AND PARENTAL AUTONOMY

As already indicated, the standard liberal position about the family is that parents should have discretionary rights to determine the values cherished in their family, as well as to shape the relationship with their children. This extends to parental rights to shape their children’s values and life plans, which are grounded in the basic right of individuals not to be interfered with in their personal matters.

Two distinct arguments play a role here. First, the argument about privacy, according to which the name a parent decides to give to his child, is a private matter of the parent as an individual, or a matter of private concern between the parent and the child. According to this argument, government involvement in child naming is detrimental intrusion in personal and family privacy.<sup>17</sup> This reflects Charles Fried’s claim that the right to:

... form one’s child values, one’s child life plan is grounded the basic right not to be interfered with in doing these things for oneself.<sup>18</sup>

Similarly, the argument about autonomy suggests that parents have an autonomy-based right to make important decisions about rearing and educating children within their family.<sup>19</sup> This right is closely connected to the parental ability to live in accordance with their conceptions of the good. Shaping children's values is inherent to the parents' autonomy rights to select and live according to a conception of the good. Being free to live as one wishes, in this perspective, is inseparable from shaping the outlook of one's children's identities in accordance with one's way of life. As William Galston suggests, parenting is usually understood as one of the central meaning-giving practices in our lives. Since we cannot make a functional distinction between our own values and the ways we raise our children, we will shape their values in accordance with our own, almost by default.<sup>20</sup>

According to this understanding, parents have the autonomy-based right to give their children names that will reflect their comprehensive commitments and ways of life they have chosen to lead. If they wish to name the child in accordance with a particular cultural or value standard, they should be free to do so.<sup>21</sup>

But, how plausible is this way of framing the issue? Do arguments about privacy and autonomy provide an appropriate normative framework?

It is questionable if the argument about privacy can hold in case of parents and children because, though subject to disagreement and ambiguity, the concept of privacy implies that governments should not pry into *self-regarding* affairs of individuals.<sup>22</sup> Most authors would at least agree that privacy is about one's freedom to do what one wants without external intrusion. But, parental relation to their children is an *other-regarding* affair, involving more than one person. Child naming is an interpersonal practice, by which one person selects and applies a name to another person.

Still, that may not mean that governments can intervene into private affairs between individuals. For example, intimate relationships between friends or lovers, based on autonomy of both partners, should not be subject to governmental intrusion. But, as David Archard suggests, while intimate relations between friends and lovers do not provide the government with sufficient reason for intrusion, the relationship of a parent and the child still does because some parents can seriously harm and neglect their children.<sup>23</sup> Unlike relationship between friends, the relationship between parents and children is not an egalitarian relation. Parents hold much more power over their children, which can render governmental concern and intervention legitimate. Only one of the two individuals involved is fully autonomous and able to set the terms of the relationship.

The asymmetric power relation between parents and children is especially evident in the practice of naming. Parents give a name to the child that she cannot choose, nor reject at the time of its legal application. By the time the child is able to change her own name, it has already become an integral part of her identity.

Thus, the parental privacy argument fails.

The parental autonomy argument is slightly more complex. In order to assess it, we must break it apart to different conceptions, not all of which will be equally permissive, but all of which will face problems. First, the conservative<sup>24</sup> conception of parental autonomy assigns absolute discretion to parents in child rearing. Provided that the minimum of children wellbeing is satisfied,

... parents have a right to *fix authoritatively* the conception of the good held by their children. In other words, parents are entitled to uniquely determine the content and character of a child's conception of the good.<sup>25</sup>

The conservative conception gives parents ultimate authority in selection of their children's names, and the state has no say in the matter. However, as Macleod shows, this conception is generally implausible because it collapses the difference between parents and children, or at least assumes privileged epistemic access of parents to their children's future conceptions of the good life. Children are viewed either as extensions of the parental selves and not as individual beings, or as persons whose future conceptions of the good are *a priori* known to their parents. Both assumptions are implausible, especially in the case of naming. We have no ways of knowing if the names parents give to their children will be endorsed or liked by children. In general, this conception fails to appreciate children's independent moral status.<sup>26</sup>

Second, the democratic conception of parental autonomy gives parents full control provided that the children receive proper civic education, or that they adopt the virtues of democratic civic life. It is hard to specify what this could mean in terms of child naming, but we may suppose that parents should have the freedom to name their children however they want, provided that some republican demands are satisfied, for example that children's names correspond with the values of the polity or reflect the socio-cultural values of the community. The German and Danish example could fit this conception, if we suppose that the rationale for the official name lists in these countries is derived from patriotic or republican reasons.

I find this conception problematic because the potential demand that child naming satisfies certain democratic standards does not provide sufficient limits to parental latitude, or it is at least unclear what those standards would imply. Child names can be instrumental for advancing certain political projects. Examples such as already mentioned 'States Rights', or cases of children names reflecting national projects, such as 'Yugoslav' in former Yugoslavia, show this very clearly. If this is what the democratic conception would suggest, then it is unacceptable because it would view children's names as instrumental either to parents or to the political community. The failure of the democratic conception is similar to the conservative one: it perceives children as vehicles for realisation of goals that are external to them, derived either from parental or communal goals, and this is unjustified.<sup>27</sup>

Unlike the conservative and democratic, the third, liberal conception of parental autonomy strongly constrains parents' discretion in bringing up their children on the basis of children's lack of capabilities for autonomy. As Macleod claims, parental autonomy is constrained:

... by an ideal of neutrality and the requirement that a child's future freedom to choose between different ends be maximized.<sup>28</sup>

Although not permissive in the way the previous two are, this conception is problematic because the posited constraint is too strong and unstable. We cannot demand that parents name their children in completely neutral ways, or that they do not name them at all until they grow up and mature sufficiently so they can choose their own name. This would not only negatively affect the intimate relations between parents

and their children, but would also be practically implausible. Children cannot go nameless until they reach the age of adulthood.

