

Parental Licensing Meets Evolutionary Psychology

Tomislav Bracanović
University of Zagreb, Croatia

ABSTRACT. Hugh LaFollette has proposed that in order to prevent statistically expected harm that many parents inflict on their children prospective parents should be licensed. This article evaluates his proposal by looking at various facts, statistical data and probability estimates related to sex differences in human mating and parenting behaviour provided by evolutionary psychology. It is suggested that these evolutionary considerations create a serious stalemate between certain basic moral principles to which LaFollette subscribes, thus rendering the entire proposal morally impracticable. It is also argued along similar lines that parental licensing would endanger some of the most personal and intimate human relationships that, in LaFollette's view, are essential for developing one's capacity for impartial morality.

KEYWORDS. Parental licensing, evolutionary psychology, child abuse, sex differences, values and facts

I. INTRODUCTION

Hugh LaFollette (1980; 2010) has argued that prospective parents should be licensed in the same way as various professionals are expected to be licensed. The moral rationale behind his proposal is the prevention of statistically expected harm that many parents inflict on their children. Although LaFollette's proposal sounds convincing in many respects, in the present article I will try to demonstrate – by relying on various facts, statistical data and probability estimates related to sex differences in human mating and parenting behaviour provided by evolutionary psychology – that it is not defensible.

In the second part of the article I outline LaFollette's proposal that prospective parents should be licensed after their parenting knowledge, abilities, judgment and dispositions are validated in an appropriate testing procedure. In the third part I review evolutionary psychological theories that reveal significant sex differences in human mating and parenting behaviour, suggesting at the same time that prospective fathers pose a drastically higher threat to the wellbeing of children than prospective mothers. In the fourth and central part of the article I explore two possible consequences of combining evolutionary psychology with LaFollette's proposal – a scenario in which only prospective fathers are licensed and a scenario in which all prospective parents are licensed indiscriminately – and argue that they are both morally unacceptable. As I will try to demonstrate, the introduction of evolutionary psychological considerations into LaFollette's proposal is theoretically necessary, but this inevitably creates a stalemate between two basic moral principles – the harm prevention principle and the principle of moral individualism – thus rendering the entire proposal morally impracticable. In the same context I also argue that parental licensing would be highly detrimental for the intimate and personal relationships that LaFollette himself sees as essential for developing one's capacity for impartial morality.

II. LAFOLLETTE'S PARENTAL LICENSING PROPOSAL

In 1980 Hugh LaFollette presented – and in 2010 repeated – his proposal that prospective parents should be licensed. The argument he offered is relatively simple. The state regulates and licenses professionals such as doctors, lawyers or drivers. What motivates this regulation is the prevention of harm to innocent people that could be inflicted on them by incompetent professionals. The consequence of this regulation and licensing is that whereas some people are granted licenses for their desired activities, such licenses are denied to those who fail to prove their

competence in appropriate testing procedures. In LaFollette's opinion, just as functioning as a doctor, a lawyer or a driver requires activities that may cause harm to innocent people, parenting is also an activity that may cause harm to innocent people, namely their children. As he emphasizes:

[...] each year more than half a million children are physically abused or neglected by their parents. Many millions more are psychologically abused or neglected – not given love, respect, or a sense of self-worth. The results of this maltreatment are obvious. Abused children bear the physical and psychological scars of maltreatment throughout their lives. Far too often they turn to crime. They are far more likely than others to abuse their own children. Even if these maltreated children never harm anyone, they will probably never be well-adjusted, happy adults (1980, 184-5).

Based on the harm prevention principle and available facts about child abuse and neglect, LaFollette's corollary is that parenting should be regulated and that parents should be licensed. He states: "Given the overwhelming support for the licensing of these professionals [i.e. doctors, lawyers, drivers etc.], I find it odd that so many people categorically reject proposals to license parents" (2010, 327).

LaFollette tries to meet possible objections to his proposal. He thus admits that parenting differs from any other licensed activity, but he believes that there are enough similarities to justify his proposal. He emphasizes that parenting, like most professional activities, requires specific knowledge, abilities, judgment and dispositions. Children, as he further points out, are unable to leave their parents and are actually even more vulnerable to maltreatment from their parents than, for example, patients are to maltreatment from their doctors. He acknowledges that competency tests for parents would probably not be 100% reliable, but immediately points out that testing for any vocational license is not 100% reliable and we nevertheless accept it. As he says, in spite of less than 100% reliable testing, we do accept the licensing of such activities because it ultimately does help prevent harm to innocent people. In other words, occasional mistakes in tests are outweighed by the benefits the said tests

confer on society as a whole. LaFollette does not doubt that tests for parental licenses will sometimes yield wrong results for some individuals. He is convinced, however, that this would be outweighed by the prevention of harm to numerous children that would occur if such licensing and testing was implemented. LaFollette also admits that implementing parental licensing might be difficult from the practical point of view, but he is sure that it would not be impossible. He draws an analogy here with adoptive parenthood. As he says, his proposal “is not as radical as it seems” considering the fact that people who want to adopt a child undergo a procedure that is much more rigorous than the one he proposes. He concludes: “[I]f we continue our practice of regulating the adoption of children, and certainly we should, we are rationally compelled to establish a licensing program for all parents” (1980, 195).

The crucial ingredient of LaFollette’s proposal is his strong emphasis on facts, statistical data and probability estimates related to bad parenting and child abuse. He acknowledges, for example, that biological parents have a strong natural affection for their children, but he does not take this affection to be a sufficient guarantee against child maltreatment. As he says, “the rate of abuse by biological parents is five times that of adoptive parents” (1980, 194), “nearly 92% of parental abusers are biological parents”, and there are studies suggesting that “biological parents are no better parents than their adoptive counterparts” (2010, 336). He also warns that “there are nearly two million cases of *substantiated* child abuse and neglect in the US each year” in which “parents were responsible for nearly 80% of child maltreatment, while their unmarried partners account for another 4%” (2010, 331). He also mentions predictions according to which “child maltreatment roughly doubles the probability that an individual engages in many types of crime” (2010, 331). He is aware that any licensing “limits people’s options and it does so not because the individual *will* harm others, but because she is *statistically likely* to do so”, but, as he claims, “this general theoretical cost does not rule out all licensing”, especially when its benefits outweigh its costs (2010, 328).

