
RESPONSE

MAINSTREAMING PARAFAMILY[†]

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[†] An invited response to Alexander Chen & Christina Mulligan, *Parafamily*, 105 B.U. L. REV. 385 (2025).

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INTRODUCTION

In *Parafamily*, Chen and Mulligan have managed to cover vast terrain, to catalogue important developments in law, to canvass insights from generations of thinkers, and to propose an ambitious yet pragmatic approach to the laws that govern human relationships, directly and indirectly.¹ They do all this in a relatively short article composed of unusually readable prose. Quite a feat.

The focus of the piece is Chen and Mulligan's contribution to the field of legal scholarship dedicated to relationships that go beyond the traditional nuclear family. As their title reveals, the authors contribute a new term and concept to this literature: parafamily. How is parafamily defined? "We call close and committed connections a person's parafamily,"² the authors tell us. I will delve further into definitional matters later in this Response, but I want to begin with a central idea of *Parafamily* that appears with little fanfare in the Introduction to Part III. The authors write:

Many aspects of the legal system assume that individuals primarily arrange their life within a nuclear family, and this assumption makes it more difficult for individuals to arrange their life in alternative ways. For a parafamilial life to be as viable an option as a nuclear-family-focused life, designers of the legal system must get in the habit of asking themselves, "how will this affect parafamilies?" when considering, implementing, or revising laws and regulations.³

While posing a question might sound tentative or modest, Chen and Mulligan ask nothing less than for parafamily relationships to be considered in the design and implementation of all our laws. This is ambitious indeed.

Their proposal to ask the Parafamily Question about all laws and policies is a form of what's called in the law on disability, particularly in European and international law contexts, "mainstreaming."⁴ Mainstreaming means to consider formally the impact on disabled people of any law or policy.⁵ This is a major

¹ Alexander Chen & Christina Mulligan, *Parafamily*, 105 B.U. L. REV. 385 (2025).

² *Id.* at 390.

³ *Id.* at 419.

⁴ See, e.g., BILL ALBERT, A.K. DUBE & TRINE CECILIE RIIS-HANSEN, DISABILITY KNOWLEDGE & RSCH. PROGRAM, HAS DISABILITY BEEN MAINSTREAMED INTO DEVELOPMENT COOPERATION? 6, 13 (2005) ("Mainstreaming disability . . . is the process of assessing the implications for disabled people of any planned action, including legislation, policies and programmes, in all areas and at all levels.").

⁵ See, e.g., *id.* (explaining purposes of mainstreaming as "making disabled people's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that disabled people benefit equally and inequality is not perpetuated. The ultimate goal is to achieve disability equality . . ."); see also *Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030*, at 23, COM (2021) 101 final (Mar. 3, 2021) ("The Commission calls on Member States: to take account of specific needs of persons with

shift of orientation—from ignoring or targeting (at worst) to not merely making special exceptions when asked (as in *accommodation*), but instead to integrating those same issues and people into every decision (that is, *mainstreaming*).⁶

And while Chen and Mulligan also identify specific legal developments that serve as positive exemplars of their approach—including an ordinance one of the authors helped to pass⁷—their emphasis on this core question signifies a crucial aspect of their project: recognition of the complexity of this undertaking.

This is true, first, in the sense that they state the limits of what they can cover in this piece. They see that mainstreaming parafamily implicates many specific areas of law, each with its own specific considerations.⁸ For instance, answering the parafamily question with regard to immigration law involves layers of complexity that will require the expertise of those deep in the field.⁹ Second, it is true in the sense that mainstreaming parafamily in particular areas of law will involve trade-offs (of which more later).¹⁰ Third, and more broadly, the authors recognize that the change they are seeking involves both law and culture.¹¹

disabilities in all policies to be dealt with at Council level and in Council conclusions (*disability mainstreaming*).”).