Macleod suggests a revised liberal account that would replace the demand of neutrality with a more plausible conception of parental autonomy that gives parents the authority to ‘provisionally privilege’ their conception of the good, leaving the possibility for children to change it once they grow up.<sup>29</sup> This could be a plausible (and not overly permissive) solution to the problem of comprehensive enrolment of children in general. In the case of child naming, parents could, for example, name their children in accordance with their own values, but teach them that their name is merely temporary, and that they could change it once they become adults. However, apart from the fact that this is already the case – adults can change their names legally in most jurisdictions – it is not fully clear that this practice would be effective because it would fail to prevent the negative effects of a child’s name on her identity and wellbeing while she is still a child. Little ‘Adolf Hitler’ from New Jersey would certainly suffer because of his name until he grew enough to be able to change it on his own. However, there is a way to conceptualise the value of children’s future freedom in terms of naming. I will focus on that the latter part of the article.

### 3.1.2. THE VALUE OF RELATIONSHIP

Parental rights over their children are not only justified by the appeal to children’s interests, but also to the intrinsic goods that the parent-child relationship bestows both upon parents and children. For example, Harry Brighouse and Adam Swift argue for a theory according to which the substantial value of this relationship serves as the normative foundation for framing parental and children’s rights.

This theory implies that the value of relation to legitimises parents in shaping of children’s identities in accordance with their conceptions of the good. Here’s Brighouse and Swift’s view in a nutshell:

Parenting is about having a relationship of the right kind with one’s child. Because people’s values are central to who they are, because successful parenting requires parents to share themselves with their children, and because value sharing implies at least some degree of value shaping, value shaping is an inherent part of that kind of relationship.<sup>30</sup>

They suggest that, for instance, a Christian and cricket-loving parent who wishes to take his daughter to a cricket match, or to church, so he could introduce her to these activities and by doing so introduce her to the goods he finds valuable would be acting legitimately only if that practice is needed for a close relationship between them. They, however, add a proviso to this rule: it is justifiable as long as it is consistent with the duty to develop the child’s capacity for autonomy.<sup>31</sup> This theory is fairly permissive to parental shaping of children’s values, and it is circumscribed only by the underlying imperative not to stymie the children’s ability to choose alternative values once they reach maturity.

Translated to the case of child naming, this approach suggests that parents should have the right to name their children in light of their conception of the good if such practice contributes to the right kind of relationship between them. If naming is derived merely from the parental commitment to a conception of the good, then it is unjustified. But, if it is derived from their commitment to the child and their

relationship, then besides the duty to develop the capacity for autonomy, there should be no particular restrictions in parental latitude for giving names to their children. In that case, children would not be instrumental to parental satisfaction of some other commitments, but would be ends in themselves.<sup>32</sup>

The ability of this theory to provide an answer to the child-naming problem can be assessed in two ways. First, we could ask how does the value of relationship frame the parental latitude in choosing the name for their child?

In this interpretation of the Brighthouse and Swift theory, any name that a parent comes up with will serve the intrinsic value of the relationship, because naming itself is an intimate act, and by exercising it parents establish a special link between themselves and their kids. But this could not be right, since it would permit parents to choose all kinds of names, including 'Adolf Hitler', 'Toilet' or any other conceivable name. If one could, perhaps, prove that parents of little Adolf derived their name choice not from the substantial value of the relationship but from their prior commitment to Nazism, this could hardly be said for the parents of little Toilet. Her parents may not have had any particular commitment to toiletry, but may have simply chosen this name arbitrarily, say through a name lottery or an affinity to the sound of it.<sup>33</sup>

Still, one could argue that even this largely derives from the intrinsic value of a lottery or the sound of a name, and not from the appreciation of the intrinsic value of the relationship between parents and children. But, if this is the case then no name will ever be sufficiently based in the value of relationship and not in some external source. Even 'John' will be inadmissible because one could suggest that the name is derived from the parents' commitment to English language and culture and not from the intrinsic good of their relationship with their child. So, this interpretation is either too permissible or too restrictive. Either way, it does not hold.

On the second interpretation, which is closer to Brighthouse and Swift's view, according to which parental rights are derived from the children's rights – so parents would have only those rights that is in the children's interest for them to have<sup>34</sup> – the theory would not be too permissive, because it would be bound by children's interests and the autonomy proviso. Basically, parents must make sure that their selected name for the child does not violate development of the child's capacity for autonomy.

One problem with this interpretation is that it doesn't make sufficiently clear how naming norms could be derived from the value of the relationship between children and parents if children's autonomy interests serve as the foundation of parental relationship rights. Appealing to parental rights as derived from children's interests seems to make the argument about relationship superfluous. If parental rights are ultimately derived from children's interest and circumscribed by their capacity for autonomy, then relationship has only instrumental, and not constitutive value. In that case, the argument does not appeal to the value of relationship *per se*.