It is important to note here that LaFollette does not propose that we deny licenses to substantiated bad parents or child abusers but to people who are *statistically likely to become* bad parents or child abusers (which also makes it clear that his proposal challenges parental *procreative* rights). One should also note his claim that testing and licensing of any professional “will not guarantee that she never harms her clients”, but will only “make it less likely”, together with his conviction that “the more deficient a parent’s dispositions, the more likely that she will harm her children, the less likely she is to love them or adequately fulfil her fiduciary duties to them” (2010, 330; 333). In other words, LaFollette’s parental licensing proposal is sensitive not only to existing facts and statistical data, but also to *likelihooods* and *dispositions* of potential parents to care or not to care for their children.

Various facts, statistical data and probability estimates related to parenting and child abuse obviously play an important role in LaFollette’s proposal, because they reveal potential harm to innocent people (the children) if parental licensing is *not* introduced. Therefore, if we accept the prevention of harm to innocent people as an overriding moral principle, we should really be rationally compelled to agree with LaFollette that prospective parents should be licensed. I will try to demonstrate, however, that LaFollette’s proposal encounters serious obstacles once we take into account certain facts, statistical data and probability estimates provided by evolutionary psychology of human mating and parenting behaviour. This does not imply, of course, that arguments presented in this article would apply equally to some alternative parental licensing proposal (e.g. McFall 2009).

III. EVOLUTIONARY PSYCHOLOGY OF HUMAN MATING AND PARENTING BEHAVIOUR

One of the central assumptions of evolutionary psychology (and of much theoretical work in evolutionary biology in general) is that humans, just like all other organisms, are fitness and inclusive fitness maximizers, i.e.

they are predisposed in various ways to spread as many copies of their genes as possible, either by creating their own offspring or by assisting the creation of offspring in their genetically close relatives. This does not mean, of course, that all humans consciously strive to spread their genes; it only means that natural selection has equipped them with specific psychological adaptations whose function is to trigger behaviours that increase the likelihood that their genes will be spread. For example, one such adaptation is sexual desire: it is beyond our conscious control, but, as it efficiently leads to creation of offspring, it is essential and practically indispensable for spreading one's genes.

Just like sexual desire, parenting is highly important for spreading one's genes. As Catherine Salmon succinctly points out, children are "our genetic passport into the future" (2008, 145). Since they inherit on average 50% of the genes of each parent, children are the most valuable propagators of one's genetic material, which explains why humans care so much about their children's wellbeing. However, as most evolutionary psychologists point out, when it comes to mating and parenting behaviour, men and women significantly differ. In what follows I will briefly run through some of the evolutionary psychological insights into these differences.

One of the most basic sex differences present in our species is neatly summarized by the slogan 'eggs are expensive, sperm is cheap'. In the game of gene-spreading, women are at a serious disadvantage due to the fact that the number of eggs (and potential offspring) in women is limited, whereas the number of sperm (and potential offspring) in men is almost unlimited. An important consequence of this asymmetry is the following: whereas a man's investment in producing a child is low and is sometimes reduced to the minutes required to copulate, a woman's investment is significantly higher – she has to carry the child for nine months, take on the risks of childbirth and be prepared to spend a couple of years of breastfeeding. Moreover, while pregnant and breastfeeding, a woman has to forego other mating opportunities and is unable to conceive

additional children that would increase her fitness. Men, on the other hand, can sire as many children as there are mating opportunities. The psychological and behavioural result of this, as Margo Wilson and Martin Daly point out, is that “the female is the sex making the greater parental investment, while males devote proportionately more time and energy to mating competition” (1992, 290; cf. also Trivers 1972).

The abovementioned asymmetries explain why men are more inclined to sexual infidelity (so-called ‘extra-pair’ mating and reproduction) than women. To put it simply: if the basic imperative imposed on humans by natural selection is to spread as many copies of their genes as possible, then men will be more likely than women to pursue this goal simply because they can. This is not to suggest, of course, that all human males are inveterate philanderers just waiting for the next opportunity to mate with any consenting female. Humans, actually, are one of few predominantly monogamous species (birds are another telling example) in which males occupy a highly important role in taking care of offspring. Nevertheless, we are not completely monogamous, but rather “designed for a system of monogamy plagued by adultery” (Ridley 2003, 176).

Here is just one vivid illustration of significant sex differences in human mating preferences and behaviours. In experiments conducted by Russell Clark and Elaine Hatfield, researchers approached male and female students on the campus of Florida State University with one of the following three requests: “Would you go out tonight?”, “Will you come over to my apartment?” or “Would you go to bed with me?” The results of the experiment, in short, were the following: “The great majority of men were willing to have a sexual liaison with the women who approached them. Women were not. Not one woman agreed to a sexual liaison” (1989, 39). This is not, of course, the only evidence of sex differences in human mating preferences and behaviour. In his review of the fundamentals of human mating strategies, David P. Schmitt (2005) thus cites various studies that confirm men’s significantly stronger motivation for and prevalence in behaviours like short-term sex, extramarital mating,

pornography consumption, use of prostitution, uncommitted sex and sex with strangers.

