

Children stuck in the middle? Questions of Ink and Belonging

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ABSTRACT

When a child presents herself at school covered in racist graffiti – namely racist drawings and symbols – there are valid causes for concern, as was the case in the recent decision of *Director of Child and Family Services v. D.M.P. et al*, [2010] MBQB 32. This case illustrated plainly how children’s rights can sometimes be appropriated by their parents, who argued that this expression constituted a legitimate extension of their right to freedom of expression and freedom of religion. In this paper, I suggest that children challenge the traditional conceptions of boundaries and boundary metaphors when it is a question of a parent’s expression of religious belief. Challenging the creation and the normative implications of boundaries results in asking questions that are traditionally regarded as being behind the ‘boundary metaphor’, as coined by Jennifer Nedelsky. In unpacking the relationships that lie behind the metaphor, I endeavour to develop an alternate lens to explore the competing claims of law and religion when children are involved.

KEYWORDS

Children, Freedom of religion, Freedom of expression, Canada, Odinism, Relational theory, Spatial analysis

INTRODUCTION

A child is often described in relation to his or her parents; their relational web begins with their link to their parents. While the days of children being considered as chattel (see McGillivray 2011) are behind us, an inextricable link remains, codified in law through the parent-child relationship. This bond can also exemplify an unparalleled sense of belonging between the child and the parent. In many contexts, this does not constitute cause for concern, but rather an illustration of the transmission of culture, language, religious beliefs and general education that parents can convey to their children. But what happens when a child is simply considered as an extension of a parent's convictions? Does this sense of belonging go too far when a child represents a canvass or billboard through which parents can broadcast their views? The question then becomes the following: where do we draw the line between a parent's right to educate their child in accordance with their religious beliefs and the child's best interest?

I will employ the case of *Director of Child and Family Services v. D.M.P. et al.* (2010 MBQB 32) to explore the issue of competing claims of law and religion. The presiding judge in this case referred to it as illustrating a "whole constellation of parental inadequacies" (*DCFS v. D.M.P.*, ¶ 106). At issue was the fate of two young children who had been used to broadcast their parents' views. More specifically, Manitoba Child and Family Services had been called in following an incident where the seven year-old girl presented herself at school covered in racist graffiti; she was sent home and was told to wash them off. She returned to school the next day, covered in even more markings. These writings were inked boldly in red and black on her arms and legs. The child explained to Child and Family Services that her mother had inscribed these messages; she further acknowledged each of their meanings and seemed to adhere to her parents' views. These inked inscriptions included what could be termed standard Neo-Nazi fare. The racist graffiti included swastikas, "White Pride", "Hail Victory" and "Aryan Pride"; an expression of "Heil Hitler", inscribed in code [88, meaning HH]; an inscription of "Securing the existence of our people"; and an inscription of "We must secure the existence of our people and a future for white children" [14 words]" (*DCFS v. D.M.P.*, ¶ 8-10).

The stepfather in this case argued that ““his right to expound and support white supremacy views on line, in person, and directly via his children” ha[d] been violated.” (DCFS v. D.M.P., ¶ 86) Specifically, he claimed that his rights to freedom of religion and expression had been infringed. The stepfather attempted to bolster his claim to religious freedom through the tenets of Odinism, a Norse religion that employs the swastika to represent the sun. While this case straddles both these domains, the stepfather’s use of freedom of religion to strengthen his claim is unorthodox to say the least. Child and Family Services sought to remove the children permanently from their parents’ care through a court order. Interestingly, neither of the biological parents of the seven year-old opposed the Child and Family Services’ recommendation to provide permanent foster care. The stepfather alone contested this plan.

While I suggest that the Court’s decision was correct in the case – namely in ordering the permanent removal of the children and placement into foster care – this decision made explicit a facet of life and relationships that are typically concealed. I refer here to the parental power on a child’s body. The markings on the child’s skin represented a violation of not only her whole body, but also of her relationships; in this manner, the writings were not only on the surface, but challenged the very conception of the parent-child relationship as well as the ‘demarcations’ (or boundaries) between the rights and duties of each party. This infringement leads us to question whether it is the visibility of the violation to bodily integrity that is the issue here, or rather the teachings themselves. It also begs the question as to whether parents should be considered the absolute authority when it comes to their children within the context of education. In so doing, this kind of infringement reveals a friction between the parent as protector and the parent as purveyor. Both of these parental roles highlight the vulnerability of the child, illuminating not only the importance of belief transmission but also diaphanous public and private spaces in which a child inhabits.