Another problem is the proper conceptualisation of the relation between a child's name and her capacity for autonomy. It is difficult to say how a name affects child's capacity for autonomy without further detail. One could argue that irrespective of his name, a child could develop into a fully autonomous being. Even little Adolf from New Jersey may grow up to be an autonomous person. One may think so because the child's autonomy development depends on many elements, and his name may not be the most relevant of them. If little Adolf is taught to be reflexive, mindful and critical of his environment he may be autonomous as anybody else. However, insofar as a

person's autonomy is related to her identity (her sense of self), and affects her interaction with others, this argument will have some purchase. But, in that case, as I will argue later on, the autonomy argument does not need to be associated with the relationship view, as a proviso on its permissibility, but can (and should) stand on its own. Therefore, a part of Brighthouse and Swift's theory has potential for suggesting a proper solution to this issue, so I will come back to elaborate more on that part in the latter sections of this article.

### *3.2. Restrictive Theories*

#### **3.2.1. HARM AND WELLBEING**

Can a name be a source of harm for a child? In some ways, the answer is an unequivocal yes. One could say that parents who name their child 'Toilet' are abusive towards the child, in a certain symbolic way.<sup>35</sup> Some authors have even argued that there is a causal correlation between personal names and mental health.<sup>36</sup> However, we should be careful not to rush to conclusions about names as the source of abuse and harm. As Archard argues, a plausible definition of child abuse should not be controversial and rely on elements that are disputed or unclear in meaning.

Words like 'proper' and 'adequate' invite controversy. Different parents will have different ideas as to the proper way to bring up children, or as to what counts as adequate care for them. It would be wrong for liberal legislators to impose one particular ideal or set of ideals upon all parents.<sup>37</sup>

It is conceivable that the degrading character of the name 'Toilet' is just our cultural preference that has no universal validity. Maybe in some cultures toilets are revered as things of value, and naming one's child after it symbolises respect and dignity rather than abuse and harm. Outlawing the use of this name would not only be paternalistic, but also ethnocentric.

Another problem with the argument about harm is that it is unclear how a name can be harmful to a child. More probably, the harm comes from other people who react to the child's name and act in ways that are harmful to its emotional or intellectual development. Names are symbolic denominators and, as such, do not have harmful properties. The harm in a name is a matter of social context, and not of a certain 'essence' in the name. So, why regulate the name instead of the behaviour and attitudes of others towards it? Isn't the action of a person who would react in a harmful way to what he considers a disparaging child name the proper object of liberal regulation?

The argument about harm may have some purchase if we loosen it up a bit and suggest that, while a child's name cannot be directly harmful, it could decrease his wellbeing because it may invite negative attitudes of the society towards it and close certain options to the child in the future. For example, little Adolf Hitler from New Jersey will face many obstacles in his future life, from school to employment, only on the basis of his name. People may shun his company, be unwilling to associate with him or give him a job.<sup>38</sup> It is hard to image that he could have a successful career as a human rights lawyer. The societal reactions to his name may not violate any principles of justice, or cause him direct harm, yet they will have a profound effect on his life prospects and overall wellbeing.

This argument seems promising, and it could perhaps provide some guidance both to parents and liberal regulators in choosing and legalising certain baby names. Recently, there have been proposals to change the US law so parents cannot willingly decrease their child's wellbeing by giving him or her an inappropriate name.<sup>39</sup>

However, the problem with this argument is that it indiscriminately excludes all possible names that could affect a child's wellbeing and close some options for him regardless of the reasons behind negative societal reactions to the name. Take for example the case of José Zamora, an American of Hispanic origin who was fruitlessly searching for jobs by sending online resumes to different job openings. After months of unsuccessful search, he decided to drop one letter from his name, becoming 'Joe' instead of 'José', and almost as if by a miracle, job offers started arriving in his email inbox. This case revealed the existence of a subconscious prejudice and discrimination against individuals with Hispanic names in contemporary American society. Thus it can be said that, similar to 'Adolf Hitler', the name 'José' can decrease a person's wellbeing by closing certain options to him or making success in life harder to achieve. The proposal to outlaw names that decrease wellbeing would then have to encompass both. But, that would clearly be wrong because a public prejudice to Hispanic names is unjustified; it is not based on any legitimate information or value but on arbitrary designation of a certain group of people less valuable. Contrary to that, the public prejudice against 'Adolf Hitler' is not unjust because it is based on understandably negative views of the name that reminds people on one of the most gruesome war criminals in the history of humanity. In other words, unlike the negative reactive attitude towards 'José', the reaction towards 'Adolf Hitler' does not violate separately conceptualised principles of justice.

Unless the argument from wellbeing is able to make a meaningful distinction between names that are justifiably bad for personal wellbeing and those that are not, it is not successful in providing normative guidance for solution to this problem. It will be either too restrictive or vague.

### 3.2.2. PUBLIC REASON

Matthew Clayton has famously argued for an anti-perfectionist theory of child rearing, according to which parental conduct should not be guided by values derived from any particular comprehensive doctrine.<sup>40</sup> He claims that the ideals that guide parents must not be:

... secular or religious ideals, which are disputed by reasonable persons. Clearly, this is a significant restraint that prohibits what many parents believe to be routinely acceptable forms of appeal to ideals and values which animate their lives.<sup>41</sup>

Instead, parents, just like governments, should be governed by the ideal of public reason. This requires parents to exercise their authority in a way that can be reasonably accepted by free and equal persons.<sup>42</sup> As Clayton argues, this is because children must provide 'reflective endorsement' of these values once they reach the age of maturity.<sup>43</sup> Any possible value that they might reject later on cannot serve as a legitimate principle for their upbringing.