Sociologist David Popenoe conveniently summarized the above facts by stating that “being a father is universally problematic for men” because they are not “biologically as attuned to being committed fathers as women are to being committed mothers” (1996, 14). However, in order to suppress this natural reluctance of men to take on the role of the father, Popenoe observes, “human cultures used sanctions to bind men to their children, and of course the institution of marriage has been culture’s chief vehicle” (1996, 15). As he emphasizes, even Margaret Mead, one of the key figures of 20th century cultural anthropology, was convinced that “there is no society in the world where men will stay married for very long unless culturally required to do so” (1996, 15). Apparently, there is something about men’s nature that makes them prone, in specific circumstances, to leave their partners and offspring in order to find new partners and to sire additional offspring. As David Buss argues, “men engage in sex outside marriage both more often and more consistently than women over their lifetime” (2003, 192; he also quotes a study according to which 48% of American men, but only 5% of women, express a desire to engage in extramarital sex, and another study according to which 72% of men, but only 27% of women, admit experiencing a desire for extramarital sex). However, probably the best confirmation of men’s proneness to extra-pair copulation are divorce statistics, according to which adultery, when cited as the main cause of divorce, in approximately 70% of cases is committed by men and only in 30% of cases by women.

‘Culture’ and its ‘institution of marriage’, however, are not the only mechanisms designed to keep men monogamous and close to their children and their children’s mothers. As we learn from evolutionary psychology, natural selection has made a significant contribution in this respect too. Humans are known, namely, as one of few mammalian species in which females display no visible signs of ovulation. Whereas oestrus (the period of sexual receptivity and ovulation) in most mammals is “announced

with an explosive fanfare of signals” (Cartwright 2000, 224), human males have no way of telling if copulation with a given female will bring about the desired evolutionary results: pregnancy and consequent dispersal of one’s genes. There are several explanations for this phenomenon, but one of the most frequently mentioned is that hiding ovulation was a female ‘tactic’ intended to suppress male incentive for extra-pair copulation (infidelity) and to keep males and their resources as close as possible to themselves and their offspring.

Concealed ovulation generates the so-called ‘paternity uncertainty’ problem. Babies come out of mothers’ bodies and mothers are always 100% sure of their maternity. However, since natural selection has taken care to hide any signs of female ovulation, men can never be as sure of their paternity as women are of their maternity (‘mom’s babies, daddy’s maybes’). Since he cannot be certain that he will be the one to inseminate a given female, a man who wants the assurance that prospective offspring will really be his own must stay in close proximity to a woman and help her around offspring. By concealing signs of ovulation, natural selection assisted women to instil in men the fear of cuckoldry: the fear of investing one’s time and resources into someone else’s “genetic passport into the future”. That the threat (and the fear) of cuckoldry is not without grounds is revealed by studies according to which “between 1% and 30% (depending on the culture or subculture) of children are sired by someone other than the putative father” (Walsh 2006, 243). Concealed ovulation, however, also generally lessens the willingness of males to invest time and resources into offspring if there are clues that it does not belong to them (e.g. suspicion of female infidelity or perceived absence of phenotypic resemblance between them and their alleged offspring). Experiments conducted by Anderson, Kaplan and Lancaster confirmed that “[m]en are significantly more likely to divorce women after the birth of a child if they have low paternity confidence in that child, thus, indirectly reducing investment in that child”, just as they confirmed that “low paternity confidence results in an additional reduction of time spent with the child

and others, and with reduced likelihood of being extensively involved with the child's schooling" (2007, 9).

In addition to generally reduced willingness to invest time and resources into offspring, the major adaptive response of males to the paternity uncertainty problem is increased sexual jealousy. According to David Buss (2003), jealousy is not a mere 'pathological' phenomenon, but a psychological adaptation designed for reducing the likelihood of cuckoldry (in men) and for retaining a mate and his resources (in women). However, although both men and women experience jealousy equally in quantitative terms, there are important qualitative differences between them: a woman's jealousy is predominantly triggered by the suspicion that her partner is emotionally uncommitted (devoting his time and energy to some other woman) and a man's jealousy is predominantly triggered by suspicion that his partner is sexually unfaithful (sexually involved with another man). In other words, female emotional jealousy is a protective mechanism designed to avoid being left without additional resources needed to raise children and male sexual jealousy is a protective mechanism designed to avoid raising someone else's offspring.

Unfortunately, as is often the case with evolutionary products, there is a downside to concealed ovulation, paternity uncertainty and, especially, male sexual jealousy. Male sexual jealousy, namely, "is neither trivial nor a peripheral emotion in human life"; on the contrary, "it sometimes becomes so powerful that it causes the person who experiences it to kill a mate or an interloper" and it actually represents "the single most frequent cause of all types of violence directed at wives, including beatings and actual murder" (Buss 2003, 129-130). Moreover, male sexual jealousy often stands behind homicides perpetrated by women, when they have to defend themselves "against an enraged, threatening, and abusive husband from whom they fear bodily harm" (Buss 2003, 130). Wilson and Daly have also issued several warnings (1980; 1992; 1993; 1996) to the effect that male sexual jealousy is the major motive behind men's sexual proprietariness and violence against wives. The same message is repeated by Walsh who main-

tains that “[e]vidence from many cultures around the world indicates that the single most important cause of domestic violence (including homicide) is male jealousy and suspicion of infidelity” (2006, 241). More recently, Goetz has claimed that paternal uncertainty is “the root of most partner violence” and that “[m]ale sexual jealousy is one of the most frequently cited causes of intimate partner violence” (2008, 259; 261).