⁶ Cf., e.g., U.N. Secretary-General, *Disability Inclusion in the United Nations System*, ¶ 7, U.N. Doc. A/79/233, at 3 (Sept. 11, 2024) (discussing how accessibility, while “necessary for mainstreaming,” is “still considered in an ad hoc, reactive way rather than through the comprehensive, universal approach needed to make . . . infrastructure and processes accessible to all”).

⁷ See SOMERVILLE, MASS., CODE OF ORDINANCES § 2-501 (2023) (“The city, recognizing its commitment to nondiscrimination and fair treatment of its citizens and employees, adopts this ordinance acknowledging domestic partnerships.”); Chen & Mulligan, *supra* note 1, at 441 (“As one of us emphasized in testimony to the Somerville City Council prior to passage of the ordinances”); see also *infra* note 42 (explaining, inter alia, that ordinance “did not restrict a ‘domestic partnership’ to only two people” and “‘afford[s] persons in domestic partnerships all the same rights and privileges afforded to those who are married’” (quoting the ordinance)).

⁸ See, e.g., Chen & Mulligan, *supra* note 1, at 393–407 (discussing implications for family law).

⁹ *Id.* at 420–21. The authors write:

Developing recommendations in some areas of law would also require a more detailed treatment than is possible to accomplish fairly here. For instance, the question of who should be permitted to immigrate based on family relationship interacts with other non-family-related policy questions in immigration law about who is permitted to immigrate and when. Other authors and articles will be better positioned to consider how immigration and other fields of law could support parafamilial connections, with due regard for the complex realities of their field—and we hope they do. Indeed, it will be a victory if lawmakers and regulators *all* get into the habit of considering parafamilies in their respective areas of law.

Id.

¹⁰ See *id.* at 427; see also *infra* note 32 and accompanying text.

¹¹ See, e.g., Chen & Mulligan, *supra* note 1, at 420 (“Because the primacy of marriage and the nuclear family is so deeply entrenched in American law and culture, we expect that there

Finally, their identifying the complexity involved in this undertaking means coupling their grand vision with a pragmatic approach that is almost incrementalist in its orientation, and canvassing the existing law and scholarship for examples and insights.¹²

The article catalogues vital legal developments—from the pathbreaking ordinances in the Massachusetts towns of Somerville, Cambridge, and Arlington; to case law from New York and beyond; to developments in criminal law and family law both salutary and problematic—and integrates relevant secondary literature into a greatest hits of legal academia. In reading, I would often think of someone’s work, and it would appear on the next footnote or next page.

Reading their ambitious proposal for mainstreaming parafamily also led me to several questions and ideas that I hope they might take up in future work. I look forward to the future writings in this area by the authors separately and together.

I. BIG TENT

Chen and Mulligan’s approach of framing what needs to happen around a bold question and nuanced applications supports one remarkable feature of this proposal: their big tent approach to who is included in parafamily. Parafamily is not an exclusive club. Their proposal attempts to advance the interests of people with varying relationships to countercultural trends and mainstream institutions. They are concerned both about the exclusions and material harms inflicted on polyamorous families,¹³ for instance, and about the loneliness and inequities that haunt monogamous marriages.¹⁴ (One choice quote they offer on the latter comes from Ari Weisbard who bought a house with his wife and another monogamous couple, in part to escape the “love/torture cave of nuclear family loneliness.”¹⁵)

The authors are also explicit about their aim of maintaining what works for some about existing institutions, while reorienting our law and policy toward supporting those relationships that currently receive less support from society. In the authors’ words,

are as many opportunities to support parafamilies as there are laws and regulations that give preferential treatment to spouses and nuclear families.”).

¹² *Id.* at 418-42 (discussing ways to recognize parafamilial relationships in the law and implement family-neutral legal reforms, for example, by expanding workplace and government benefits “to be more inclusive of all relationships,” developing family-neutral zoning laws, and altering adultery laws).

¹³ *See, e.g., id.* at 435 (discussing how antiquated adultery laws “prevent the public establishment of polyamorous relationships where any subset of the group is married”).

