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# *Freedom and the Family: The Family Crisis and the Future of Western Civilization*

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In April 2009, Dr. James Dobson stepped down as head of the conservative Christian group Focus on the Family with a pessimistic message about his years in the “culture wars.” “We are right now in the most discouraging period of that long conflict,” he declared. “Humanly speaking, we can say we have lost all those battles.”<sup>1</sup> Dobson’s words were widely taken as an admission of defeat. His statement highlighted a trend that now seems inexorable: In the Western World the traditional family continues to unravel, and its defenders are increasingly giving way to resignation and despair.

Yet an historical perspective reveals that the conflict over the family may only be beginning and that we may be on the verge of a wider confrontation that will decide not only the survival of the family but fundamental questions about the scope and nature of the modern state.

At first glance, it appears that history may not be on the side of the family. Today’s crisis originated well before the cultural and sexual revolutions of the 1960s. A sobering perspective on how family decline undermines our civilization may be gained from

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<sup>1</sup> Dobson added: “but God is in control and we are not going to give up now, right?” Website of *The Atlantic*: <http://www.theatlantic.com/politics/archive/2009/04/did-dobson-concede-the-culture-wars/13006/>.

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realizing how limited awareness has been of the nature and dimensions of the decline over decades and even centuries and from realizing how today's awakening—still partial at best—comes at the eleventh hour.

As early as 1933, Christopher Dawson, in "The Patriarchal Family in History," drew a parallel with the declining stages of Greek and Roman civilization.<sup>2</sup> Harvard sociologist Carle Zimmerman elaborated in *Family and Civilization* (1947).<sup>3</sup> At a time when the "baby boom" was occurring and few people were disposed to listen to Cassandra warnings of a crisis for the family, Zimmerman described long-term reality: the traditional family had been deteriorating since the Renaissance and was nearing the point of no return. Like Dawson, Zimmerman noted unmistakable parallels with Greece and Rome.

*Traditional family has been deteriorating since the Renaissance.*

Dawson and Zimmerman make thought-provoking reading today because they wrote long before the political and sexual radicalism of the 1960s launched an open and direct ideological attack on the family and placed it on the public agenda.

Moreover, popular culture is not the only family solvent. From the start of the modern era, *political* culture has included a strain of hostility to the family. "The attack on the family in modern political thought has been sweeping and unremitting," writes political theorist Philip Abbott. "If the family is to survive as an institution . . . the major thrust of modern politics must be altered."<sup>4</sup> Virtually every theorist in the modern Western canon has had something to say about the family, often to its detriment, including Erasmus, Milton, Hobbes, Locke, Rousseau, Mill, Marx, and Freud. Dissenters, like Louis de Bonald, author of *On Divorce* (1805), have been relegated to obscurity.

The family crisis, in other words, is not simply a product of the sexual and feminist revolutions, though they certainly accelerated the pace of deterioration. Family decline may be inherent in what is commonly called modernity.

Political theory might seem only to compound the dangers

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<sup>2</sup> Reprinted in John J. Mulloy (ed.), *The Dynamics of World History* (Wilmington: Intercollegiate Studies Institute, 2003), <http://www.catholiceducation.org/articles/printarticle.html?id=4223>.

<sup>3</sup> I have elaborated in a review of Zimmerman in *Society*, vol. 46, no. 4 (July 2009).

<sup>4</sup> *The Family on Trial* (London: Pennsylvania State University Press, 1981), 4, 8-9, 201.

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posed by television, movies, rock music, videos, and other elements of popular culture, but the battle of political ideas is one that family defenders cannot ignore. By retreating into "culture" (though in a rather cramped sense) to the neglect of politics, family advocates may have invited precisely the political paralysis Dobson laments. "If you believe, as I do, in the power of culture," writes political scientist James Q. Wilson of single motherhood, "you will realize that there is very little one can do."<sup>5</sup>

*The family's  
functions  
displaced by  
the state.*

Without neglecting culture, Dawson and Zimmerman were much more explicit than today's family advocates in emphasizing the power wielded by government. "As in the decline of the ancient world, the family is steadily losing its form and its social significance, and the state absorbs more and more of the life of its members," Dawson wrote. "The functions which were formerly fulfilled by the head of the family are now being taken over by the state, which educates the children and takes the responsibility for their maintenance and health." Dawson wrote this in 1933, which makes his next observation even more startling: "The father no longer holds a vital position in the family," he noted. "He is often a comparative stranger to his children, who know him only as 'that man who comes for weekends.'"

