

Introduction

Conversations about regulating parenting: an introduction

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Sarah Trotter and Fatima Ahdash*

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This is a project that we came up with one Saturday afternoon in August 2020. We were sitting chatting in a café at the far end of a shopping centre of all places; and really, we say ‘of all places’ but in doing so know all too well that for us that shopping centre will forever now be the place where we came up with the idea for this project, a project that we have both loved and love.

For a while after that Saturday, we referred to it as ‘the regulating parenting project’; and we would speak of it often, ‘our project’, even though at times only to say that we had forgotten to talk about it. The idea itself probably served a function for us: those years were the years of the pandemic, and it was nice to have something to be thinking about together, nice to have something to be thinking about *making* together, even when the time for thinking and making together was sparse. So the idea took up a place in our friendship; and even when we weren’t talking about the project specifically, we would often discuss the interests that underpinned it: interests in questions of the meaning and construction of parenthood and parenting in law, interests in the way in which parenting is regulated in and through law, and interests in the way in which regulation itself is constructed in this context. These were questions that had been percolating away for many years for both of us,¹ the spark having been set in train by our wonderful family law teacher Helen Reece, whose work in the area was, and remains, so influential.² But the project itself did not begin to exist in any form outside our minds until November 2022, when we started to think that we really needed to get

Sarah Trotter is Assistant Professor, LSE Law School. Fatima Ahdash is Assistant Professor of Law, Hamad Bin Khalifa University, Qatar.

¹ I (Sarah) would like to thank Susan Marks here; in a conversation with her about a different research project a few years ago she referred to the way in which the idea of a research project percolates and I think that is both a lovely way of putting it and a useful way of framing it.

² See, especially: ‘The Paramountcy Principle: Consensus or Construct?’ (1996) 49 *Current Legal Problems* 267; ‘Subverting the Stigmatization Argument’ (1996) 23 *Journal of Law and Society* 484; ‘From Parental Responsibility to Parenting Responsibly’, in M Freeman (ed), *Law and Sociology: Current Legal Issues Volume 8* (Oxford University Press, 2006); ‘The Degradation of Parental Responsibility’, in R Probert, S Gilmore and J Herring (eds), *Responsible Parents and Parental Responsibility* (Hart Publishing, 2009); ‘The pitfalls of positive parenting’ (2013) 1 *Ethics and Education* 42; ‘Was There, Is There, and Should There Be a Presumption against Deviant Parents’ [2017] CFLQ 9; and D Monk, ‘A tribute to Helen Reece’ [2017] CFLQ 3.

it moving.

Why then? Looking back, it wasn't that there was anything specifically going on in that time that made the question seem especially urgent. It was not, we agreed, while writing this introduction – cups of coffee, rainy day, kitchen table – that there had been any great piece of legislation or sudden change in the landscape of the regulation of parenting that gave rise to a need for an immediate examination of the field. It was more ... *more what, exactly?* More – and we say this in hindsight – that we were both struck by a sense of the depth and breadth of regulation across different areas, struck by a sense of the different forms and modes of regulation, and struck by a sense that the topic was one that brought together many fundamental questions of family law, including of how we think about family law and family life and of how we think, too, about regulation in and around family law and family life.

Our initial thinking about these dimensions – the breadth and depth of regulation, the different forms and modes of regulation, and the wider questions of family law – was as follows. In relation to the question of the depth and breadth of regulation across different areas, we thought about the way in which the regulation of parenting occurs across the life of the child and the parent and touches, moreover, on all aspects of life. In law in this context, we tend to think of topics that dominate the case law, including pregnancy, birth registration, vaccination, education, religious instruction, political activism and ideological affiliation, cultural practices, drug use (and abuse), criminal behaviour, and care and succession. But the regulation of parenting itself – and, more specifically, the *scope* for regulation – is of course more far-reaching than that,³ and includes the regulation that is involved in, say, the delineation of the status of parenthood itself in the first place, as well as the more general ideas that are articulated in and through law of what it means to be a parent and of how to be a parent.