¹⁴ *See id.* at 435-36 (discussing inequities); *id.* at 401-02, 404-05 (discussing loneliness).

¹⁵ *Id.* at 404 (quoting Ari Weisbard, *Two Couples, One Mortgage*, ATLANTIC (July 11, 2014), <https://www.theatlantic.com/business/archive/2014/07/two-couples-one-mortgage/374102>).

[The article offers] an intense and intentional commitment to practical law reform, and a deep respect and appreciation for the value that nuclear families provide to many. The Article's reform suggestions are all targeted toward developing realistic innovations within the law we already have, rather than toward reimagining all legal relationships from the ground up. They also all preserve the legal recognition of nuclear family relationships that exist under current law. Nuclear family relationships are critically important—but often, they are not enough on their own.¹⁶

The authors therefore pursue their broad agenda for change with the goal of preserving what is valuable in the current structures: “to rewrite the fundamental assumptions about family that underlie American law, replacing the focus on marriage-like-relationships and the nuclear family with a more flexible framework—a framework that is broader, more realistic, and more adaptable than the nuclear family ideal.”¹⁷

Rather than creating straw men (or straw monogamists), Chen and Mulligan assume we are all capable of complexity. To propose these bold changes while assuming that the existing structures, and those who inhabit them, have value is a rare move indeed.

II. BOUNDARIES

And yet, surely not everyone can be included all the time. One question the authors leave open is *how* they propose to keep what works about existing institutions and yet make the changes they seek. What happens when the two aims conflict? Who decides and on what basis? One approach to asking about the boundaries of the parafamily proposal is asking about the boundaries—even the scope—of the word *parafamily*.

The authors tell us that they are not so interested in “who is *in* and *out* of a family.”¹⁸ In context, I think they mean we should care less about the substance of inside and outside of the family, and less about the labels of relationships, and care more about how to support the substance of people's broader ambit of relationships. They instead seek “recogni[tion] that the most meaningful, stable, and healthy life is one that values and prioritizes the many important relationships each individual has.”¹⁹ I appreciate their shift to the substance of caring relationships, and their desire to focus on inclusion, value, and support, rather than line drawing. That said, to make the parafamilial turn, as it were, we want to know what we mean by parafamily.

I noted earlier the authors' general definition; here it is in context: “We call close and committed connections a person's parafamily and argue that both American culture and the American legal system should recognize, affirm, and

¹⁶ *Id.* at 391.

¹⁷ *Id.*

¹⁸ *Id.* at 442.

¹⁹ *Id.*

support parafamilial connections that individuals choose to build their lives around.”²⁰ The authors drop this footnote for further explanation:

The prefix *para-* emphasizes that one’s parafamily may broadly include individuals outside one’s legal or biological family. Although there are similar terms used in ethnography and anthropology, such as “fictive kin,” “chosen kin,” “voluntary kin,” and “chosen family,” we say “parafamily” because these other terms don’t perfectly capture the flavor—and implied legal ramifications—of our concept.²¹

What I take from this is that parafamily is broader than the parafamilial connections that the article is arguing the law should support. Parafamily refers to all “close and committed connections,” and the law should support the ones that “individuals choose to build their lives around.” So far so good.

What also struck me while reading is that, for the parafamilial turn to take off, we have to know how to use the term. And I admit that, by the end of the article, I was not certain I could reliably use it in a sentence. Or rather, I wasn’t certain which sentences I could reliably use it in.

Some of my questions are these: For starters, is it “parafamily” or “a parafamily”? It is clear that we can put an indefinite article before the word when it works as an adjective, as in “a more parafamilial approach” or “a parafamilial perspective.” But do they mean the parafamilial turn to involve us all using the term personally as well as conceptually? As in, *this is my parafamily*? Or *they are part of my parafamily*? The language point might therefore seem trivial, and yet the uptake of relatively new language depends in meaningful part on our ability to apprehend and use it. And it relates to the applications we can make of it—and opens the door to much broader questions of substance.