*The family  
reduced to an  
instrument of  
the state.*

Zimmerman pointed out that the state views the family as a threat, eviscerates the family, co-opts its critics and sponsors family-hostile intellectuals, and demands supremacy over society in general and the family in particular. Whenever the family shows signs of dysfunction, "the state helps to break it up." The state constantly aspires to reduce the family to its instrument. "The state wishes to have only enough family power left as is needed to achieve the functions of government." In the United States during the *nineteenth* century, "law piled on law, and government agency upon government agency" until *by 1900* "the state had become master of the family." The result (in 1947!) is that "the family is now truly the agent, the slave, the handmaiden of the state."

Today the situation has evolved to the point that we might well regard 1947 as a golden age for the family. One of Zimmerman's most telling observations regarding the family is that "[t]hese changes came about slowly, over centuries, and almost

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<sup>5</sup> "Why We Don't Marry," *City Journal* (Winter 2002), [http://www.city-journal.org/html/12\\_1\\_why\\_we.html](http://www.city-journal.org/html/12_1_why_we.html).

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imperceptibly.”<sup>6</sup> The atomization of the family has proceeded so incrementally that each generation has become acculturated to the changes, contributed more changes of its own, and passed them on to the next generation.

Each generation thus accepts as normal what would have shocked their grandparents had it happened all at once: premarital sex, cohabitation, illegitimacy, divorce, same-sex marriage, day-care, fast-food dinners. Indeed, shocking the previous generation is part of the thrill of what might be said to amount to the institutionalization and politicization of filial rebellion.

*Each generation accepts as normal what would have shocked grandparents.*

Warnings about family decline will, to the extent that it involves “culture,” simply sound to the liberal and the young as “no big deal”: these are the perennial lamentations of the hopelessly old-fashioned—the old and conservative bemoaning the good old days. Things change: “Deal with it!”

But this kind of cultural development is not all that has become accepted as normal. Filial rebellion has a political dimension. Zimmerman describes destructive family policies enacted not only during the French and Russian revolutions, but also following the American. What might shock even the liberal and the young, yet today barely disturbs the conservative and the old, are destruction of constitutional protections and intrusive invasions of personal freedom and family privacy by the government’s ever-expanding family machinery. Here we see something highly consequential, but perhaps also more susceptible to redress than what is indicated by Wilson’s cultural despair, that is, the heavy hand of the state.

G. K. Chesterton once suggested that the family was the main check on state power and that weakening it would destroy freedom. Chesterton was writing about divorce, and here another critical difference emerges between today’s debates and the way the issue was framed by Dawson and Zimmerman and theorists they cite. While homosexuality, abortion, pornography, and other cultural issues on today’s family-values agenda do appear in their writings, they are not central. The recurring issue throughout Western history that seems to be the most direct cause of marriage and family breakdown is divorce.

*As main check on state power, the family is essential to freedom.*

Most Americans know from personal experience that the most direct and common threat to the family today is not the marriage

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<sup>6</sup> Carle Zimmerman, *Family and Civilization* (Wilmington: Intercollegiate Studies Institute, 2008), 146.

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of two homosexuals but divorce within families. Divorce now threatens most families and every society in the Western world. Not only is it multiplying single-parent homes among the affluent as welfare did among the poor; it now poses a serious threat to privacy, civil liberties, and constitutional government, as children are forcibly taken from their parents on a variety of divorce-related pretexts and parents who resist are taken away in handcuffs. Most people know someone whose children and private life have been placed under government supervision through divorce, very likely without the person's consent. Yet even many who think of themselves as conservatives do not raise as a public issue this flagrant restriction of freedom.