That takes us to our second starting point – the point about our sense of the different forms that the regulation of parenting takes. Our initial thinking here was about the range in this context – a range that includes direct (and at times coercive) forms of legal regulation (such as through legislation), as well as 'softer' and subtler social forms of regulation (such as through parenting support programmes, public campaigns, and partnerships). The power of normalising, responsibilising, and moralising discourses is especially notable here too, as is the way in which regulation in this context, while typically couched in terms of the protection of the child and the promotion of child welfare, can also serve to achieve wider political and policy goals. These include public health and safety, community cohesion, the promotion of particular values, the punishment of offenders, and national security.

To our third point, finally – our sense that the regulation of parenting is a topic that brings together fundamental questions of family law – our initial thinking here brought to mind the way in which language is used in this context, the way in which concepts such as 'welfare' and 'protection' are constructed, the way in which being a parent – and indeed a child – is conceptualised, and the way in which normative assumptions underpin, inform, and emanate from the regulation of parenting. These points are all ones that relate to the wider conceptual framework of family law; and the conclusion that we reached in this respect was that to really think through the regulation of parenting, we needed to analyse and situate this regulation in a way that also enabled reflection on this framework.

With these three areas in mind, we contacted colleagues who had approached questions of the regulation of parenting from different angles; and at the same time we were fortunate to

³ See further, for example, R Probert, S Gilmore and J Herring (eds), *Responsible Parents and Parental Responsibility* (Hart Publishing, 2009).

secure funding from LSE Law School that would enable us to hold a workshop. We suggested to our colleagues, accordingly, a workshop that would critically investigate the regulation of parenting along the lines of the three areas indicated above: a workshop that would examine, in other words, the meaning and nature of the regulation of parenting and explore, at the same time, the question of how to think about the regulation of parenting.⁴

The date of the workshop (1 March 2024) rolled around, and we gathered at LSE Law School to share presentations on different aspects of the regulation of parenting and to talk about the topic more broadly. Our discussions were expansive, spanning the meaning of regulation in this context, the history of the regulation of parenting, the construction of legal parenthood, the assumptions and motivations underpinning various forms of regulation, the space for – and role of – rights, and the question of what the regulation of parenting tells us about the construction and articulation of family relationships in and through law more broadly. Later, in reflecting on the day itself, we were both struck by a sense that underlying our discussions had been another question too, and that this was, perhaps, *the underpinning question of our project: what are we talking about when we talk about the regulation of parenting?* This was the question that seemed, to us, to reflect the range of ways of thinking about and discussing the regulation of parenting that had been such a theme of the workshop itself; and it was, in that sense, also the question that seemed, to us, to best speak to what we were thinking through here. Having decided, then, to make a special issue of this all, we next decided to put that question at its heart.

There was, we admit, one later moment of pause over this – a moment of pause that came about in the process of writing this introduction, in fact, when we read a piece that critiqued titles that take the form of ‘what are we talking about when we talk about x’.⁵ The two that we knew of were Raymond Carver’s *What We Talk About When We Talk About Love*⁶ and Nathan Englander’s *What We Talk About When We Talk About Anne Frank*;⁷ and both, perhaps, had been subtle influences, although we hadn’t necessarily realised that at the time. But it turned out – or rather we learnt from the article – that the formulation was actually one that had been used more extensively since Carver’s collection, and the view of the author was that it was by now ‘overused, often imprecise, and unimaginative’.⁸ The critique was a useful one, pushing us as it did to interrogate what it was that we were trying to say or reach in formulating our question as *what are we talking about when we talk about the regulation of parenting?* We had started from the sense that there was something in the question that was productive for us; and when we pushed on this further we reached the view that it invited a pause, and one in which it was possible to acknowledge the many different ways of thinking about and conceiving of the regulation of parenting, as well as the way in which

⁴ The formulation of this question is influenced by Olive Stone’s article about the teaching of family law; in arguing in favour of the teaching of the subject, Stone writes: ‘Our major function is to teach students not what, but how, to think, and it is in the areas most likely to be clouded by emotion and cluttered with prejudice that this function is most usefully employed.’ (OM Stone, ‘University Teaching of Family Law’ (1960) 5 *Journal of the Society of Public Teachers of Law* 130, 132.)

⁵ F Bell, ‘What We Talk About When We Talk About This Title Format’ (4 November 2020, *Literary Hub*): <https://lithub.com/what-we-talk-about-when-we-talk-about-this-title-format/>, last accessed 7 January 2025.