The ramifications of the negative effects of male sexual jealousy should thus be evident. For example, since men, due to their tendency to extramarital affairs and/or sexual jealousy, are significantly more prone than women to leave their spouses and children or never to reside with them in the first place, they thereby open the door to a potential serious harm (including death) to their own offspring coming from stepparents. Numerous studies reveal that “a child living with a stepparent (typically a stepfather or live-in boyfriend) is approximately 100 times more likely to be fatally abused than a child living with both biological parents” (Walsh 2006, 245). These data make perfect evolutionary sense: a stepfather has no ‘genetic interest’ to invest his time and resources in someone else’s progeny and has every ‘genetic interest’ to ‘get rid of someone else’s children and replace them with children of his own (for example, since breastfeeding is an effective contraceptive, an unweaned child poses a serious threat to her stepfathers’ fitness). Finally, but no less disturbing: since stepfathers seem to lack specific incest-avoidance psychology present in biological fathers, “stepparenting also significantly increases the risk of *sexual* abuse of stepchildren, with stepfathers being at least five times more likely to sexually abuse their daughters than are biological fathers” (Walsh 2006, 245). It is interesting that the child abuse risks typical of stepparent families almost disappear in adoptive families, in spite of the non-existent genetic relatedness between adoptive parents and the child. However, as some evolutionary psychologists suggest, this should probably be explained by the adoptive parents’ stable desire to adopt and raise the child, as well as by the fact that neither of them is genetically related to the child and neither of them exploits the

other's resources in order to further his or her own fitness (Campbell 2005).

Evolutionary psychology, as we know, is sometimes criticized for devising too speculative or empirically unsubstantiated theories and explanations, but it falls beyond the scope of this article to discuss its various methodological merits and shortcomings. The only point I would like to make in this respect is the following: even if some theories and explanations of evolutionary psychology are speculative or empirically unsubstantiated, this need not imply that all its theories and explanations are speculative or empirically unsubstantiated, just as it need not imply that its various statistical data are irrelevant for understanding and predicting human behaviour. One should bear in mind, however, that these statistical data come together with – and are explained by – specific evolutionary psychological theories and the latter should not be ignored as they may imply that human behaviour is not as flexible as we would like it to be. In other words, it makes sense to consider evolutionary psychological statistics and evolutionary psychological explanations as a unified whole, because they may tell us something about the real-world applicability of our ethical ideas.

It should be repeated here that evolutionary psychologists are not claiming that any particular human male consciously strives to spread his genes by engaging in behaviours such as extra-pair copulation, adultery, sexual jealousy, proprietariness towards women, domestic and intimate partner violence, neglect and sexual abuse of children or infanticide. All these behaviours are found across a range of sexually reproducing species and – as we learn from evolutionary psychology – what applies to other species, often applies to our species too. It is probably for this reason, among others, that the relevance of evolutionary approaches is acknowledged even by many non-Darwinian specialists on child abuse (e.g. Corby 2006, Gelles 2007) and it makes sense, therefore, to treat them as relevant for the purposes of the present article.

IV. PARENTAL LICENSING MEETS EVOLUTIONARY PSYCHOLOGY

Evolutionary psychologists are generally aware that their job is to discover facts, not to prescribe values. Aaron Goetz comments on the above sex differences in mating and parenting behaviour: “It is unsettling that a simple asymmetry in reproductive biology can cause such conflict between the sexes. But one must bear in mind that natural selection is neither a moral nor an immoral process; it is amoral” (2008, 268). However, although one can agree that natural selection and its products are neither moral nor immoral, certain biological asymmetries, in certain contexts, can bring about correspondingly asymmetrical moral conclusions. One such asymmetrical conclusion resulting from the combination of LaFollette’s proposal with the evolutionary psychology of mating and parenting is the following: if men, due to their biologically evolved nature and behavioural dispositions, are more likely to commit adultery and to abandon their partners and existing children in order to be able to spread more of their genes; if they are more likely to suspend their parental care and investment in children because of their biologically rooted fear of cuckoldry; if they are more likely to manifest sexual jealousy and intimate partner violence; if they are more likely to be (sexually) abusive and infanticidal stepparents; then we are actually rationally compelled to establish a parental licensing programme either only for men or, at the very least, a much more rigorous parental licensing programme for men than for women.

The above conclusion is basically a refinement of LaFollette’s original proposal: while keeping its elementary logic intact (apply the harm prevention principle to relevant facts indicative of likely harm to innocent people), it only slightly alters it by acknowledging well-established biological and psychological insights about human mating and parenting behaviour. It should be repeated here that LaFollette accepts most licensing as justified “not because the individual will harm others, but because she is statistically likely to do so” (2010, 328). Probability estimates are the essence of any licensing programme designed to *prevent* harm; or as

LaFollette says, whereas the criminal justice system is past-oriented (it detects and punishes *actual* abuses or crimes), licensing programmes are future-oriented (they predict and prevent *potential* abuses or crimes; 2010, 335). The work of evolutionary psychologists on human mating and parenting has precisely this probabilistic or statistical nature, which LaFollette is prepared to accept for parental licensing. It neither explains nor predicts behaviour of any particular individual. It only claims that a series of harmful behaviours is significantly more likely for members of the male sex. Therefore, if men are significantly more likely to cause harm to children than women, then their exclusive or special licensing is consistent with LaFollette's proposal.

The above conclusion, however, should probably not be taken on board too quickly. Accepting a parental licensing programme that licenses only prospective fathers, or which licenses them more rigorously than prospective mothers, implies accepting a practice that treats all members of one sex not as individuals with their unique individual characteristics, but merely as average members of their sex. This seems like a serious violation of the principle of 'moral individualism', which states, in James Rachels' formulation, that "how an individual should be treated depends on his or her own particular characteristics, rather than on whether he or she is a member of some preferred group" (1999, 5). Closely akin to this principle is Peter Singer's "principle of equal consideration of interests", which "prohibits making our readiness to consider the interests of others depend on their abilities or other characteristics, apart from the characteristic of having interests" and insists, among other things, that we "must assess people as individuals, not merely lump them into 'female' and 'male' if we are to find out what they are really like" (2011, 21; 33). In an article on speciesism co-authored with Niall Shanks, LaFollette also explicitly subscribes to this line of thought:

[...] a bare biological divide cannot be morally relevant. That is exactly why racism and sexism are morally indefensible: they assume a mere

biological divide marks an important moral divide. *Of course*, there are differences between the races and the sexes, but so what? The differences are merely biological (1996, 43).

