

The Ties that Bind—and Cut

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Date : February 2, 2018

Domenico Starnone, [Ties](#) (translated by Jhumpa Lahiri, 2017).

“Happy families are all alike; every unhappy family is unhappy in its own way.”
(Come on, you know who said this)

Family law, in the limited way we have construed it over the last eighty years or so, deals almost entirely in unhappy families.¹ When the law comes in it is separation, divorce, or restraining order time, custody determination, child support, abuse and neglect time. Happy memories are in the past, and the only thing that remains is an accounting, whose apparent aim is to make possible a—legally—bearable life in the future.

Yet family law tries to defy Tolstoy’s observations about unhappy families. It attempts to categorize and systematize types of unhappiness, put them in boxes to make them manageable by judicial or administrative fiat. The attempt, no matter how necessary, often proves to be just that, an attempt, incomplete and even incoherent. The messy incommensurability of intimate relations often forces family law to crack at the doctrinal seams, allowing infinite variations of family unhappiness to burst out without much hope of systematic categorization or containment. How else can we grapple with the “best interests of the child” standard, for example, with its grand gesture towards certainty and a concurrent knowing wink about the impossibility of predicting the future? Even the past, theoretically more knowable than the future, flickers in and out of focus in doctrinal vehicles as mysterious as “irretrievable breakdown,” which—inevitably—become the equivalent to a judicial rubber stamp on a decision already made, rather than a coherent description of a set of events in the world.

Ties, a short novel by Domenico Starnone translated from the Italian by Jhumpa Lahiri, delves deeply into the world of a seemingly irretrievable breakdown. It provides a field trip away from what sometimes feels like the fictional world of doctrine and into the real world of fiction, where the human characters of marital breakups and reconciliations reside. It challenges family law scholars to reflect upon the gap between the messy humanity entailed in private lives and the Sisyphean legal task of imposing order through doctrine. It challenges us to reflect upon the role that law plays and could be playing in the messy human process of building, destroying and rebuilding intimacies.

The story begins with a marital breakup, narrated in the first part of the novel in the powerful and commanding voice of the abandoned wife: “In case it’s slipped your mind, Dear Sir, let me remind you: I am your wife.” (P. 23.) It is the voice of a 34-year-old wife and mother of two, writing a series of letters to her philandering husband in the wake of his abandonment. The year is 1974, the place is Naples, Italy. Aldo, the 32-year-old husband has fallen in love and run off with a much younger woman and the fantasy of reinvention that she represents, leaving his wife, Vanda, alone to fend for herself and the children. Her voice grabs the reader from the very first page, the seeming victim in a crime of the heart that strikes as unnecessarily cruel in the details of its execution.

The letters, nine in total and spanning four years in time, pulse with anger, grief, vindictiveness, resignation, calculation, sadism, fear. Here she pleads: “as soon as you read this letter, come home” and “have you forgotten that I don’t have a job?”; there she threatens: “Aldo be careful. If I start to lose it, I’ll make you pay”; and further she goes for the jugular, aiming at Aldo’s faltering sense of ego: “you’ll never be what you want, just what happens by chance.” Vanda’s voice occupies the first of three short books in the novel. It is the shortest one, yet her anguish and pain reverberate through the entire novel, echoing inside the remaining two books, which are the first-person narratives of Aldo and Anna, the traumatized daughter, by the time of her intervention a struggling adult.

At the end of the first book, Vanda's letters have left us with an indelible impression of an "irretrievable breakdown," a wound so deep that it would be unimaginable for healing to have taken place. And yet, Aldo, in the second book, takes us through the story of the couple's eventual reconciliation. It is a story of guilt and remorse, especially for the destruction wrought upon his children. This is not so much an openly agreed upon reconciliation, as a gradual, almost stealthy return to the architecture of marriage, which has legally remained standing despite the actual separation.

The new relationship is built on solid ground. It is not the solid ground of love or happiness, but the eventually explosive building blocks of attrition and penance, mistrust and vindictiveness. Vanda, short-tempered and impatient, can barely stand to hear from Aldo; anything he says, anything he does, provokes her and her temper explodes. Her words are packed with bitterness and resentment, her actions echoes of the pained and angry voice at the beginning of the novel. Aldo, on his part, moves like an animal in retreat, tail between his legs, running for cover at the slightest indication of trouble. Theirs is a carefully curated relationship—one that must make room for the wife's injured ego, and exclude certain things from view, such as Aldo's continuing love for the lover he eventually leaves behind, or Vanda's own lack of love for the husband she has now managed to reclaim. "From the crisis of many years ago we have both learned that we need to hide a great deal from each other, and tell each other even less. It's worked."