In encouraging mainstreaming the parafamily question, the authors hope that “a parafamilial life [can] be as viable an option as a nuclear-family-focused life.”²² Their key questions are “how closely connected are particular individuals? In what ways are they committed to each other?”²³ The core of the story here is therefore those whose parafamily is foundational, life-organizing, rather than tertiary. But does that mean that parafamily, as a term, is not an umbrella term that also includes the nuclear or monogamous connections that a person has? And so, for the two monogamous couples who buy a house together, should they refer to their family and their parafamily? Or is their whole life a parafamilial life because they have organized their life around parafamily? And would it be more accurate to say they’ve organized it around parafamilial connections than around parafamily, or are both apt? And how do we know when people have “chosen” to organize their lives in this way? The authors seem more

²⁰ *Id.* at 390.

²¹ *Id.* at 390 n.6.

²² Chen & Mulligan, *supra* note 1, at 419.

²³ *Id.* at 403.

interested in moments of explicit choosing than in ascription,²⁴ but it would be helpful if they spelled out in future work if they mean those to be both necessary and sufficient—and if no other approach is enough, or allowed.²⁵

If there is an *in* and an *out* to parafamily—which there must be, for us to know if someone has organized their lives around parafamilial connections—then this suggests that parafamily is not so broad a term as to include traditional familial connections as well—even though Chen and Mulligan intend for their policy proposals to preserve the good of those intentions also. But how do we know when something is parafamilial and when it is not, and can it start as parafamilial and shift to familial with change over time or even change of geography? Might a poly family be recognized as parafamilial (if that) in some parts of this country and yet, in moving to Somerville,²⁶ might the same poly family be familial in a more conventional sense? Maybe not yet, maybe not enough has changed, but eventually? And are some kinds of parafamily relationships more parafamilial than others? And what is the opposite of parafamily? Presumably not “family”—since the aim here would not be to create exclusions from the broader word “family”? Allofamily?²⁷ All of this relates also to the broader questions of the authors’ aspirations for the kind of social change we should seek. This brings us to the valence and prospects for *weird*.

III. WHITHER WEIRD?

One fascinating question about the parafamilial turn can be asked in terms of the future of *weird*. Chen and Mulligan frame the problem of the sidelining of parafamily in these terms: “It’s *weird* to say a relationship with a platonic friend or extended family member is more important than a longstanding romantic and sexual relationship. It’s *weird* to want to live in a house with multiple adults late in life”²⁸ In a year when the word weird achieved political celebrity,²⁹ I

²⁴ *Id.* at 433 (discussing how laws supporting “functional families” are still influenced by the nuclear family ideal and contain greater restrictions than those imposed on the “‘traditional’ related family”).

²⁵ For one discussion of different regimes based in explicit consent or ascription or both, see Elizabeth F. Emens, *Regulatory Fictions: On Marriage and Counter marriage*, 99 CALIF. L. REV. 235, 268 (2011).

²⁶ *Cf. supra* note 7 (quoting the Somerville, Massachusetts, ordinance that recognizes “domestic partnerships” among more than two people).

²⁷ *Cf., e.g., allo-*, MERRIAM-WEBSTER <https://www.merriam-webster.com/dictionary/allo-> [<https://perma.cc/FF9Z-TH8C>] (last visited Mar. 12, 2025) (defining “*allo-*” as “other,” “different,” “atypical”).

²⁸ Chen & Mulligan, *supra* note 1, at 391.

²⁹ Vice Presidential candidate Tim Walz tried to make the Republicans’ embrace of a “He-man women hater’s club” platform “weird,” though, as readers know, voters were apparently not swayed by this strategy. See, e.g., Jim Newell, *Tim Walz Wasn’t Just the Safe Pick. He Earned It.*, SLATE (Aug. 6, 2024, 10:53 AM), <https://slate.com/news-and-politics/2024/08/tim-walz-vp-pick-kamala-harris-running-mate.html> [<https://perma.cc/9C75->

can't help but wonder whether the authors' aim is to claim weird or to try to make what's weird less weird.