In the context of child-naming, this would require parents to give names that children could not reasonably reject upon becoming adults. It seems like a promising

proposal, and could perhaps resolve the issue one may have with naming a child 'Adolf Hitler' or 'Toilet'. We could argue that both of these names are contrary to public reason, and children could reasonably reject being named like that, which would make them illegitimate and subject to government restriction.

However, this proposal faces two distinct challenges. First, it might be too restrictive because it will exclude all possible names based on controversial conceptions of the good, such as religion. For example, it will require parents to refrain from naming their child 'Jesus', 'Mohammad', 'Joseph' or 'Mary' because those names derive from a religious conception of the good that may be reasonably rejected by the children once they become adults. A child may reasonably reject to be named after the founder of a great religion because it may become atheist as a mature adult, and his name might not fit well in his authentic personal identity. If we adopt Clayton's theory to frame the issue of child naming we may end up with a severely restricted selection of reasonably acceptable names. That would not only make the parental name-choosing job more difficult, but would also work against cultural diversity and pluralism.

Additionally, one could also argue that given the intimate nature of naming, as well as the intrinsic value of relations between parents and children, the proposal that requires parents to defer to norms external to the relation with their child could break an important bond that ties family members to one another across generations. A name could be reasonably rejected because of its derivation from a controversial conception of the good, but it may be valuable for parents because of cross-generational transmission of certain cultural symbols, or ancestral names. This may not necessarily imply that parents have the right to give any name from their culture's history, but there may be names that will not be problematic on any other ground than their rootedness in a particular conception of the good. Take for example the Native American name 'Sitting Bull'. According to the public reason argument, this name would be illegitimate because the future adult that got this name as a child to commemorate his ancestors and perpetuate an important cultural symbol may reasonably reject it. If this is what Clayton's theory applied to the child-naming problem would imply, then it is problematic.

Second, it is not clear if this proposal would do well to delineate between just and unjust cases of societal reactions to children names that can affect their wellbeing, such as the example of 'José'. Unless we are looking for a theory of justice in child naming that would simultaneously address wider problems of social justice, it is unclear if 'José' will be legitimate because it could be reasonably rejected by future adults. No person would reasonably want to have a name that will be subject to discrimination and prejudice. Reasonable rejection of such a name may not necessarily have anything to do with the underlying causes of social injustice. It may be simply a preference of free and equal persons for names that contain no attachments to any controversial comprehensive doctrines, including practices that produce unjust social relations. In that sense, this theory will either be too demanding, in terms of requiring a wider scope of application, or too thin, in terms of being compatible with injustice.

The permissive and restrictive normative frameworks do offer us some guidance about how to address the ethical issue of child naming and the role of government in regulating this practice. Permissive approaches, for example, show that transmitting values and culture to children is inherent to a meaningful relationship between parents and their kids, and should therefore be subject to minimal interference. We do not

want a state that will severely constrain the way parents name their offspring. On the other hand, restrictive approaches indicate that there should be some limits to parental discretion in child naming, and that it should be somewhat driven by concerns over the children's future wellbeing.

However, neither of the two possible frameworks is fully able to propose a viable solution for liberal legislation of this issue. Permissive accounts are either too permissive, in terms of providing too much latitude to parents (or states) in the name design, or not feasible in practice. Restrictive accounts are either incapable of specifying their demands, as in terms of the name's effect on a child's wellbeing, or too restrictive, in terms of proposing a severely limited pool of names that will accord to the norms of public reason.

### *3.3. The Child's Right to Authenticity*

If some of the most attractive theories about parental rights in shaping their children's identities fare poorly in suggesting solutions to the question of child naming, what should we do? There is one route that hasn't been elaborated so far, although it is an implied feature of some of the previous accounts, especially Brighthouse and Swift's. Namely, the argument about the children's right to an open future, first suggested by Joel Feinberg and then picked up by a number of other theorists, could lead to a solution. The principle, in short, states that children possess 'rights-in-trust', or future rights that wait for the development of their full autonomy to be actualised.<sup>44</sup> These rights limit parental (and societal) authority in shaping their children's identities by preventing curtailment of diverse external influences upon the child. In order to preserve their future ability to choose between different conceptions of the good, liberal institutions must ensure that children are:

... acquainted with a great variety of facts and diversified accounts and evaluations of the myriad human arrangements in the world and in history.<sup>45</sup>

Initially, the argument seems to have nothing to say about the ethics of child naming. The principle of open future, in the way it has been argued so far, is more concerned with enabling children to freely select their own way of life once they become fully autonomous and able to do so, and seeks to prevent influences that undermine this future possibility. But, one could plausibly argue that this is also relevant for child naming insofar as a personal name could undermine a person's possibility for choice because of the name's ability to cut certain future options for him. As already mentioned in the example of wellbeing, little Adolf Hitler's options for future personal and professional growth will be limited because of his particular name. So, we could say that the child's right to an open future prohibits naming children in ways that will limit their future options.

However, the problem with this argument is that it is not specific enough and that it is too restrictive. Namely, it doesn't provide precise guidelines about what kind of names will limit children's future options, or how 'open' those options should be (which is a standard objection to open future theories); it might be clear in the case of 'Adolf Hitler', but it will be less clear in some other cases, such as if we decide to name our child '46'. Also, it could lead to overly restrictive regulation, since it might allow for arguments that every name that is exclusively associated with a particular

culture must be prohibited because it will limit a child's opportunities for interaction with, or possible assimilation in other cultures. Such a view would be implausibly strong.