In exposing this ‘vulnerability’, I consider that children therefore challenge the traditional conceptions of boundaries and boundary metaphors when it is a question of their parents’ religious expression. This argument borrows from Jennifer Nedelsky’s works on boundaries and boundary metaphors, where she argues that the relationship between the collective and the individuals cannot aptly

be described through the paradigm of 'boundary' (Nedelsky 2011, 91). Nedelsky suggests instead that we employ the metaphor of the 'skin', which is understood as permeable, corporeal and manifest, to understand the underpinnings and complexities that are inherent of relationships. While Nedelsky's boundary argument applies to all individuals, a further step is inferred when it is question of the parent-child relationship. Therefore, in seeking to extend the "bounded sphere of rights for the adult", a child's "safe space" is curtailed (Nedelsky 1993b, 171-174).¹ By pushing an adult's sphere of liberty to the extreme, we may then end up questioning their beliefs. This results in asking questions that are traditionally regarded as being behind the boundary metaphor (Nedelsky 1993b, 173).² This means unpacking the relationships that lie behind the metaphor, beyond the illusive 'line'. In this light, I will endeavour to develop an alternate lens to explore the competing claims of law and religion when children are involved.

This will be accomplished in three parts. First, I will provide a brief overview of the decision and case law that surrounds the complexities of the parent-child relationship and the transmission and expression of religious beliefs. Second, I will explore Jennifer Nedelsky's argument that boundaries and bounded metaphors "are destructive as a central metaphor for addressing the real problem of human autonomy" (Nedelsky 1993b, 163); according to her, "we need to get "behind" the boundary metaphor, to unpack what it stands for." (Nedelsky 1993b, 173) The establishment and meaning of these boundaries is particularly relevant in the context of children and 'safe space' (Nedelsky 1993b, 174). In light of this exploration, I will endeavor, in the final section, to provide a different lens of understanding for competing claims of law and religion where children are involved. This paper will also consider, in closing, the implications of such metaphorical shift beyond the confines of this case.

1. The Case: A Standoff between Parental Rights and the Best Interest of the Child

If the parents in this case were praying to the "altar of sensationalism" (DCFS v. D.M.P., ¶ 94) by defacing their children's bodies with their messages, then the judge in the case could also be considered the priest at confession. By employing their children as a "personal billboard" and a "canvass" (DCFS v. D.M.P., ¶ 94, 90) by which to convey their messages and beliefs, the judge concluded that these parents

had overstepped the scope of protection afforded to both freedom of religion and expression under the *Canadian Charter of Rights and Freedoms*.³ Concurrently, these parents had also demonstrated reprehensible parenting skills and engaged in “a physical interference of the children’s bodily integrity.” (DCFS v. D.M.P., ¶ 90)

This case also points to the intricacies and complexities of relationships and family life: whereas the children shared the same mother, they had different fathers. While the seven-year old girl’s father endorsed the Child and Family Services’ motion to provide permanent foster care, the two-year old boy’s father staunchly opposed the Agency’s plan and even applied for guardianship of the seven-year old (DCFS v. D.M.P., ¶ 5 & 27). This application for guardianship was weighed against his episodes of violence and criminality, neglect and drug and alcohol abuse. The Court found that his plan to resume parental care was severely lacking. Moreover, the mother of these children had essentially abandoned her children and had moved to a different province; she also endorsed the Child and Family Services’ plan of permanent foster placement (DCFS v. D.M.P., ¶ 26). In this emotionally charged and competing normative context, this case questions parenting skills, a parent’s right to educate their child according to their beliefs as well as the paramount nature of the best interest of the child in the face of competing, conflicting claims.

The Supreme Court of Canada has stated that the right to freedom of religion is not absolute.⁴ Rather, it is determined according to the sincerity of belief, which requires good faith of the claimant.⁵ Limits can also be placed on this fundamental freedom when placed in balance with other rights, while remaining sensitive to the underlying context in which the conflict arises.⁶ Moreover, while parents may consider that they sincerely believe that they have an obligation to pass on their own religious beliefs to their children, the Supreme Court of Canada has recently reasoned that one must demonstrate that a practice *objectively* infringes upon their transmission of beliefs.⁷ Put differently, it is simply not sufficient to state one’s level of religious practice; one must be able to demonstrate a qualitative infringement to one’s rights.