What are the authors' ultimate goals for parafamily and for weird? The lines following the double reference to weird are these: "But many people's lives are, or would be, enriched and improved by making these kinds of choices, by centering their lives around members of their parafamily as well as their nuclear family, and American law and culture shouldn't get in the way."³⁰ So, the authors tell us, culture as well as law can be an obstacle to life choices that privilege parafamily, and that needs to change. If it does change, the text implies throughout, more people would build "parafamilial lives," that is, lives organized around parafamily. Presumably, the way culture stands in the way is by casting some choices as weird, as outside the mainstream. So ultimately, mainstreaming parafamily appears to mean making it less weird. Elsewhere, the authors suggest that, in the ideal future, parafamilies might remain "intriguing" so long as they are not called "weirdos."³¹

Is anything lost, however, when intentional chosen relationships, not fully encouraged as organizing guideposts of society, become conventional? This brings us to the subject of trade-offs.

IV. TRADE-OFFS

One compelling aspect of the article's legal analysis is the authors' explicit acknowledgment of trade-offs. Although they aim for a big tent of beneficiaries to the change they seek, they also don't entirely assume some utopian world where whatever supports parafamilies succeeds on all other metrics. The authors seem to remember that the word *utopian* means *no place*.

One example of this is their discussion of expanding parentage. They cite important critics of the dangers of increasing numbers of parents through

TFM2] (referencing Vance and Trump, Walz stated, "'these guys are just weird. They're running for 'He-Man Women-Haters Club' or something.' *Weird* took off, earning a battlefield promotion to the top of Democratic talking points against Donald Trump and Vance"). I wonder how many people knew that Walz was referencing the old television show, *The Little Rascals*, a fact I only learned belatedly. *He-Man Woman-Haters Club*, FANDOM, https://ourgang.fandom.com/wiki/He-Man_Woman-Haters_Club (last visited Mar. 12, 2025) (describing how, in the show, neighborhood boys founded the club "as a defense against girls and Valentine's Day").

³⁰ Chen & Mulligan, *supra* note 1, at 391.

³¹ In the authors' words,

Regarding social validation, this Article's authors are encouraged by the increased visibility of nontraditional families and lifestyles in media for presenting more possibilities, even as these stories range from a positive tone of "how intriguing!" to a more negative "look at these weirdos!" We hope that articles like this one, which take parafamilial relationships seriously in an academic context, can also serve to dislodge the assumption that the only natural way to order one's life is in a monogamous marriage and nuclear family.

Id. at 418-19.

“functional parent approaches,” noting that “[c]are needs to be taken in facilitating parafamilial recognition in a way that neither problematically undermines parental rights nor imposes parenting obligations on those who did not agree to them.”³² This leads them to solutions like a “durable power of parenting,” that is entirely revocable, just like a durable power of attorney:

States could create a form that would allow parents to revocably grant authority to stepparents, neighbors, and relatives to pick up children from school, make medical decisions if parents are unavailable, or otherwise take consequential actions on the child’s behalf. This effective “durable power of parenting” would have to be accepted by the power holder and could be revoked at any time by a parent, thereby returning all legal authority over a child to the legal parents. The availability of such power would be beneficial to legitimizing and identifying important kinship relationships otherwise unseen by the state and may have the knock-on effect of incentivizing parental powerholders to be more committed to their formalized and official role.³³

This seems like a coparenting version of “exploding marriage” hypothesized by Goethe³⁴—perhaps more aptly termed “explodable parenting” as portrayed here. One interesting question is whether there would be any reason to add to the toolkit *exploding* parenting, where the durable power of parenting is not only revocable on demand, but explodes (i.e., expires/lapses) after a certain amount of time if not renewed. This might be even more reassuring to anyone uneasy about extending or assuming the para-parenting role in a particular parafamily.