But, since the argument does strike at something rather important about children's current or future identities, it could be further specified and worked out in more details so to avoid these pitfalls while preserving what is important about it.

For example, what is important about the open future argument is its focus on the child's freedom to choose its own *authentic* way of life. The child might choose not to follow the culture and ways of life of its parents. It might adopt another culture, or invent a completely new way of life that will be an authentic representation of her own particularity, a specific position of a unique person in time and space. I believe it is important to supplement the open future argument with this specification: the child has to have a right not only to access information about alternative conceptions of the good, so it could freely choose among them (the open future argument so far), but also the right to invent, develop and sustain an original content of its own identity that will not be symbolically over-determined by the parental cultural and value background (the supplement to the argument). We could call this the child's right to authenticity, and it encompasses not only the current claims about the right to have a name and an identity, but the right to be able and free to build an original identity, one that will be unique for every particular individual, and will be exclusively her own.

It is important to stress that this is not a metaphysical thesis; I am not arguing for some kind of deep ontological originality. True, every identity will build from the material already available in the environment, so no particular conceptions of the good will be fully original in this way. What I am arguing for is the freedom and ability to create authentic existence that will not be forced to fit some of the prescribed symbolic and conceptual containers available in the existing cultural configuration. I also do not claim that, in order to be original, persons' identities must be completely detached from their cultural context. Rather, the argument is that a child has a right not to have her personal identity symbolically over-determined by such context, but instead given the space to interact with it in a more spontaneous, experimenting, and two-way fashion, bringing new content to the existing set of symbols and meanings. The way I conceive it, the child's right to authenticity is a derivative of the child's right to future autonomy, and could serve as a more specified proviso to Brighouse and Swift's theory about the value of the parent-child relationship.

Symbolic over-determination in the case of personal names consists of two factors. First, the scope of meaning associated with a name. Some names, given their literal meaning (such as 'Toilet') or links with the persons bearing them in the past (such as 'Winston Churchill') are fairly narrow in the scope of possible interpretations of, or associations with the name. Others, such as 'Jane' or 'John', are fairly broad because the names either do not constitute any particular meaning, or do not provide any definite links with historical figures ('John' can invoke associations both with 'John Rawls' and 'John Wayne' and neither of these is symbolically so strong that it overpowers others). The symbolic capital of 'John' is nearly limitless because there are (and have been) so many Johns that no particular John determines the name's meaning and its symbolic worth. As a result, every new John will have a nearly unlimited opportunity to provide his own meaning and generate authentic symbolic worth associated with his own name, being thus able to create his own particular identity that will be

independent of any other person bearing similar name, or any other particular culture this name may be associated with. His opportunities to lead an authentic and meaningful life will not be *a priori* limited by the symbolic determinacy of the name he got from his parents.<sup>46</sup>

The second factor is the symbolic valence of the name. Namely, some names invoke negative, and some positive associations. ‘Adolf Hitler’ has a negative valence, while ‘Winston Churchill’ has a positive valence. Both of these names are fairly narrow in their scope of associations, but they differ in the valence that is implied by the name. In terms of authenticity, negative valence is much stronger than positive. A child with a narrowly associated name (such as ‘Winston Churchill’) and a positive valence will have a fairly open (though not too open) opportunity to develop an authentic identity. Contrary to that, the name ‘Adolf Hitler’ is negative in valence because of the overwhelmingly strong example of the particular Adolf Hitler that determines the symbolic worth of that name and gives it negative value. The New Jersey kid bearing that name will have a limited scope of opportunities to generate an authentic symbolic capital of his own name. His opportunities to lead a life in which his personal uniqueness will provide the positive valence to his name are significantly narrowed by his parent’s naming act.

Still, even this proposal has to walk a tight rope between the name’s inherent meaning and its social context. It has to avoid the problem of making a coherent distinction between just and unjust cases of the name’s symbolic worth, such as the case with ‘José’ indicated. Unlike some of the alternative normative proposals, the argument about the child’s right to authenticity can propose a coherent solution because ‘José’ is, just like ‘John’, a name whose symbolic scope is not narrow like ‘Hitler’ but wide and allows for the child to build her own authentic meaning around it, and would not be problematic. The fact that ‘José’ is negatively perceived in certain contexts is a local and not universal fact, not supported by any factual proof, whose unjust background is (or at least could be) adequately recognised. Similarly, the proposal seems promising in delineating successfully between legitimate ethnic names that may strike someone as odd, such as ‘Sitting Bull’ and ridiculous cases such as ‘Al Coholic’, ‘Leper’ and similar. Only the latter ones are illegitimate, according to this proposal, because their association to diseases narrows their symbolic worth.

Similar to Brighthouse and Swift’s, this argument gives parents significant (but not overly permissive) latitude in choosing names that derive from their culture or religion, without being too restrictive. According to this proposal, ‘Mohammad’ and ‘Jesus’ (and other religion-based names) are permitted because they do not symbolically over-determine child’s prospects to build his own identity that will not necessarily be based on Islamic or Christian values. One can, plausibly, imagine a secular Mohammad or Jesus, whose symbolic inheritance and the scope of facts that determine the meaning of the names could include broader communal (or ethical) signifiers, but not necessarily the strongly determining religious values.