As mentioned earlier, the stepfather attempted to bolster his claim to religious freedom in this case through the tenets of Odinism, a Norse religion that employs the swastika to represent the sun. Yet his

claim ultimately floundered in court since he did not provide any real evidence of his religious beliefs. On cross-examination, he was shown to not even understand Odinism; the judge in this case thought it preposterous that the swastikas here could have represented symbols of the sun (DCFS v. D.M.P., ¶ 93). Moreover, after conducting initial research on this subject, I believe this to be the only case to have invoked such beliefs as the foundation for religious beliefs in the Canadian setting. Furthermore, the stepfather even conceded that religious expression “that places children in need of protection or that is contrary to the best interest of the children [could] not be afforded protection under the *Charter*” (DCFS v. D.M.P., ¶ 89). Therefore, in cases where a parent’s expression of religious beliefs encroaches on the rights of the child, the best interest of the child must take precedence.⁸ The parents’ views and expressions were therefore considered ‘tangential’ to the pith and substance of this case and were “unworthy of the attention they [...] garnered.” (DCFS v. D.M.P., ¶ 96)

This case exemplifies that a child’s best interests – and hence their protection – comes before those of their parents, especially those who espouse Neo-Nazism and try to enlist it as religion. Whilst this showdown between law and religious expression suggests a troubled relationship between the actors, I consider how looking at the terms employed in this case might shed new light on how children are discussed in cases where conflicting claims of law and religion – and in this case religious expression – exist. I now turn to this point.

2. Destructive Symbols and Bounded Identities: Towards a New Metaphor?

As summarized thus far, this case relies on the language of ‘best interest’, ‘protection’ and ‘legal capacity’. These terms imply a relational aspect and can be contemplated in the following manner. A child’s ‘best interest’ can only be determined in relation to their parents, guardians or the State; it is therefore established according to a compendium of welfare interests and classifications of care. ‘Protection’ can either be afforded by the State or from the State; this engages the right of freedom for or from something. ‘Legal capacity’ also denotes this relatedness, where capacity or consent is determined according to one’s

legal standing. In the case of a minor, the question of capacity also appears as a concern. Each of these turns in language relies on a relation, a relationship.

In turning our gaze towards boundaries and bounded metaphors, I consider it beneficial to look at how a relational approach can help or hinder our conceptions of relatedness. A relational approach, in this light, allows us to examine how relationships are formed or structured,⁹ since according to Nedelsky, “[w]hat makes autonomy possible is not separation, but relationship.” (Nedelsky 1993a, 8)

In a recent book, Robert Leckey suggests two forms of relational theory exist: first, the *weak* conception of relational approach, which focuses on the very existence of relationships (Leckey 2008). According to Leckey, “relational theorists suggest, implicitly thinking about relationships or focusing on them generates results.” (2008, 14) This is to be contrasted with what Leckey has termed the *strong* conception of the relational approach, which conveys “hav[ing] a fairly specific idea of the kinds of relationships that do foster relational autonomy.” (Leckey 2008, 14)¹⁰ This conception of the relational approach seems to propose a more pointed, normative approach to relationships; yet Leckey concedes that ‘slippages’ do occur between these versions (2008, 15). While Nedelsky’s work has emerged from Leckey’s characterization as representing the *weak* conception of the relational approach (e.g., Nedelsky 1993b, 365), she has recently clarified her methodological and normative stance (see Nedelsky 2011, 77-89). On the one hand, Nedelsky suggests that relational methodology can allow us to understand the “ways in which law structures relationships” but also allows for difference amongst relations (Nedelsky 2011, 78 & 79); this in turn, enables us to “clarify what is really at stake” (Nedelsky 2011, 78), effectively bolstering Nedelsky’s normative stance. While a relational approach might still seem like a slippery concept, it engages both the reader and the decision-maker in a reflexive process of discerning how relations are structured, as well as by whom (see Nedelsky 2011, 89).