Moreover, either version of this kind of revocable power—exploding or just explodable durable power of parenting—might serve not only parafamilies who want to be more connected to one another but also coparents thrown together by circumstances, such as parents and stepparents across households. There is something ingenious about this approach to creating rights and responsibilities against third parties, but ones that legal parents know they could revoke.

Lastly, returning to the question of what kind of *culture* change the authors seek, we might ask if the authors would also favor creating explodable roles with

³² *Id.* at 427 (citing Emily Buss, “Parental” Rights, 88 VA. L. REV. 635, 640-44 (2002) (discussing potential problems with “increasing the number of those with custodial involvement” with children); and June Carbone, *The Legal Definition of Parenthood: Uncertainty at the Core of Family Identity*, 65 LA. L. REV. 1295, 1304-06 (2005) (discussing ways that “functional parent” status may impose obligations on people who did not want to become parents)).

³³ *Id.* (footnote omitted).

³⁴ See JOHANN WOLFGANG VON GOETHE, *Elective Affinities*, in 11 GOETHE: THE COLLECTED WORKS 89 (David E. Wellbery ed., Judith Ryan trans., Princeton University Press 1995) (1809). For discussion, see Emens, *supra* note 25, at 241-45 (“Goethe’s first counter-marriage idea is what we might call *exploding marriage*. In this regime, marriage expires after a fixed term of years.”).

names and cultural meaning (like “explo-dad”!), or if this innovation should be confined to a purely legal/functional role.

V. TYPOLOGY OF DIMENSIONS

Revocability (or not) is one dimension of a legal development that Chen and Mulligan help us to see should be considered in the analysis of any legal development or proposal. Specifying the dimensions along which proposals or laws may vary is a further way that *Parafamily* could be made even more useful to future policymakers, activists, and scholars, as they evaluate prospective legal developments through the parafamily question.

The legal developments they survey in this piece also vary along the following dimensions, among others: durability; numerosity; alterity; sexuality; symmetry; materiality; directionality; and externalities. This chart briefly describes some of these and how they differ along the relevant dimension:

Figure 1. Dimensions of Legal Developments for Parafamilies.

Dimension	Meaning	Example
Durability ³⁵	The timeline or ease of revoking the relevant rights or responsibilities	(Revocable) durable power of parenting vs. (irrevocable) contracts that promise financial or other support
Numerosity	How many parafamily members can be designated	(Former) Vermont reciprocal beneficiaries designation ³⁶ (for one person) vs. multi-partner domestic partnership ordinances in Somerville (for more than one person) ³⁷

³⁵ This dimension could also be subdivided into durability vs. revocability, akin to the distinction in contract law between lapse and revocation, which relates to the points above about exploding vs. exploding marriage and parenting.

³⁶ VT. STAT. ANN. tit. 15, §§ 1301-1306, *repealed by* 2013 Adj. Sess., No. 164, § 2, effective May 28, 2014.

³⁷ *See supra* text accompanying note 7.

Dimension	Meaning	Example
Alterity	Whether the designation can exist alongside traditional family relationships or only in the absence of them	Federal benefit for survivors of public safety officers (alternative designation available only to officers without a surviving spouse or child) ³⁸ vs. Somerville ordinance (which can be invoked by someone who is also legally married) ³⁹
Sexuality	Whether sexual relationships are considered relevant	Marriage laws, including those for same-sex marriage (presume or require conjugal relationships) ⁴⁰ vs. domestic partnership laws or civil union regimes (typically devoid of institutionalized links to conjugality) ⁴¹

³⁸ Chen & Mulligan, *supra* note 1, at 429.