Public debates over "family values" convey little of the traumas of actual families. Family-values advocates, eloquently denouncing same-sex marriage, say little of relevance to the fact that Uncle Bob now lives in an apartment (if not a jail) instead of with his children. Americans would be amazed and shocked if they knew what goes on today under the name of divorce: unprecedented government intrusion into private life, including the power to seize children, loot family savings, and incarcerate parents without trial. The divorce machinery of the state, comprising secretive courts and vast federally funded social services bureaucracies wielding what amount to police powers, may have become the most repressive governmental sector in Western society.<sup>7</sup>

### *The Divorce Revolution*

*Marriage no longer an enforceable contract.*

Some four decades ago, at the height of the sexual revolution, the Western world embarked on one of the boldest social experiments in its history. With little public discussion, laws were enacted in virtually every jurisdiction that ended marriage as an enforceable contract. Today it is not possible to form a binding agreement to create a family. Government can now, at the request of one spouse, simply dissolve a marriage over the objection of the other. Maggie Gallagher aptly titled her 1996 book *The Abolition of Marriage*.

The full implications of the "no-fault" revolution have never really been publicly debated. "The divorce laws . . . were reformed

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<sup>7</sup> The following paragraphs summarize the argument in my *Taken Into Custody: The War Against Fathers, Marriage, and the Family* (Nashville: Cumberland House, 2007).

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by unrepresentative groups with very particular agendas of their own and which were *not* in step with public opinion,” writes Melanie Phillips. “Public attitudes were gradually dragged along behind laws that were generally understood at the time to mean something very different from what they subsequently came to represent.”<sup>8</sup>

Today’s disputes over marriage in fact originated in the divorce revolution. Demands to redefine marriage to include homosexual couples are a consequence of the redefinition of marriage already effected by heterosexuals through divorce. Though gays cite the very desire to marry as evidence that their sexual behavior is not inherently promiscuous, activist Andrew Sullivan acknowledges that gays want the right to marry only because of the promiscuity permitted in modern marriage. “The world of no-strings heterosexual hookups and 50 percent divorce rates preceded gay marriage,” he points out. “All homosexuals are saying . . . is that, *under the current definition*, there’s no reason to exclude us. If you want to return straight marriage to the 1950s, go ahead. *But until you do*, the exclusion of gays is . . . a denial of basic civil equality”<sup>9</sup> (emphasis added). Sullivan and others do not want traditional monogamous marriage, only marriage as transformed by divorce.

Few stopped to consider the implications of laws that turned the breakup of private households into an involuntary process. Unilateral divorce involves government agents forcibly removing legally innocent people from their homes, seizing their property, and separating them from their children. It inherently abrogates not only the inviolability of marriage but the very concept of private life.

*Unilateral divorce abrogates concept of private life.*

If marriage is not a wholly private affair, as today’s marriage advocates insist, involuntary divorce by its nature requires constant government supervision of family life. Far more than marriage, divorce mobilizes and expands government power. Marriage creates a private household, which may or may not require signing some legal documents. Divorce dissolves a private household, usually with one spouse having done nothing legally wrong. It inevitably involves state functionaries—including police and jails—to enforce the divorce and the post-marriage order. Oth-

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<sup>8</sup> Melanie Phillips, *The Sex-Change Society: Feminised Britain and the Neutered Male* (London: Social Market Foundation, 1999), 261.

<sup>9</sup> Andrew Sullivan, “Unveiled,” *The New Republic*, August 13, 2001 (emphasis added).

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erwise, the involuntarily divorced spouse will continue to enjoy the protections and prerogatives of private life: the right to live in the common home, to possess the common property, or—most vexing of all—to parent the common children. These claims must be expunged by force, using the penal system if necessary.

Given that 80 percent of divorces are unilateral, divorce today seldom involves two people simply parting ways.<sup>10</sup> Under “no-fault” rules divorce often becomes a power grab by one spouse, assisted by people who profit from the ensuing litigation: judges, lawyers, psychotherapists, counselors, mediators, and social workers.

The most serious consequences involve children. The first action in a divorce is typically to separate the children from one parent, usually the father. Even if he is innocent of any legal wrongdoing and did not agree to the divorce, the state seizes his children with no burden of proof to justify its action. The burden of proof (and the financial burden) to demonstrate that they should be returned falls on him.