⁶ R Carver, *What We Talk About When We Talk About Love* (Vintage, 2003 [1981]).

⁷ N Englander, *What We Talk About When We Talk About Anne Frank* (Knopf, 2012), which we came to after seeing the play (adapted from the title story and directed by Patrick Marber) at the Marylebone Theatre in London in autumn 2024.

⁸ Bell, above n 5.

conversations about this regulation are far-reaching in terms of their depth and breadth. It is the conversations that were had throughout the project that were already – and are still – central to the issue that follows; it is an issue that, as you will shortly see, is largely focused on conversation and features four pieces that are devoted entirely to conversation. And so, with a sense of strengthened commitment to our question, and alas too (for some) to its formulation, we have kept it as the question of our issue, remaining of the view, as we are, that it is a useful question with which to think and that it was in any case also an undercurrent of our workshop in March 2024.

What we have tried, then, to do in this special issue is to take as our foundation the spirit of inquiry and curiosity that characterised that workshop and to build on this further by sharing the conversations that we subsequently had and inviting readers to join in. The issue itself is organised around four sections, which are loosely titled *ideas and norms, recognition and protection, rights and support, and scrutiny and surveillance*. We wanted to avoid overly structuring or constraining the sections and to keep the lines of debate as open as possible, with the sections both standing in their own right and flowing into and relating to each other in interesting and at times unexpected ways. Each section is comprised of a number of short reflection pieces, and these are followed by a longer conversation piece in which the section authors discuss their pieces with members of the project more widely. Our thinking was that this would be the form that would best reflect and enable engagement with a range of lines of thinking about the regulation of parenting; and when later we read Julian Barnes's 2000 *Paris Review* interview and saw him saying '[a] novel only really begins for a writer when he finds the form to match the story',⁹ we agreed that this is what we were (and are) trying to say here too: that we found the form that worked.

Let's say something further, then, about that form, being conscious as we are of the differences between it and the form that is more – conventionally? typically? usually? – used for special issues in law journals, and being excited, too, by the many strengths that we think make it a stimulating form for authors and readers to work with. In the first place, we thought that asking members of the project to write short pieces would work well as it would enable us to place conversation at the heart of the issue. How so? Well, firstly, it meant that we could accommodate a range of individual reflections and perspectives; secondly, it meant that the issue itself could reflect a range of perspectives and areas of inquiry; and thirdly, it meant that we could expand on the conversations that were already going on within the individual papers and put the papers themselves into conversation with each other. It was important to us to be able to reflect and engage with the liveliness of the thinking in the area in this way; and we knew also that as a form, the shorter piece format could work well in its own right. I (Sarah) had been previously struck by how much it was possible to do with a short piece in the context of the 'Dialogue and debate' section of *European Law Open*,¹⁰ and we were all of course also familiar with the short essay format that we had both written in as students and now asked our students to write in too. In practical terms, meanwhile, the format was both manageable for authors in the context of other commitments and meant that we could bring everyone in within the space of a special issue. This bringing in of everyone was really important to us; it was a project that we had done together, a project that we had made together.

Once the papers were in, we held a series of conversations about them over two mornings in mid-October 2024, and we subsequently transcribed and edited these. Our thinking was that

⁹ J Barnes (interviewed by Shusha Guppy), 'The Art of Fiction No 165' (2000) 157 *The Paris Review*.

¹⁰ S Trotter, 'On the potential of place and place of potential' (2022) 1 *European Law Open* 135.

running conversations within the issue itself would be a way of opening up discussion about the individual papers, the questions they raise, and the debates that they speak to, while simultaneously drawing readers in too. Conversations and interviews, we feel, have a tendency to do this; and really, how could they not? How, as a reader, could you not be drawn into the discussion unfolding? How could you not be drawn to think through or in terms of the questions being raised? How could you not be drawn to contribute and engage in that way? It happens imperceptibly at times, but it happens, and there is something unique about the conversation and interview form and about the rhythm of that form that has the capacity to bring to life in that way, to *open up life* in that way.