The Benefit Act extended eligibility for a \$250,000 federal benefit for survivors of public safety officers killed in the line of duty to any “individual designated by such officer as beneficiary under such officer’s most recently executed life insurance policy,” so long as the officer did not have a surviving spouse or child.

Id.

³⁹ See SOMERVILLE, MASS., CODE OF ORDINANCES § 2-503 (2023) (“If any member of the prospective domestic partnership is married or in another domestic partnership, a notarized affidavit of consent from each existing spouse and/or domestic partner is required prior to the registration of this domestic partnership, as well as the addition of any new domestic partners to an existing domestic partnership.”).

⁴⁰ See Elizabeth F. Emens, *Compulsory Sexuality*, 66 STAN. L. REV. 303, 350-51 (2014) (observing that “legal marriage effectively requires consummation for its fullest ratification. For instance, in some states, nonconsummation of a marriage is a ground for voiding the marriage. . . .” and concluding that, “[i]n several ways, then, marriage law effectively requires sexual activity . . . [and] this provision for voiding the marriage for lack of consummation creates a vulnerability for asexuals (or rather, for those asexuals who don’t have sex, which is not all asexuals)” (citation omitted)).

⁴¹ *Id.* at 352. The article observes the following:

[Asexuals] may therefore be prime candidates to support the movement to abandon marriage as a legal institution or to replace it with any number of alternatives explicitly organized around a principle other than conjugality. The many alternatives that scholars and activists have examined include privileging dyadic caregiver relationships, recognizing friendships or other close familial and nonfamilial relationships, moving to a contractarian regime, or replacing marriage with a similar domestic partnership or civil union regime.

Id. (footnotes omitted); see also Chen & Mulligan, *supra* note 1, at 421 (“[S]ingle people who want to make major life choices with blood relatives and friends, or polyamorous people who have more than one important relationship, may be interested in types of legally recognized partnership that are not as all-encompassing as marriage, or that do not presume a sexual component.”).

Dimension	Meaning	Example
Symmetry	Whether the designation operates in the same way for all/both participants, or differently	Durable power of parenting situates parents and children differently, and also situates legal parents and those with the power differently (asymmetrical) vs. Somerville ordinance situating partners similarly to each other (symmetrical) ⁴²
Materiality	Whether the law or designation has tangible or symbolic meaning (or both)	Zoning laws that allow multiparty households without any special designation (material) ⁴³ vs. repeal of adultery laws even in the absence of any recent prosecutions or legal relevance (symbolic) ⁴⁴

⁴² See SOMERVILLE, MASS., CODE OF ORDINANCES § 2-505 (2023); see also Chen & Mulligan, *supra* note 1, at 423-24. Chen and Mulligan observe the following about the ordinance:

[T]he . . . ordinance . . . did not restrict a “domestic partnership” to only two people. The ordinance defines “domestic partnership” as “the entity formed by people” that satisfy several criteria, including that they “are in a relationship of mutual support, caring and commitment and intend to remain in such a relationship” and “consider themselves to be a family.” The ordinance “afford[s] persons in domestic partnerships all the same rights and privileges afforded to those who are married” and interprets “spouse,” “marriage,” and “family” to include domestic partnerships when used in other city ordinances, except to the extent that the provision of such rights “contravene[s] the general laws of the Commonwealth.”

Id.

⁴³ Cf. Chen & Mulligan, *supra* note 1, at 434 (discussing Sara Bronin’s “density” approach to zoning—an approach that would “aim to control the number of people living in a particular type or size of dwelling unit, without regulating for character of the relationships of members of a household” (quoting Sara C. Bronin, *Zoning for Families*, 95 IND. L.J. 1, 34 (2020))); Mary Anne Case, *Marriage Licenses*, 89 MINN. L. REV. 1758, 1774 (2005) (discussing the disparities between the onerous requirements for domestic partnerships and flexible requirements for marriage). In Case’s words,

Which is a greater restriction on my ability freely to structure my life with my partner—the requirement that I must marry that partner and on rare occasions produce the marriage license . . . or the requirement that we must reside together, be sexually faithful to one another, commingle our finances, hold ourselves out to the world as a couple, and provide to third parties the details of how we live our lives, as domestic partnership ordinances . . . definitions often require? . . . [I]t would be clear that marriage today provides far more license, and has the potential to be far more flexible, liberatory, and egalitarian than most available alternatives.