A legally unimpeachable parent can thus be arrested for associating with his own children without government authorization. He can also be arrested through additional judicial directives that apply to no one but him. He can be arrested for domestic violence or child abuse, even without evidence that he has committed any such acts. He can be arrested for not paying child support, even without proof that he actually owes it. He can even be arrested for not paying an attorney or psychotherapist whom he has not hired. In each case there is no formal charge, no jury, no trial. The parent is simply incarcerated.

Our refusal to face the implications of this unique judicial procedure—the only area of the law where the penal system can intervene against a legally unimpeachable citizen—has resulted in serious and widespread violations of the most basic constitutional liberties, a situation that is now openly acknowledged but seldom publicized or discussed. “Your job is not to become concerned about the constitutional rights of the man that you’re violating,” a New Jersey divorce judge instructed his colleagues. “We don’t have to worry about the rights.”<sup>11</sup>

*Divorce  
machinery  
violates  
constitutional  
liberties.*

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<sup>10</sup> Frank Furstenberg and Andrew Cherlin, *Divided Families* (Cambridge: Harvard University Press, 1991), 22.

<sup>11</sup> “Judicial Training: ‘Your Job Is to Be a Wall,’” *New Jersey Law Journal* (24 April 1995), 14.

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To justify this repression, the divorce machinery has directed charges against unconvicted citizens so hideous that few dare question them: family abandonment, child abuse, wife-beating, and nonpayment of “child support.” Virtual hysteria of this kind has been generated by feminists, bar associations, and social-work bureaucracies, whose federal funding is shared with penal officials. The accused almost never sees a jury. He simply loses his children, often permanently, and finds himself abandoned by friends, family members, pastors, parishioners, co-workers, and employers—all terrified to be associated with an alleged “pedophile,” “batterer,” or “deadbeat dad.”

In fact, there is simply no evidence that the family crisis is caused by fathers abandoning their families, beating their wives, and molesting their children. While sensational examples can be found to the contrary, these charges are usually fabrications. Few would deny that divorce proceedings produce trumped-up accusations that are used by divorce courts forcibly to separate parents from their children.

We do not know how many parents are criminalized and incarcerated by the divorce machinery, because the government does not publish figures on this phenomenon as it does on every other form of criminal justice. But large inmate populations are not necessary to establish that no free society can permit repression of this kind. Few go to prison over taxes, but this does not mean that taxation cannot become tyrannical. Going to jail is now the ultimate sanction against parents who resist the government takeover of their families. Most parents sued for divorce are not jailed because in the end they dare not defy the government’s assumption of control over their children and private lives. When served with divorce papers, most parents surrender their children and property.

And this is part of the problem. When we tolerate any tyranny we all become less free. When we acquiesce in tyranny over families and the private recesses of life we invite tyranny that is, in the most basic sense, total. In the case of the present divorce machinery we allow the coercion of the penal apparatus to be commandeered not to punish convicted criminals but to enforce involuntary divorce and keep innocent people away from their children. That we remain silent or give excuses as law-abiding parents are taken away in handcuffs and incarcerated without trial raises seri-



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ous questions about our willingness to defend freedom.

### *The Loss of Civic Virtue*

*Forced divorce  
erodes civic  
virtue.*

This passivity (if not servility) not only is manifested in modern divorce; it also proceeds from it. Forced divorce erodes the civic “virtue” that has been a theme in American political thought since before the founding of the republic: the willingness to sacrifice and fight and if necessary die for freedom.

So-called conservatives have turned America’s loss of civic virtue into a cliché. They preach (in the popular sense of *nag*) that people must be more “virtuous,” less selfish, and more devoted to the public good. These exhortations are empty and deserve only derision so long as they are combined with silence in the face of tyranny. Instead of resisting the government’s takeover of the family, many lament and bemoan “the crisis of the family” as resulting from a decline in “culture” and declare explicitly or implicitly that “there is very little one can do.” Needless to say, the family has been greatly and adversely affected by changes in “the culture,” but that change is no argument for accepting tyrannical intrusion.

The growing confrontation between the family and the state reveals that the relationship between personal morality and freedom is more than a cliché. It illustrates the direct connection between the breakdown of traditional morality and tolerance of governmental intrusion and control.