Licensing only prospective fathers or licensing them more rigorously than prospective mothers apparently encounters the following moral obstacle: it is regarded as morally wrong to treat all members of a given sex the same *only because* they are members of that sex; it would be regarded as equally wrong, for instance, to treat all members of a given race or all members of a given ethnic group the same *only because* they are members of that race or ethnic group. The crucial point behind this objection is that prospective fathers differ in their parenting abilities – moreover, some of them would surely be better parents than some prospective mothers – and should be treated, therefore, as individuals. In other words, to license only prospective fathers could be morally wrong in the same way as to license only prospective mothers, or to license only members of some particular race or ethnic group. Such a practice would surely be perceived by many as a grave violation of the principle of moral individualism, protested against by emphasizing that ‘biology is not our destiny’, and feared as possibly the first step on the ‘slippery slope’ towards a plethora of morally repugnant ‘isms’ (like racism, ethnocentrism, ageism or speciesism).

Introducing evolutionary facts, statistical data and probability estimates into LaFollette’s proposal of parental licensing creates an obvious conflict between two highly important moral principles (the harm prevention principle and the principle of moral individualism), leaving us with the following options:

- i. Accept the link between the harm prevention principle and evolutionary facts, statistical data and probability estimates, disregard the principle of moral individualism, and test and license only prospective fathers (or test them more harshly than prospective mothers).

- ii. Accept the link between the harm prevention principle and the principle of moral individualism, ignore evolutionary facts, statistical data and probability estimates, and test and license prospective fathers and prospective mothers in the same way.

As we have seen, option ‘i’ fails to treat people as individuals, and amounts to a sort of morally unacceptable sexism that flies in the face of the belief of many scholars (including evolutionary psychologists) that “virtually all modern social roles can be performed by both men and women” and that “sex alone is not a reliable criterion for assessing suitability for a particular role” (Cartwright 2000, 333). Of course, bearing in mind the original setting of LaFollette’s proposal, it is not “sex alone” that actually compels us to consider parental licensing program for just one sex. This compulsion resulted from the conjunction of (a) the harm prevention principle, (b) the desire to have an effective and not too costly parental licensing programme, and (c) the readiness to take relevant statistics, likelihoods and behavioural dispositions seriously. In view of this conjunction of various moral and non-moral considerations, it seems rational to supplement LaFollette’s proposal with (d) evolutionary psychological knowledge of human mating and parenting behaviour, just as it seems rational, consequently, to take (e) ‘average parenting merits’ of just one sex (male) as decisive for establishing an effective and not too costly (sex-specific) parental licensing programme.

The problem with the above corollary, as already mentioned, is that it may pose a serious threat to some of our most cherished moral beliefs and social values. There can be no doubt that it would raise the eyebrows, to say the least, of those who subscribe to “the ideals of liberal individualism and equality” that “require each individual to be treated as a unique person, deserving praise or social rewards based on his or her actual individual merit, and not based on the average merits of her class, caste, race, or gender” (Cudd and Jones 2004, 114). Due to the tension between its social utility and moral acceptability, parental licensing of just one sex would probably be objected to (and probably on similar grounds) just as ‘racial

medicine’ and ‘racial profiling’ currently are. And finally, criticisms could (and actually, should) be expected from the influential camp of ‘second wave’ feminists. The point is that if sexism, as ‘second wave’ feminism adherents and activists are usually eager to claim (cf. Hoff Sommers 1994), permeates even such evidently sex/gender neutral phenomena like logic or the language and history of science, it seems more than realistic to expect similarly fierce opposition to any parental licensing proposal that has the biological category of sex at its core (even if that sex happens to be male).

Option ‘ii’ is even more problematic, for the following three interconnected reasons:

Firstly, it would be *inconsistent* to accept the harm prevention principle and available statistics on child abuse as a compelling argument for parental licensing, but to ignore in subsequent analysis the additional and equally relevant (evolutionary or any other) statistics about parenting that reliably detect the most likely source of the most serious harm to prospective children (it would be like sending firemen to put out a forest fire with the instruction to ignore those forest areas where the thickest smoke is observed). In LaFollette’s original proposal, differences in the likelihood of child abuse between (a) licensed adoptive parents (low risk group) and (b) unlicensed biological parents (high risk group) were taken as a compelling argument for parental licensing in general. However, after installing the evolutionary psychological considerations into this scheme, consistency requires that differences in the likelihood of child abuse between (a) female parents (low risk group) and (b) male parents (high risk group) are taken as an equally compelling argument for the exclusive licensing of prospective fathers.

The crucial point to note in this context is that statistics, because they depend on the initial partitioning of prospective parents, do not *a priori* support LaFollette’s proposal. It is theoretically possible that differences in the likelihood of child abuse between adoptive and biological parents are *less relevant* for preventing child abuse than differences in the likelihood of child abuse between mothers and fathers.¹ In other words, if the

comparatively coarse-grained statistics of LaFollette's proposal can be taken as an argument for widening the range of people that should be licensed, the more fine-grained statistics extracted from evolutionary psychology can be taken as an argument for a narrowing of that range. However, it is also possible that comparing adoptive and biological parents is *completely irrelevant* for the problem of child abuse, and for the following two reasons: (a) evolutionary psychologists suggest, as we have seen, that adoptive parents are unlikely to become child abusers because they differ from biological parents in at least one important respect: they are genetically unrelated to the child and no 'conflict of genetic interests' (manifested as sexual or emotional jealousy, fear of cuckoldry or even violence) can occur between them; (b) currently, all adoptive parents are licensed and we actually do not know why they are less likely to become child abusers (we have no 'control group' composed of adoptive but unlicensed parents available): is it because they are *licensed* parents, or is it because they are *adoptive* parents?