Figure 1 shows how can we think about symbolic over-determination of names and their regulation. My proposal suggests that only names in the lower left grey quadrant (here merely exemplary and not exhaustive) should be legally prohibited because they violate the child’s right to authenticity. Other names that could sound problematic, given their negative value association (for example ‘Marie Antoinette’ or ‘Arson’) are acceptable because they could have a broader scope of associated meaning. That is, the historical example Marie Antoinette does not over-determine the meaning

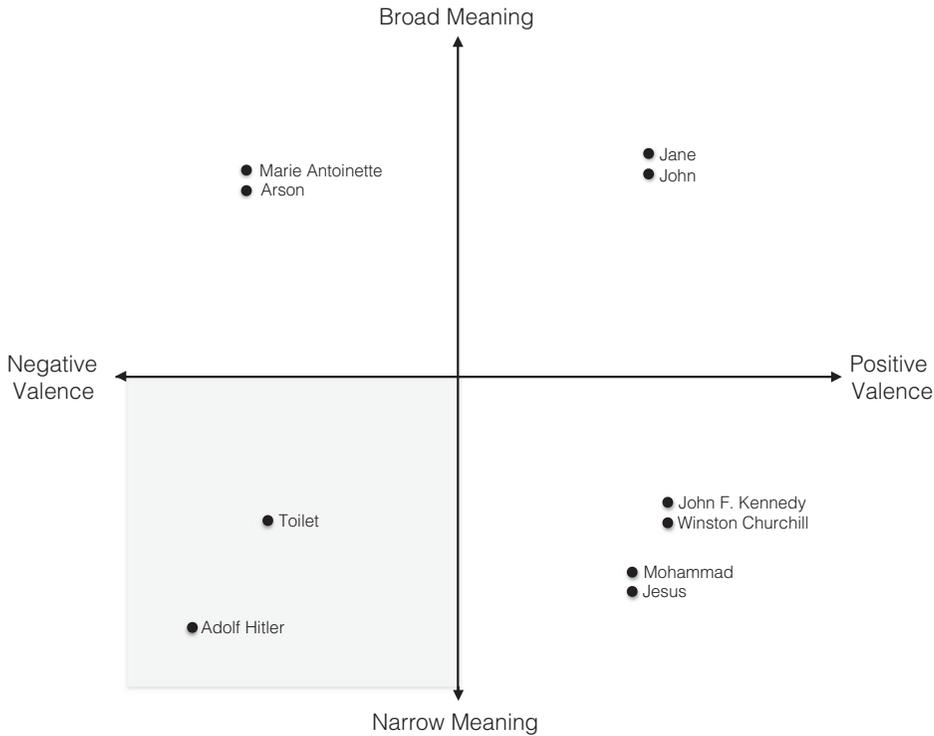


Figure 1. Meaning and valence of certain names.

associated with the name ‘Marie Antoinette’ strongly as is the case with the name and historical example of Hitler.

It is important, also, to address the question of gendered names. Namely, one could plausibly argue that the argument about authenticity would restrict parents to names that do not assign the gender to the child, since we cannot know the gender of a child at his or her birth. Unlike sex that derives from the biological shape of the child’s external genitals, gender is a social construct and depends both on the child’s future gender identifications and her societal interactions, none of which parents could know at the moment of the child’s birth. However, unlike ‘Hitler’ or ‘Toilet’, which carry negative valence and narrow meaning, the symbolic value and the scope of meaning of ‘Jane’ or ‘Joe’ are not a matter of their symbolic content, but a matter of social convention that is not attached to a particular fact. Instead, it is attached to a social habit, and social habits, unlike facts, can change. If sufficient number of parents name their baby boys ‘Sue’, then ‘Sue’ will, by fiat of social convention, become a bi-gendered name, much alike ‘Taylor’ or ‘Madison’. Therefore, the authenticity argument does not require gender-neutral names.

3.4. Broader Implications and Practical Questions

The child’s right to authenticity is a derivative of the open future argument, and shares significant ground with Brighouse and Swift’s theory about parental rights shaped by

the value of the parent-child relationship and the imperative of protecting children's capacity for autonomy. However, it goes beyond some of the limitations of these arguments by: first, not requiring that the name must leave all possible future options for the child open, but only that it must allow the child to generate its own authentic meaning and identity around his or her name; and second, that the right to authenticity stands on its own and does not necessarily correlate to the value of relationship (it does not negate its importance, though). Some names, due to their implied meaning, or necessary association, will simply not allow for a broad array of interpretations. There are only few ways one can interpret 'Leper' or 'Hitler'. Other names, regardless of their association with a particular comprehensive doctrine or culture, such as 'Jesus' or 'John', do leave significant interpretative latitude, so the child can 'fill' the name in with their own authentic content.

The authenticity argument can thus address this issue in a better way than some of the other theories of child rearing and parenthood could. It cuts diagonally through permissive and restrictive theories by allowing significant parental prerogatives in child naming, thus preserving the intrinsic value of parenthood and parent-child relationship, without surrendering fully to parental whim and eccentricity. The argument is compatible with the permissive theories on this ground, because it can plausibly share (and endorse) a flexible attitude to allowing parents significant freedom of upbringing, without infringing on their right to special relations with their children. It overcomes, however, the greatest difficulty of the permissive theories – allowing parents to affect child's abilities to generate authentic meaning and identity by choosing an inappropriate name – by specifying precise requirements for institutional limitation of parental child-naming latitude.