The image we have of the marriage changes yet again, Rashomon like, as we hear from Anna and Sandro, the couple's children and the two innocent bystanders who are in turn instrumentalized and made complicit in their parents' primordial battle. "The only ties that counted for our parents were the ones they've tortured each other with their whole lives", Anna hurls at her brother with a vehemence reminiscent of Vanda's own anger. It is a brief, heartbreaking part of the novel, a glimpse into the lasting effects of trauma and the depressingly repetitive nature of learned behavior, with some redemptive glimmers of hope shining through for the two adult children.

Law makes only a few direct appearances in the book. It remains always in the background, never the center of this battle for survival, and yet provides what seems to be an important backdrop in the context of the marriage. In 1970, the Italian Parliament passed a law allowing divorce, in a move that was understood as an assault on the Catholic Church's position in Italy.² The grounds were mostly fault based, with one exception: a legal separation that lasted five years could also provide a valid basis for a final divorce.³ This is an option that Aldo and Vanda seem uninterested in. However, after four years, Vanda finally sues Aldo for full custody of their children, an option that was also created for the first time by the 1970 law.⁴ She wins without a problem or even a fight from him. But she lacks any independent sources of income and can't get him to pay up regularly for the support of the children. Here we are left to wonder whether the newly established provision on maintenance is not truly enforced properly, or whether Vanda is making an emphatic choice not to use the option given to her by the 1970 divorce statute. Instead, guilt-tripping Aldo is the means she deploys to the maximum. The fact that Aldo has been allowed to get away with impoverishing his family eventually weighs heavily on his conscience. It is one of the factors that, in his own recounting, lead him back to the marriage. In this regard, the background architecture of marriage—the expectation of support for vulnerable members of the family—which has not been jettisoned, even as the couple has physically separated, provides the stage that can house a return, without open discussion of the terms, only a gradual slipping back into the fold.

How would this story have turned out if the legal landscape were different? The sweeping changes in attitude highlighted by the pro-divorce movement in Italy of the time certainly seem to influence how Aldo initially feels about leaving his unhappy marriage. Would guilt and penance, two of the protagonists in this story, have managed such a central place in a legal universe of relatively easy exit and wage garnishing? Despite the change in legal rules, it is still a relatively difficult and costly way to the marital exit. Would guilt be so prominent in a legal universe of no fault divorce? Would reconciliation have managed to garner such power in the minds of these two unhappy spouses, if it weren't backed by the symbolic power of the legal system for which it remained the preferred happy outcome? Or would these two have chosen an entirely different script for their story? One in which they each go their own way rather than attempt to reconstruct something from the pieces of their broken relationship?

These are such compelling questions for me that I am tempted to assign the novel for class discussion at the very beginning of my family law class as a challenge and an invitation to think about the role of law in shaping intimate

experience. I am even tempted to go one step further and use the storyline and characters for my regular divorce negotiation exercise. How does Vanda fare under a no-fault regime vs. a fault based one? How does Aldo fare? How does changing the background legal rules change the students' understanding of what their "clients" might possibly want out of a potential divorce or separation negotiation? How does the world of the legally possible influence the world of the intimately felt?

Ties is a short but compelling invitation from the world of literature to contemplate the contours as well as the limits of law in shaping intimate experience.

1. Janet E. Halley, *What is Family Law?: Genealogy Part II*, 23 **Yale J.L. & Human.** 189 (2011). [?]
2. Martin Clark et al., *Divorce—Italian Style*, 27 **Parliamentary Affairs** 333, 340 (1974). [?]
3. The fault grounds are pretty serious. They include attempted murder of the spouse or children, incest, incitement to prostitution, criminal insanity and prison sentences of more than 15 years. See Martin Clark et al., *id.* [?]
4. *Id.* [?]

Cite as: Philomila Tsoukala, *The Ties that Bind—and Cut*, JOTWELL (February 2, 2018) (reviewing Domenico Starnone, *Ties* (translated by Jhumpa Lahiri, 2017)), <https://family.jotwell.com/ties-bind-cut/>.