Secondly, it would be *too costly* and therefore *irrational* to test and license all prospective parents indiscriminately if reliable scientific data suggest that licensing would achieve expected results (diminished child abuse rates) if applied to just one and easily identifiable subset of prospective parents. Bear in mind that LaFollette accepts that the costs of any licensing should not outweigh its benefits, that licensing "is expensive and government coffers are not bottomless", and that defenders of licensing are actually those who "must show that the benefits of licensing would outweigh its costs" (2010, 328). Therefore, if it turns out that some sort of parental licensing programme really is necessary and if the costs of licensing really do matter, it makes perfect sense to test and license only prospective fathers (as potentially the riskiest group of parents) in order to cut the licensing costs in half.

Of course, it is difficult to predict the costs of instigating and running a parental licensing programme, but there can be no doubt that it would pose a heavy financial burden on the state and its taxpayers. Here are two

possible examples: (a) parental licensing would require establishing and financing special agencies, services and committees, employing various experts and the administrative staff, and creating special programmes for their education etc. Given the number of children born each day, the effective state apparatus for licensing parents would surely have to be very massive and very expensive; (b) by instigating a parental licensing programme, the state would expose itself to potentially costly lawsuits on behalf of children whose parents were licensed, but who nevertheless abused them.² In short: while it may be true that a parental licensing programme could be beneficial to some extent, it is far from clear that its benefits would outweigh its costs (especially if the costs, as I also argue below, are not only financial but also personal).

Thirdly, given the above facts and considerations, it would also be *harmful* (and for that reason *immoral*) to test and license prospective mothers in the same way as prospective fathers. If licensed in the same way as prospective fathers, prospective mothers (as the low risk group) would be unnecessarily exposed to unavoidable errors in testing procedures and thus to possibly unjustified and personally harmful denials of parental licenses. They would also be unnecessarily exposed to intentional abuses of the programme by “unscrupulous or biased bureaucrats” or to its unintentional abuses by “inattentive ones”, which is a danger to any parental licensing program that LaFollette himself takes very seriously (2010, 337). At the same time, and of equal importance, since a parental testing and licensing procedure would in many respects mirror the current testing and licensing procedure for adoptive parents, one should not ignore a range of its negative aspects. As many adoptive couples are painfully aware, applying for and going through adoption is hardly a smooth and happy series of events. It is an intrusive and long-lasting process, with total strangers (social workers or adoption agency workers) frequently visiting one’s home, interviewing and checking couples in various other ways for their health status, life expectancy, mental or physical disabilities, marital history, criminal records, incomes, savings, debts, investments,

insurance policies etc. It is far from obvious, to say the least, that all prospective (biological) parents, irrespective of their sex-specific likelihood to become child abusers, should be coerced by the state into some similarly exhausting procedure.

When it comes to real world practices, a very close example of the tension between options ‘i’ and ‘ii’ and their respective moral principles is provided by court decisions in custody disputes. In the vast majority of cases, courts award custody of children to mothers, which is probably justified by some sort of a ‘rule of thumb’ and a widespread belief that children will be better off with their mothers than with their fathers, and that mothers, if separated from their children, will suffer more than fathers. On the other hand, this practice entails a systematically different treatment of fathers in custody disputes and many individuals and organizations (e.g. the Father’s Rights Movement) object to it on moral and legal grounds, emphasizing that individual merits of fathers are thereby unjustly neglected. Moreover, as Donald Hubin observes, courts actually do not ‘award’ parental rights, they basically (and often unjustly) deprive one parent (usually the father) of those rights (1999, 136). David Benatar (2003) also provides an interesting discussion of court decisions in custody disputes, as well as some other possible examples of modern discrimination against males (so-called ‘second sexism’).

Given the stalemate between options ‘i’ and ‘ii’, the only reasonable and morally acceptable option seems to be:

- iii. Reject LaFollette’s proposal of parental licensing.

The stalemate between options ‘i’ and ‘ii’ seems to suggest that LaFollette’s proposal would probably be the *immoral* solution to the problem of harm inflicted on children by their parents. Of course, rejecting the entire idea of parental licensing implies that we would have to bite the bullet and allow a certain amount of harm to children to occur that could be prevented by instigating a parental licensing programme. It does not imply,

however, that nothing can or should be done to prevent or minimize this harm; it only implies that parental licensing is not the morally right solution to that problem and that we should look for some alternative.

In order to illustrate the moral unacceptability of parental licensing, consider the following proposals: if preventing likely harm to innocent people is the main rationale for any licensing, then parenting is surely not the only candidate for licensing. Why not introduce ‘marital licensing’ and license couples who wish to marry? Testing and licensing prospective spouses would surely prevent a lot of statistically confirmed and predictable domestic violence, including homicides. Why not ‘grandparental licensing’ to see if prospective grandparents are suitable to take part in raising their children’s children? Statistics reveal that parents abuse their children, but they also reveal that grandparents, especially grandfathers, abuse them too. Why not different licenses for different numbers of children? Being able to raise one child is surely different from being able to raise four. Why not distinguish ‘son-licenses’ from ‘daughter-licenses’? Many people, usually for cultural reasons, have strong emotional preferences either for sons or for daughters, which is surely relevant for predicting the strength of their future dispositions to be more or less caring parents. Why not ‘stepparent licenses’? As we have seen, stepparents are, statistically speaking, the most dangerous child abusers.