Sacrifice for others begins in the family. The family is where both parents and children learn to love sacrificially, to put others’ needs before their own desires, and to sacrifice for the wellbeing and protection of the whole. If such responsibility does not begin in one’s own home among loved ones, it is not likely to begin at all. People unwilling to sacrifice for their own flesh and blood are not likely do so for the strangers who constitute their fellow citizens and country.

Linda McClain writes that families are “seedbeds of civic virtue” and “have a place in the project of forming persons into capable, responsible, self-governing citizens.”<sup>12</sup> For the American founding fathers, argues David Forte, “The bridge from reining in

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<sup>12</sup> Linda McClain, *The Place of Families: Fostering Equality, Capacity, and Responsibility* (Cambridge: Harvard University Press, 2006), 3, quoted in Meredith Schultz, “Remember the Ladies: Wives, Mothers, and the Democratic Experience,” Patrick Henry College Senior Thesis (2009), 50.

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‘private passions’ to producing a ‘positive passion for the public good’ was the family’s inculcation of public virtue.”<sup>13</sup>

But we can say more. In the family, children learn to obey and respect authorities other than the state—God, parents, extended family, and others who are not government officials: pastors and priests, teachers, neighbors, coaches, and other figures of civil society. By accepting these authorities, the bonds to which often are reinforced with love, children learn that government is not the sole authority and claim on their allegiance and that it is an institution that can and must be limited.

Defenders of marriage have recently been eager to declare marriage and the family to be “public” institutions. The theme that marriage is the “building block of civil society” has developed logically in response to feminist-homosexual insistence that families are purely private and therefore may be defined according to the whims of individuals. “Marriage always has something to do with creating a public (not private) sexual union between a man and a woman,” writes Maggie Gallagher, “so that socially-valued children have both a mother and a father, and so that society has the next generation it needs.”<sup>14</sup>

This is true in a sense. But marriage uniquely achieves this public function as an extension of its private origins; it mediates between the public and the private, helping to ensure each its proper sphere. In the family children learn to distinguish private from public and to value private life—the private home, the private family, the private property—and defend it from encroachment by public power. Involvement in public affairs begins as an extension of private responsibilities as parents, homeowners, neighbors, parishioners. Citizens participate in public life as *amateurs* (those who “love”) with a stake in their families, homes, communities, and country, not as professional activists with a stake in a government program or abstract ideology. To declare the family a “public” institution in such a way as to subject it to government control is to undermine its basic role and purpose.

*Marriage achieves public function as extension of its private origins.*

Children raised without intact families do not easily absorb concepts such as sacrificial love, family privacy, parental author-

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<sup>13</sup> David F. Forte, “The Framers’ Idea of Marriage and Family,” in *The Meaning of Marriage: Family, State, Market, and Morals*, ed. Robert George and Jean Bethke Elshtain (Dallas: Spence Publishing, 2006), 102.

<sup>14</sup> “(How) Does Marriage Protect Child Well-Being?” in *Meaning of Marriage*, 197.

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ity, limited government, or civic virtue. To begin with, their loyalty to their parents is divided and therefore diluted and morally ambivalent. Further, the rules and values whereby they live come to a large extent from government officials who assume ultimate sovereignty and control over their lives: courts, lawyers, social workers, forensic therapists, public school officials, public health workers, and police. These are the figures children learn to obey as much or more than their parents. Children whose authority figures are government officials cannot distinguish the private from the public and come to see the public sphere as a realm not of civic duty and community leadership but of abstract ideology, government funding, professional employment, career advancement, and state power, in whose growth they themselves acquire a vested interest.

Another aspect of the crumbling of the family should be considered. It is no accident that the traditional family is described as “patriarchal” and that civic virtue has traditionally been associated with “manliness” (as the word “virtue” itself indicates). Masculinity is important both to the family and civic virtue. Neither is it any accident that fathers are the first to be marginalized by family decline.