Within the parameters of this case, relational theory therefore provides an interesting lens of analysis to explore the boundaries of identity since it allows us to question how zones of protection and autonomy are crafted. As highlighted by Nedelsky when completing her book on *Private Property and the*

Limits of American Constitutionalism,¹¹ she began to notice that boundary metaphors were pervasive, particularly in the field of child-development literature (Nedelsky 1990b, 171) and traditions of witchcraft (Nedelsky 1990b, 173). In drawing zones that delineate limits and others that indicate safe space, Nedelsky considered that these metaphors held “powerful intuitive appeal” (Nedelsky 1990b, 172) in the context of children. In this light, “parents are supposed to provide boundaries so a child knows if she does something really bad or dangerous, her parents will stop her” according to Nedelsky (1990b, 174). Alternatively, if no such boundaries exist, a child may “feel unsafe and set up her own internal and often rigid and unnecessarily confining boundaries to protect her from the risk of doing something “really” bad.” (Nedelsky 1990b, 174) Furthermore, Nedelsky indicated that “boundary imagery teaches both parents and children that security lies in walls. The image of bounded space as essential to autonomy reinforces the image of bounded selves.” (Nedelsky 1990b, 175)¹²

Yet the imagery of the boundary is too pervasive to overlook, too much of a mask rather than a lens, according to Nedelsky (1990b, 175-178). In Nedelsky’s words, “in current North American (and probably Western) culture, boundary distorts understanding and reinforces weaknesses in the culture’s capacity to recognize and reflect on the importance of relationship.” (Nedelsky 2011, 117) In spite of the fact that this metaphor cannot be defeated, it can be “mediated” in Nedelsky’s mind (2011, 114). She suggests that “[t]he human skin is perhaps the most compelling alternative to the wall image of boundaries: it is permeable, slowly and constantly changing while keeping its basic contours, and a source of sensitive connection to the rest of the world.” (Nedelsky 1990b, 176)

I would like to suggest that *in lieu* of bounded imagery or metaphors to explain, justify or refute relationships, we look to the human skin as a source of understanding for competing claims of law and religion. I consider this imagery particularly apt for the case at hand, where inscriptions were made on the body of a child. In this manner, Nedelsky’s approach to relational theory allows us to better understand the intermixed or porousness of relationships and their potential or actual effect on individuals. While she acknowledges that the boundary metaphor cannot be dismissed entirely, I consider that the re-orientation towards human skin provides us with a spatial metaphor, which can be employed to re-explore the impact

that conflicting claims can have on the space that a child occupies. I now turn my attention to the skin as a different manner of interpreting space and relationships.

3. Inscriptions on the Body of a Child: Skin as a Lens to Understanding Space and Relationships

The imagery of human skin acts as both the backdrop and the central theme in this discussion. It also acts as the foundation to one's physical integrity. Following the discussion in the previous sections in this paper, I would like to suggest that the various illustrations of the markings on the body of a child offer an alternative perspective on public and private spaces, such as the body of the child, are conceived in law. Within the confines of this case, skin was “defaced”; considered a “canvass”; and also a “personal billboard” (DCFS v. D.M.P., ¶ 7, 90, 94). In this light, skin can be construed as a monument, a painting (or perhaps as *tabula rasa*) or in a commercial setting, as a sandwich board. The markings on a child's skin can also be understood within the context of battery (DCFS v. D.M.P., ¶ 20) or assault; these assaults are considered as interferences on the child's person.

In this light, a child's skin occupies a metaphorical space through these inked inscriptions. According to Doreen Massey, “space is always in a process of becoming” (1999, 283): social identities represent both the backdrop and forefront to the spaces and places that surround them. Identities and spaces are therefore consistently being remade, reformed, and refashioned. This re-making of identity also points to potential power relations that may exist within relationships, which evokes Foucault's understanding of relationships, where “we live inside a set of relations that delineates sites which are irreducible to one another and absolutely not superimposable on one another.” (Foucault 1986, 23) Applied to the context at hand, these children's relationships are replaying or relaying themselves on their very person.

This complex, interlayered approach to relations is further bolstered by the judge's description of the clinical psychologist's parental capacity assessment. In his report, the seven year-old girl is described as “bright”, “precocious young child”, “who can put information into compartments” (DCFS v. D.M.P., ¶ 75). Interesting, the clinical psychologist also described this girl as “liv[ing] in two worlds” but also as “a

hurting child” (DCFS v. D.M.P., ¶ 76): this insight enables us to appreciate that the effects of these markings are not only skin deep. While the child adhered to her parents’ views, which fits within relational theory, she became more guarded in her disclosures as time went on (DCFS v. D.M.P., ¶ 79). Consequently, these inked inscriptions challenged the very belonging of this girl in a community and more poignantly, within that of her family. In turning the gaze towards the human skin as our metaphorical space, it is argued that this brief spatial analysis enables us to better situate the child within a particular emotionally, politically and relationally charged space.