The abovementioned ‘marital licensing’ may seem plausible as the indirect (and for prospective parents least intrusive) solution to the general child abuse problem. The state could require couples who express their wish to marry to go through certain testing and licensing procedures in order to check if they are ready for marriage as a serious long-term commitment and, in the same package, if they have the necessary abilities to provide adequate parental care to potential children. Nevertheless, this ‘dual’ arrangement would remain vulnerable to some of the previously discussed objections. Firstly, it would still be inconsistent with the principle of moral individualism because one’s obtaining or not obtaining a parental license (and, for that matter, the right to be a parent) would not

be related to one's *individual* parenting abilities, but to one's parenting abilities *averaged* with someone else's abilities (even if that 'someone else' is just one person). Secondly, the morality of such an arrangement would become especially questionable in cases where the failure of one prospective parent to pass the required test would entail the denial of the relevant license (and relevant right) to the other prospective parent who did pass it. And thirdly, this dual-parent licensing would significantly depart from LaFollette's original and theoretically attractive analogy between vocational licensing and parental licensing. Namely, since vocational licensing of different but mutually related professionals does not require them to be tested and licensed jointly (e.g. pilots with copilots, doctors with nurses) but individually, this transformation of LaFollette's parental licensing scheme into a dual-parent licensing scheme would surely lose an important part of its original persuasiveness.

The above considerations are not intended just to reveal the absurd chain of consequences that the parental licensing programme could cause. They are also an overture to the third and final objection to LaFollette's proposal I would like to mention an objection that draws on his own theoretical views about the moral importance of close personal relationships.

In discussing the well-known and perplexing tension between demands of morality (which are by their very nature impartial and disinterested) and concerns of personal relationships (which are by their very nature partial and 'interested') LaFollette proposes the following solution: instead of focusing on the conflict between the two, "we should focus [...] on the important ways in which they are mutually supportive." He claims, namely, that "close personal relationships are grist for the moral mill" and that they actually "empower us to develop impersonal morality" (1993, 330). On one hand, "close personal relationships are possible only inasmuch as each party trusts the other" and intimates "must be honest with one another" because "any dishonesty will chip away at the foundations of the relationship" (1993, 331). On the other hand, "[w]e can

develop neither the moral knowledge nor empathy crucial for an impartial morality unless we have been in intimate relationships” and “people cannot be just or moral in a vacuum; they can become just only within an environment which countenances personal relationships” (1993, 330, 331). For LaFollette “personal relationships and morality, therefore, are not at odds in the ways many philosophers have supposed. Rather, they are mutually supportive” (1993, 332).

If we accept LaFollette’s observations (and there is no *prima facie* reason not to), the question then arises: how ‘supportive’ would a parental licensing programme be for personal relationships and the capacity for impartial morality that depends on them? Not too supportive, I would argue. Parental licensing would probably introduce entirely new and disturbing elements into relationships that are supposed to be the most intimate and personal. A couple’s decision to start a family is undoubtedly one of the most personal and intimate decisions of the persons involved – a decision that should follow from mutual trust and emotional bonding. ‘Will he be a good husband and a caring father to our children?’ and ‘Will she be a good wife and a caring mother to our children?’ are highly personal questions that one has to answer for oneself on the basis of personal experience and judgment, questions that should not be relegated (not even partially) to some ‘impersonal’ marital/parental licensing agency or expert committee. Allowing questions like ‘Do you have a ‘clean bill of parenting’ issued by an authorized agency or expert committee?’ to systematically appear in decisions about starting a family would surely be as detrimental for personal relationships as questions like ‘Do you have a ‘sufficient number of sperm certificate’ or a ‘breastfeeding potential certificate’ issued by an authorized clinic?’ A parental licensing programme would inevitably allow such questions to appear, but that would be surely detrimental for the flourishing personal relationships. And if personal relationships really are “grist for the moral mill”, the very same programme would be just as detrimental for the “impartial morality” itself.

The above considerations are not intended to deny that possible infertility or intolerance towards children are important things that partners should know about each other before entering into marriage. To know such information about oneself but to hide it from a future spouse would surely be perceived as seriously immoral. And if information like this cannot be obtained by dating a person, it may seem rational to try to obtain it from some independent source. But still, the way of obtaining such information is of the utmost importance when personal relationships are at stake. As some experts on dating argue, although dating may be “likened to a market in which the buyer must be wary and in which there is not necessarily truth in advertising”, the fact remains that most people feel that friendship, communication, intimacy, learning about each other and sharing are the essential goods of dating (Riege Laner 2003, 387). We naturally expect our partner to communicate and share with us any information about him or herself that may be vital for our mutual future life. However, if we do not trust our partner when it comes to his or her infertility or intolerance towards children, for example, and we decided to seek independent verification of his or her claims, then our relationship is probably far from being truly intimate and sincere (either because one of us is not telling the truth or because the one does not trust the other). Since intimate relationships flourish best if left ‘natural’ and unregulated, any marital/parental licensing procedure imposed on couples – practically coercing them to exchange their most intimate details – would surely jeopardize certain goods and values that actually make personal relationships intrinsically desirable.

V. CONCLUDING REMARKS

Evolutionary facts related to human mating and parenting behaviour were the crucial catalysts of our transition from being ‘rationally compelled to establish a licensing programme for all parents’ to ‘rejecting the idea of

parental licensing?. Evolutionary facts somehow managed to monkey-wrench LaFollette’s parental licensing proposal, leading us to conclude that parenting – if we want to avoid a significant collateral moral damage – should be left ethically unregulated. The curious thing that should be noted, however, is that LaFollette mentions no biological facts or theories related to human parenting. He believes, as we have seen, that biological sex differences are “merely biological” and rejects the assumption that “a mere biological divide marks an important moral divide”. As a matter of fact, he makes no mention whatsoever of prominently biological concepts like ‘mother’ and ‘father’. However, it turned out that the reasonably plausible insertion of biological facts about human mating and parenting into his proposal had extremely negative effect on its ethical plausibility. How is that possible if biological facts are “merely biological” and do not “mark an important moral divide”? How can evolutionary facts have such power to disturb the peaceful coexistence between our most cherished moral values? There is no easy answer to these questions, but it seems that biological facts, contrary to LaFollette’s assumptions, do have a peculiar normative effect in certain moral contexts, which is certainly a phenomenon worthy of philosophical attention.³