At the time that we were thinking about this and coming up with the idea, I (Sarah) was working on the LSE Law School alumni magazine (*Ratio*), many of the pieces in which were either interviews or conversations or were about conversation;¹¹ and it was quickly becoming apparent to me how rich and generative a form it was. The point sounds strange to me now, because I had known it all along from how interesting and enjoyable I found reading and listening to conversations and interviews; but it was the first time, I think, that I had worked with the form in a research-related context, and I found it really exciting. At the same time I (and this is now Fatima) had previously written a piece about maternal ambivalence based on conversations with Muslim mothers I knew and loved – a piece that creates, through conversation, a space for thinking about and reflecting on questions of motherhood, regret, and abortion and thinks through how some ideas and thoughts are only articulable through conversation.¹² Our other key influence was how much we both loved – and love – reading conversations and interviews and collections of interviews, whether in fiction, magazines, books, or journals. *Conversations on Love* was a book that we had both loved and discussed extensively in particular,¹³ and we enjoyed the form of the interviews in *The Paris Review* greatly too. All in all, we thought that the conversation form would be interesting here as well: interesting as a way of bringing the subjects and the individual papers to life, and interesting, too, as a way of seeing what happened when we let the topic unfold by itself in and through conversation – when, that is, we let conversation take its course.

And so that's what we did. We retained the structure of the workshop and discussed the papers in their groups (*ideas and norms, recognition and protection, rights and support, and scrutiny and surveillance*). So much came out of these conversations – so many ideas and pathways and connections that you will see for yourself too in the pages that come. One of the things that was most striking for us was not only that the conversations generated so much in this way, but that centring the form as we did reflected – and enabled us to reflect on – the degree to which conversation had already been central to the project itself up until then. The project, after all, was one that had originated, quite literally, in a conversation, and ongoing conversations – both between us and with all members of the group – had been central to the growth of the project and the development of the individual papers themselves. The point is echoed by Sheila Heti in her afterword to a 2020 publication of Virginia Woolf's 1926 essay

¹¹ On its use in the context of academic writing see especially the conversation with Gerry Simpson where he talked about the interview and how he had 'always been struck by how little we rely on that way of sharing a moment of intellectual endeavour' and also *The Paris Review*'s 'The Art of Fiction' and 'The Art of Nonfiction': 'The Ratio podcast' in *Ratio: The Magazine of LSE Law* 2024/25 (2024) 115, 118, available at: www.lse.ac.uk/law/Assets/Documents/alumni/ratio-2024.pdf, last accessed 7 January 2025.

¹² F Ahdash, 'Maternal Ambivalence: Notes on Motherhood, Abortion and Regret' *Amaliah* (24 June 2022), available at: www.amaliah.com/post/64970/i-regret-having-children-islam-abortion, last accessed 7 January 2025.

¹³ N Lunn, *Conversations on Love* (Viking, 2021).

*How Should One Read a Book?*¹⁴ There, Heti writes of her early readers: '[i]t is in conversation with these friends that so much of the work is done: the work of moral support, the work of responding to the very high standards of these readers, and writing with the knowledge that people I know and respect are going to have it in their hands'.¹⁵ There are layers to the place that we have given to conversation in this issue in that way: there are the conversations that went on and that are transcribed and edited, but then there are too the conversations that underpinned the possibility of the project itself.

A final word, then, before we really begin; and that is to say that it really has been a joy, the making involved in this project: a joy to have been able to come together with our colleagues to discuss these important questions, a joy to have been able to find a way with these questions, a joy to have been able to contribute to a debate about these questions, and a joy to have been able to make this issue together. We would like to thank our colleagues for taking part in the project and for giving so generously and enthusiastically of their time and writing, LSE Law School for the funding which facilitated the workshop and enabled the project to take off, Amadea Hoffman who copy-edited the pieces and also did a lovely literature review for us of literature on the use of conversation in academic writing, the editors of the *Child and Family Law Quarterly* for hosting us in this way and for commenting on the pieces, and each other for the gift of our friendship. We really hope that you enjoy reading the issue as much as we enjoyed making it.

¹⁴ S Heti, 'Afterword: Other Readers', in V Woolf, *How Should One Read a Book?* (Laurence King Publishing, 2020).

¹⁵ Ibid, 53.