While this metaphorical shift (and imagery) is particularly apt within the confines of this case, I would be remiss if I did not briefly discuss the broader implications of this approach on other cases involving children and questions of religious freedom. I will focus my remarks on three recent cases in Canada, in order to discuss the skin as a lens. They include questions around blood transfusions (A.C. v. Manitoba (Director of Child and Family Services), [2009] 2 SCR 181), polygamy (Reference re Section 293 of the Criminal Code of Canada, 2011 BCSC 1588) and education (S.L. v. Commission scolaire des Chênes, 2012 SCC 7). While I do not purport that this enumeration is by any means exhaustive, I consider that these particular cases elicit relevant questions to this metaphorical shift. Moreover, it is beyond the confines of this paper to discuss each of these cases in depth; instead, I will provide a *vignette* of each case, in order to grasp what is at stake and whether it strengthens or erodes the metaphorical shift of the skin as lens. Consider, therefore, the following examples:

- In A.C. v. Manitoba, a fourteen year-old girl wished to refuse blood transfusions aimed at palliating the symptoms of a chronic disease (Crohn’s) on the basis of her beliefs as a Jehovah’s Witness. However, built into the Manitoba *Child and Family Services Act* (C.C.S.M c. C80) was a presumption of decision-making capacity for those over the age of sixteen; considered as being under the legislated threshold, A.C.’s best interests were to be determined by the State (A.C. v. Manitoba, ¶ 14). At the Supreme Court of Canada, the majority discerned that health and safety of the child was considered as a paramount concern when determining the best interest standard.

- In the British Columbia polygamy reference case, the BC Supreme Court was tasked with determining the constitutionality of s. 293 of the *Criminal Code* of Canada (R.S.C. 1985, c. C-46), which prohibited the practice of polygamy. The judge concluded that “this case is essentially about harm” (Reference re Section 293, ¶ 5) and the particular harms against children linked to polygamy were elaborated by the judge, including: “the negative impacts on their development caused by discord, violence and exploitation in the marital home; competition between mothers and siblings for the limited attention of the father; diminishment of the democratic citizenship capabilities of children as a result of being raised by mothers deprived of their basic rights; impoverishment; and, violation of their fundamental dignity.” (Reference re Section 293, ¶ 231) The BC Supreme Court found that section 293 of the *Criminal Code* was consistent with the *Canadian Charter of Rights and Freedoms* (Reference re Section 293, ¶ 1359).
- In *S.L. v. Commission scolaire des Chênes*, parents wanted their regional school board exempt their children from a mandatory ethics and religious culture (ERC) program instituted by the Québec government in 2008. The parents argued that such a program created a serious harm to their children and also infringed upon their parental rights to instruct their children in accordance with their beliefs (*S.L. v. Commission scolaire des Chênes*, ¶ 2-3). The Supreme Court of Canada, in a majority ruling, discerned that it had not been proven that the ethics and religious culture program objectively infringed on their freedom of religion (*S.L. v. Commission scolaire des Chênes*, ¶ 40-41).

The spectrum of questions in these three vignettes varies greatly; however, they converge on the centrality of relationships and the inherent vulnerability of children, concealed in the shadows of the legal discourse. While the skin as metaphor holds particularly strong appeal within the context of medical decisions (such as the one faced in *A.C. v. Manitoba*), it is contended that each of these vignettes remain a space and place of contestation. More broadly, the use of skin as metaphor highlights the harm discourse

lurking – sometimes under the surface, other times in plain sight – in each of these vignettes. Consider, for example, the “psychic harm” felt by the adolescent in *A.C. v. Manitoba* (¶ 154) if the transfusion occurred or the “serious harm” experienced by the children if exposed to the ERC program in Québec, not to mention the purported harms against children linked to the practice of polygamy. These various descriptions of harm all contain a relational aspect (see Nedelsky 2011, 88) and allow belonging, exclusion and inclusion to be refashioned. Furthermore, the use of harm in these discourses recalls Lori Beaman’s work in *Defining Harm*, where she examines “the possibilities for risk of harm as a discursive tool in legal terrain involving rights and freedoms.” (Beaman 2008, 6) Skin as a lens, here, magnifies the importance of relations and relationships, as well as the vulnerabilities of individuals engaged in stated relations and relationships. This shift offers a novel lens by which space and relationships can be understood, underscoring the importance of a heightened awareness when claims of religious freedom and children’s rights intersect.