Id.

⁴⁴ Cf. Chen & Mulligan, *supra* note 1, at 436 (“Moreover, the presence of adultery laws that lack exceptions for consent have an important symbolic, messaging effect as well.”); Edward Stein, *Adultery, Infidelity, and Consensual Non-Monogamy*, 55 WAKE FOREST L. REV. 147, 149-50 (2020) (“Even if people are rarely charged—and even more rarely

Dimension	Meaning	Example
Directionality	Against (or toward) whom the designation or law can be invoked (e.g., third parties or government or within the family)	The survivorship right to retain a rent-stabilized apartment ⁴⁵ (against the government) vs. the right to designate parafamily on private health insurance obtained through a workplace (against a third-party employer)
Externalities	Whether the law or designation has (direct or indirect) costs and to whom	Additional heirs to an estate (direct costs to other heirs) ⁴⁶ vs. the survivorship right to retain a rent-stabilized apartment (no direct costs to another tenant, but indirect costs to any prospective tenant) ⁴⁷

This list is of course not exhaustive. Other dimensions, for instance, include those mentioned earlier about the mode of entry (and exit), whether based on behavior or explicit consent. These dimensions may offer a toolkit for evaluating laws and policies when asking the parafamily question.

CONCLUSION

Drawing out the dimensions identified in Part V sheds light on the challenges and opportunities of the authors' approach. For example, it highlights the complexity of saying that any beneficiary situation is one in which, as the authors hope, "no one 'loses.'"⁴⁸ Even, for instance, in the rent stabilization situation, where an alternative tenant is not yet identified, someone will not get that apartment. And yet, the same would be true if a surviving spouse or partner—who did not have another relationship outside the one in that apartment

convicted—of the crime of adultery, in light of the continued criminal status of adultery, some people think it is permissible to fire a person from a job for committing adultery [among other forms of discrimination].”).

⁴⁵ Cf., e.g., *West 49th Street, LLC v. O'Neill*, 178 N.Y.S.3d 874, 879 (N.Y. Civ. Ct. 2022) (quoting *Braschi v. Stahl Assocs. Co.*, 544 N.Y.S.2d 784, 790 (1989)) (observing that the “determination as to whether an individual is entitled to noneviction protection should be based upon [the court’s] objective examination of the relationship of the parties” and listing “factors” courts have considered as “including the exclusivity and longevity of the relationship, the level of emotional and financial commitment, the manner in which the parties have conducted their everyday lives and held themselves out to society, and the reliance placed upon one another for daily family services”); see also *Chen & Mulligan*, *supra* note 1, at 438–40.

⁴⁶ For discussion, see *Chen & Mulligan*, *supra* note 1, at 438–40.

⁴⁷ Cf. *supra* text accompanying note 45.

⁴⁸ *Chen & Mulligan*, *supra* note 1, at 440.

(as in *West 49th Street, LLC v. O'Neill*⁴⁹)—where someone in the apartment now would have priority over some unidentified person who would like to have the apartment. That seems like precisely the kind of trade-off that the authors are urging us to get comfortable with, as part of the parafamilial turn.

Helping us see these trade-offs, how they are approached now, and the many dimensions of each prospective policy development, should help with the kind of mainstreaming of parafamily that the authors powerfully urge us toward.

⁴⁹ *O'Neill*, 178 N.Y.S.3d at 876-77 (noting that petitioner, the “life partner” of the deceased for twenty-five years, brought suit against O’Neill, who moved in with the deceased before his death and “became more than friends and more than close despite [the deceased] being in another relationship”).