WORKS CITED

- Anderson, Kermyt G., Hillard Kaplan and Jane B. Lancaster. 2007. “Confidence of Paternity, Divorce, and Investment in Children by Albuquerque Men.” *Evolution & Human Behavior* 28: 1-10.
- Benatar, David. 2003. “The Second Sexism.” *Social Theory and Practice* 29: 177-210.
- Buss, David M. 2003. *The Evolution of Desire: Strategies of Human Mating*. New York: Basic.
- Campbell, Anne. 2005. “Aggression.” In *The Handbook of Evolutionary Psychology*. Edited by David M. Buss, 628-652. Hoboken, NJ: Wiley.
- Cartwright, John. 2000. *Evolution and Human Behaviour*. London: Macmillan.
- Clark, Russell D. and Elaine Hatfield. 1989. “Gender Differences in Receptivity to Sexual Offers.” *Journal of Psychology & Human Sexuality* 2: 39-5.
- Corby, Brian. 2006. *Child Abuse: Towards a Knowledge Base*. Berkshire: Open University Press.

- Cudd, Ann E. and Leslie E. Jones. 2004. "Sexism." In *A Companion to Applied Ethics*. Edited by Raymond G. Frey and Christopher Heath Wellman, 102-117. Oxford: Blackwell.
- Daly, Martin and Margo Wilson. 1980. "Discriminative Parental Solicitude: A Biological Perspective." *Journal of Marriage and Family* 42: 277-288.
- Gelles, Richard. J. 2007. "Introduction: Child Abuse – An Overview." In *The Encyclopedia of Child Abuse*. Edited by Robin E. Clark, Judith Freeman Clark and Christine Adamec, ix-xxv. New York: Facts on File.
- Goetz, Aaron T. 2008. "Violence and Abuse in Families: The Consequences of Paternal Uncertainty." In *Family Relationships: An Evolutionary Perspective*. Edited by Catherine A. Salmon and Todd K. Shackelford, 259-274. Oxford: Oxford University Press.
- Hoff Sommers, Christina. 1994. *Who Stole Feminism? How Women Have Betrayed Women*. New York: Simon & Schuster.
- Hubin, Donald. 1999. "Parental Rights and Due Process." *The Journal of Law and Family Studies* 1: 123-150.
- LaFollette, Hugh. 1980. "Licensing Parents." *Philosophy & Public Affairs* 9: 182-197.
- LaFollette, Hugh. 1993. "Personal Relationships." In *A Companion to Ethics*. Edited by Peter Singer, 327-332. Oxford: Blackwell.
- LaFollette, Hugh. 2010. "Licensing Parents Revisited." *Journal of Applied Philosophy* 27: 327-343.
- LaFollette, Hugh and Niall Shanks. 1996. "The Origin of Speciesism." *Philosophy* 71: 41-61.
- McFall, Michael T. 2009. *Licensing Parents: Family, State, and Child Maltreatment*. Lanham, MD: Rowman & Littlefield.
- Popenoe, David. 1996. "A World Without Fathers." *The Wilson Quarterly* 20: 12-29.
- Rachels, James. 1990. *Created from Animals: The Moral Implications of Darwinism*. Oxford: Oxford University Press.
- Ridley, Matt. 2003. *The Red Queen: Sex and the Evolution of Human Nature*. New York: Harper Perennial.
- Riege Laner, Mary. 2003. "Dating." In *International Encyclopedia of Marriage and Family*, volume 1. Edited by James J. Ponzetti Jr., 385-390. New York: Macmillan Reference.
- Salmon, Catherine A. 2008. "Parent-Offspring Conflict." In *Family Relationships: An Evolutionary Perspective*. Edited by Catherine A. Salmon and Todd K. Shackelford, 145-161. Oxford: Oxford University Press.
- Schmitt, David P. 2005. "Fundamentals of Human Mating Strategies." In *The Handbook of Evolutionary Psychology*. Edited by David M. Buss, 258-291. Hoboken, NJ: Wiley.
- Singer, Peter. 2011. *Practical Ethics*. Cambridge: Cambridge University Press.
- Trivers, Robert L. 1972. "Parental Investment and Sexual Selection." In *Sexual Selection and the Descent of Man 1871–1971*. Edited by Bernard Campbell, 136-179. Chicago, IL: Aldine.
- Walsh, Anthony. 2006. "Evolutionary Psychology and Criminal Behavior." In *Missing the Revolution: Darwinism for Social Scientists*. Edited by Jerome H. Barkow, 225-268. Oxford: Oxford University Press.

- Wilson, Margo and Martin Daly. 1992. "The Man Who Mistook His Wife for a Chattel." In *The Adapted Mind: Evolutionary Psychology and the Generation of Culture*. Edited by Jerome H. Barkow, Leda Cosmides and John Tooby, 289-322. New York: Oxford University Press.
- Wilson, Martin and Margo Daly. 1993. "An Evolutionary Psychological Perspective on Male Sexual Proprietariness and Violence against Wives." *Violence & Victims* 8: 271-294.
- Wilson, Martin and Margo Daly. 1996. "Male Sexual Proprietariness and Violence against Wives." *Current Directions in Psychological Science* 5: 2-7.

NOTES

1. As an illustration, consider the following medical analogy: in searching for the best policy for preventing osteoporosis, it may be relevant to divide people into smokers and non-smokers, but it is surely more relevant to divide them into women and men.

2. This is not mere speculation. There have been a number of court decisions according to which the state had to pay huge damages to the children because they were abused in their state approved foster homes by their officially licensed foster parents.

3. An earlier version of this article was presented at the *Zagreb Applied Ethics Conference* held at the Croatian Studies Centre of the University of Zagreb in June 2011. I am grateful to members of the audience for their comments. I am also grateful to Neven Sesardić and two anonymous referees for *Ethical Perspectives* for their comments and suggestions.