Similarly, the right to authenticity overcomes the main difficulties of the restrictive theories – the lack of precision about the name's effects on wellbeing, and overly demanding requirements that the names derive from norms of public reason by offering a proposal that focuses on something else than wellbeing and public reason. However, the authenticity argument shares significant ground with the restrictive theories by suggesting that there should be institutionally defined and enforced limits to how parents can name their children, and that these limits must derive from ethical considerations.

Therefore, the right to authenticity, as a philosophical argument about the ethics of parenthood and child-based institutional policies, simultaneously contributes to different theoretical frameworks that exist in the current literature. It does so by addressing an issue that is often left unexamined or deemed irrelevant, and by doing so it exposes some limitations of these theories. It could also have a broader purchase than the case of child naming. One could argue that the authenticity argument can serve as a supplement to theories that deal with parental enrolment of children in comprehensive doctrines. I lack the space in this article to show this compatibility fully, but it is not hard to see how this argument can be translated onto that ground. According to the right to authenticity argument, children must have the freedom to develop their own authentic ways of life – or at least authentic interpretations of the comprehensive doctrines they have been enrolled into – and this right must be institutionally protected from parental breach. This does not grant parents full freedom in enrolling children in their own comprehensive doctrines without some limitations, but at the same time it does not argue that any enrolment is *prima facie* unjustifiable. The argument could plausibly reconcile different requirements of both permissible and restrictive theories of the ethics of childrearing.

From an institutional perspective, the right to authenticity argument could be compatible with both anti-perfectionist and weak perfectionist liberal measures. It would do so by claiming that institutions should remain neutral to parental child-naming practices, while at the same time ensuring that the chosen name does not symbolically over-determine the child's symbolic capital by association to a justifiably negative (or disadvantaging) value and a narrow scope of meaning. Translating this to institutional public policy does not require establishment of any additional institutions liberal democracies are not already equipped with. Apart from shaping child-naming legislation in ways that protect children's right to authenticity, there should exist ethical committees, perhaps attached to the hospitals or state register institutions, that could address and resolve disputed issues in accordance with the appropriate guidelines.

#### **4. Conclusion**

In this article I addressed the important, yet elusive, question about the ethics and politics of child naming. Given the lack of accounts that treat this particular problem, I examined the existing theories about the parental discretion in shaping their children's values and identities, which is as close as we can get to address this problem in light of the current philosophical literature. I focused on four arguments, two permissive and two restrictive ones. I argued that the permissive accounts, the argument about parental autonomy and the value of relationship, although useful in pointing to some normatively important elements, cannot successfully resolve this problem, because they will be either overly permissive or unspecified. Similarly, I suggested that the restrictive accounts, the argument about wellbeing and the argument about public reason, also face problems, despite offering some important considerations.

As an alternative, I developed an argument that focuses on the child's right to authenticity as a potential solution. I suggested that this argument, as a derivation from the principle of open future, helps us determine what kind of personal names given to children should be subject to government regulation. According to this proposal, only those names that prevent a child from developing her own authentic identity, independent from existing conceptual and symbolic frames, should be subject to interventionist regulation by the liberal state.

However, this problem remains elusive, and I have not argued that my proposal resolves all possible pitfalls. What I hope to have achieved is, at least, this: pointing to the issue of child naming as a legitimate ethical and political question that demands more attention from philosophers and liberal legislators alike than has been hitherto given.

*Eldar Sarajlic, City University of New York—Borough of Manhattan Community College, 199 Chambers Street, New York, NY 10007, USA. [eldar.sarajlic@gmail.com](mailto:eldar.sarajlic@gmail.com)*

#### **Acknowledgements**

I wish to thank Adam Swift, Colin Macleod, David Archard, and Matthew Clayton for their comments on the first draft of this article. I am indebted to two great

reviewers of the *Journal of Applied Philosophy* who provided useful comments to the article, as well as to the researchers at The Hastings Center, where I presented this study in February 2016, for their helpful suggestions and comments. My thanks also go to Brian Earp for arranging the talk at Hastings, as well as for proving a helpful suggestion to express my idea through a graph. In addition, I thank to Fadila Sarajlic for practical help in drawing the graph. Last but not the least, I thank my daughter Lena, whose birth in 2014 prompted me to think about this topic.