CONCLUSION

“One may wonder what has protected these children from harm throughout their young lives and kept them from the Agency’s attention until March 25, 2008. The answer is their extended families.”
- *DCFS v. D.M.P.*, ¶ 107

“Parents are free to pass their personal beliefs on to their children if they so wish. However, the early exposure of children to realities that differ from those in their immediate family environment is a fact of life in society.”
- *S.L. v. Commission scolaire des Chênes*, ¶ 40

In this paper, I proposed that children challenge the traditional conceptions of boundaries and boundary metaphors when it is a question of a parent’s religious expression. While the children were permanently placed in foster care in *DCFS v. D.M.P.*, important questions were raised about how children’s

rights must be viewed in relation to those of their parents, as well as the relational nature of a child's vulnerability. Indeed, while the use of freedom of religion in this case is unorthodox verging on bizarre, it does allow us to explore what types of beliefs are not only acceptable but also appropriate for transmission to future generations.

This paper unfolded in three parts. First, a brief overview of the case was set out, illustrating the complexities of transmitting religious beliefs or expressions. Second, I explored how Jennifer Nedelsky's argument that boundaries and bounded metaphors are unhelpful in understanding "the real problem of human autonomy." (Nedelsky 1990b, 163) Drawing on her writings, I sought to employ human skin as a source of understanding and site of spatial analysis. In light of this exploration, I endeavored to offer a new lens of understanding for competing claims of law and religion where children are involved. While I concede that this lens is imperfect – as are most relationships – I consider that this contact between the ink and the skin is not superficial but rather illustrates how beliefs can seep into one's system of beliefs or be transferred, disavowed or fade away with time. Within the broader discussion of the skin as lens, as witnessed through the *vignettes*, I proposed that this metaphorical shift enables a 'thicker' appreciation of the importance of relationships as well as the relational aspects embedded in the discourse surrounding the "risk of harm", as coined by Beaman (2008, 6). Despite the fact that the boundary metaphor cannot be entirely evinced from the discourse, I consider that the brief incursion provided by the *vignettes* buttressed Nedelsky's argument that it can be mediated. In this manner, the skin as lens provides a more contextual, complex and conscious account of relationships, especially when focusing on questions of children and religious freedom. Perhaps the "best first sentence in western literature", as coined in a recent piece by Roderick A. Macdonald (2013, 15), can best serve a closing remark here, illustrating both the imperfection of skin as a lens as well as reflecting the complexity of relations and relationships:

"All happy families are happy alike; all unhappy families are unhappy in their own way."

- Leo Tolstoy, *Anna Karenina*

¹ On conceptualizations of space, “safe space” and children, see G. Valentine (2004). *Public Space and the Culture of Childhood*. Aldershot, Ashgate, pp. 8-9.

² See Nedelsky at 174: “what is really at issue in the search for a “safe space” for a [...] child to develop in”.

³ *Canadian Charter of Rights and Freedoms*, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act, 1982, c. 11 (U.K.):

2. Everyone has the following fundamental freedoms:
 - (a) freedom of conscience and religion;
 - (b) freedom of expression;

⁴ *Syndicat Northcrest v. Amselem*, [2004] 2 SCR 551, ¶ 62.

⁵ *Ibid*, ¶ 51; see also *Bruker v. Marcovitz*, [2007] 3 SCR 607, ¶ 78-79.

⁶ *Ibid*, ¶ 62: “[t]he ultimate protection of any particular Charter right must be measured in relation to other rights and with a view to the underlying context in which the apparent conflict arises.”

⁷ *S.L. v. Commission scolaire des Chênes*, 2012 SCC 7, ¶ 26-27.

⁸ *Young v. Young*, [1993] 4 SCR 3; *B. (R.) v. Children’s Aid Society of Metropolitan Toronto*, [1995] 1 SCR 315.

⁹ On the relational dimensions of the parent-child relationship in Canada, see Colleen Sheppard, “Intimacy, Rights and the Parent-Child Relationship” (2004) 16 *National Journal of Constitutional Law* 101.

¹⁰ According to Leckey, one illustration of this slippage or transition between strong and weak conceptions of relational theory is Martha Minow and Mary Lyndon Shanley, “Relational Rights and Responsibilities: Revisioning the Family in Liberal Political Theory” (1996) 11(1) *Hypatia* 4.

¹¹ See most recently: J. Nedelsky (2011). *Law’s Relations: A Relational Theory of Self, Autonomy*. NY, Oxford University Press.

¹² A *fortiori* at the same page: “And of course the boundary rules of possession send far less subtle (if no less complex) messages about power, who is entitled to it (those with property), what its entitlements are (you may ignore the wishes of others), and that its essence is to wielded by some over others.”

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