## NOTES

- 1 David Archard, *Children: Rights and Childhood* (London: Routledge, 2004), p. 107.
- 2 Rich Shapiro, 'NJ Nazi Dad, pregnant fiancé want baby to be little Eva Braun or Rommel', *Daily News* 19 June (2013), retrieved from: <http://tinyurl.com/mxoe5o7>.
- 3 See Michael Sherrod, Matthew Rayback & Joey Gates, *Bad Baby Names: The Worst True Names Parents Saddled Their Kids With and You Can Too!* (North Provo, UT: Ancestry Publishing, 2008).
- 4 See Carlton F.W. Larson, 'Naming baby: The constitutional dimension of parental naming rights', *The George Washington Law Review* 80,1, (2011): 159–201, at p. 179.
- 5 Granted, sometimes parents choose a name based on the sound of it. But, even then, the likelihood that sounds from their culture will be more attractive is greater.
- 6 Harry Brighouse & Adam Swift, *Family Values: The Ethics of Parent-Child Relationship* (Princeton, NJ: Princeton University Press, 2014), p. 103.
- 7 See Stanley Lieberson & Eleanor O. Bell, 'Children's first names: An empirical study of social taste', *American Journal of Sociology* 98,3 (1992): 511–544, at p. 514.
- 8 For more examples and information, see Larson op. cit.
- 9 Lizette Alvarez, 'Picked baby's name? Not so fast, in Denmark', *The New York Times* 9 October (2004), retrieved from: [http://www.nytimes.com/2004/10/08/world/europe/08iht-danes.html?\\_r=0](http://www.nytimes.com/2004/10/08/world/europe/08iht-danes.html?_r=0)
- 10 G.S. Arnold, 'Personal names', *The Yale Law Journal* 15,5 (1906): 227, at p. 230.
- 11 James Q. Whitman, 'The two western cultures of privacy: Dignity versus liberty', *The Yale Law Journal* 113,6 (2004): 1151–1221, at p. 1158; also, see Martin Guggenheim, *What's Wrong With Children's Rights*. (Cambridge, MA: Harvard University Press, 2005).
- 12 *Henne v. Wright*, 904 F. 2d 1208 Court of Appeals 8th Circuit 1990.
- 13 William Galston, *Liberal Pluralism: The Implications of Value Pluralism for Political Theory and Practice* (Cambridge: Cambridge University Press, 2002), p. 102.
- 14 It is important to stress that this question is not exhausted by the considerations about parents, but that it also applies to other agents involved in child-naming, from grandparents, to community elders or other culturally and circumstantially relevant individuals and groups. However, I lack the space here to elaborate on all possible implications of this, so I will stick to parents as the standard fiduciaries in charge of naming children. I thank Adam Swift for drawing my attention to this.
- 15 See Colin M. Macleod, 'Conceptions of parental autonomy' *Politics & Society* 25,1 (1997): 117–140, at p.119.
- 16 Macleod op. cit., p. 118.
- 17 This does not imply that any governmental involvement in family matters is unjustified, however. See more in Laurence D. Houlgate, 'What is legal intervention in the family? Family law and family privacy', *Law and Philosophy* 17,2 (1998): 141–158.
- 18 Charles Fried, quoted in Brighouse & Swift op. cit., p. 149.
- 19 Archard op. cit., p. 167.
- 20 Galston op. cit., p. 102. See also Norvin Richards, *The Ethics of Parenthood* (Oxford: Oxford University Press, 2010), p. 13.
- 21 For a similar argument see Guggenheim op. cit., p. 25.
- 22 See J. Angelo Corlett, 'The moral right to privacy', *Public Affairs Quarterly* 16,4 (2002): 329–350; also Jed Rubenfeld, 'The right of privacy', *Harvard Law Review* 102,4 (1989): 737–807.
- 23 Archard op. cit., p. 170.
- 24 I follow Macleod in using the terms 'conservative' and 'liberal' in this context. Note that this does not necessarily correspond with the everyday political usage of the terms, and may sound counterintuitive.

- 25 Macleod op. cit., p. 123.
- 26 Macleod op. cit., p. 124.
- 27 David Archard & Colin M. Macleod, *The Moral and Political Status of Children* (Oxford: Oxford University Press, 2002), p. 8.
- 28 Macleod op. cit., p. 129.
- 29 Macleod op. cit., pp. 129–130.
- 30 Brighouse & Swift op. cit., p. 153.
- 31 Brighouse & Swift op. cit., p. 155.
- 32 Brighouse & Swift op. cit., p. 102.
- 33 Also, how the government would assess the intentions and derivation of parental naming preferences would pose an important practical problem.
- 34 Brighouse & Swift op. cit., p. 54.
- 35 For this argument see Ralph Slovenko, 'The destiny of a name', *Journal of Psychiatry and Law* 2 (1983): 227–270, at p. 235.
- 36 See Nicholas Christenfeld, David P. Phillips & Laura M. Glynn, 'What's in a name: Mortality and the power of symbols', *Journal of Psychosomatic Research* 48,3 (1999): 241–254.
- 37 Archard op. cit., p. 195.
- 38 For an elaboration of the relation between personal names and prejudice, see Jerlean E. Daniel & Jack E. Daniel, 'Preschool children's selection of race-related personal names', *Journal of Black Studies* 28,4 (1998): 471–490.
- 39 See, in part, Larson op. cit., p. 198.
- 40 For the most recent account see Matthew Clayton, 'Anti-perfectionist child rearing' in A. Bagattini & C. Macleod (eds) *The Nature of Children's Well-being: Theory and Practice* (New York and London: Springer, 2015), pp. 123–141.
- 41 Matthew Clayton, *Justice and Legitimacy in Upbringing* (Oxford: Oxford University Press, 2006), p. 95.
- 42 Clayton op. cit., p. 94.
- 43 Clayton op. cit., p. 128.
- 44 Joel Feinberg, 'The child's right to open future' in J. Feinberg, *Freedom and Fulfillment: Philosophical Essays* (Princeton, NJ: Princeton University Press, 1992), pp. 76–98.
- 45 Feinberg op. cit., p. 88.
- 46 A plausible counterargument to this would suggest that a rather generic and common name such as 'John' does exactly the opposite – breeds non-authenticity – but the argument here is not about the authentic nature of a particular name, such as 'John', but about the child's ability and opportunity to 'fill' that name with a symbolic content of its own. One could choose an original name for a child that no other person in the world has, but that does not necessarily mean that the child will live an authentic and original life.