### *The Real Crisis of Fatherhood*

Enormous attention has been devoted to the predicament of fatherless children. Some twenty-four million American children now grow up without fathers, a phenomenon that is directly linked to every major social pathology of our time, from violent crime to substance abuse. Given that these ills justify almost all domestic government spending, fatherlessness has resulted in a huge expansion of state power. “I oversee 65 different social programs at a cost of nearly \$47 billion dollars each year,” wrote Wade Horn as an undersecretary in the Bush Administration. “Go down the list of these programs—child welfare, child support enforcement, programs for runaway youth, anti-poverty programs—the need for each of these programs is either created or exacerbated by the breakup of families and marriages.”<sup>15</sup>

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<sup>15</sup> Testimony of Wade F. Horn, Ph.D., assistant secretary for Children and Families, Department of Health and Human Services, before the Committee on Health, Education, Labor and Pensions Subcommittee on Children and Families, U.S. Senate, April 28, 2004.

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The standard explanation (from both the right and the left) is that fathers are abandoning their children. It appears that one could hardly point to a more unmanly abdication of virtue. Accordingly, the Clinton administration sought—and now the Obama administration seeks—to promote virtue with federal programs therapeutically encouraging “responsible fatherhood” and urging men to practice “good fathering.” The Bush administration relabeled these programs and sought to encourage both men and women to marry. But the result has been essentially the same. By exhorting people to virtuous behavior while ignoring a legal regime that produces or aggravates family dissolution, both Democrats and Republicans came across as simply lamenting and bemoaning, or as preaching and nagging, while spending huge amounts of taxpayers’ money. In the absence of undertaking major reform, moralistic calls for “virtue” and “responsibility” merely exhibit vapid self-righteousness.

*State's role  
in forcing  
fathers from  
homes largely  
ignored by  
both political  
parties.*

Government-sponsored psychotherapy is ill-suited to creating virtue, because it fosters no sacrifice (except from taxpayers). In addition, government funding gives officials an incentive to perpetuate the problems they are ostensibly trying to solve. It is not surprising that these programs have done little to improve either fatherhood or marriage but have exacerbated the breakdown of both.<sup>16</sup>

One leader in the “responsible fatherhood” movement rightly connects fatherhood with citizenship. “Fathers can be a powerful influence in making better citizens,” writes Don Eberly of the National Fatherhood Initiative. “A democracy requires of its citizens . . . that they possess enough faith, energy, imagination, and self-control to work actively together to solve common problems . . . and if necessary to sacrifice for their own future well-being and the nation’s. Fathers play a key role in developing and sustaining the kind of personal character on which democracy depends.”<sup>17</sup>

Why fathers specifically? While families require sacrifice from all members, it is fathers whose type of sacrifice most readily extends beyond the members of that group. As a man loves and is willing to sacrifice and, if necessary, die for his family, so is he

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<sup>16</sup> Stephen Baskerville, “Is There Really a Fatherhood Crisis?” *The Independent Review*, vol. 8, no. 4 (Spring 2004), 503-504.

<sup>17</sup> Don Eberly, “No Democracy Without Dads,” in Wade Horn, et al. (eds.), *The Fatherhood Movement* (Lanham, MD: Lexington, 1999), 25.

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willing to sacrifice and die for the strangers who are his compatriots. Fathers need to protect us not only from danger but tyranny, specifically, a tyranny that is striking directly at their capacity to function as fathers.

Children deprived of their fathers by state officials lose more than a parent. They lose the parent who more than the other spouse connects them with the civic order. The family also loses its connection with the preservation of freedom to which Chesterton pointed. When fathers protect and provide for their families, they will resist the state's efforts to usurp those roles. Under their leadership, families are a force for limiting state power.

*In the absence of fathers, the state protects and provides—and demands obedience.*

The single mother, by contrast, is ordinarily not predisposed to resist the state's encroachment into her family. On the contrary, she usually demands it. She is our society's principal claimant on a vast array of state "services" without which she cannot manage her children: services to keep the father away and extract money from him, services to feed and house and clothe the children, to baby-sit them, to educate them, and to control their misbehavior and criminality. As the state usurps the roles of protector and provider and disciplinarian, it becomes husband and father, and it has no incentive to limit its own power. Henceforth the state protects and provides. And the state demands obedience.

This development is central to any explanation for the evolution of modern politics. Extending its ancient and primary role of external defense, the state long ago began protecting us internally with police, which began locally. But in America and elsewhere police protection eventually proliferated nationally. Soon thereafter there came the regulatory state, increasingly exercising a kind of police function and offering "protection" for workers, consumers, investors, or the environment. Meanwhile, the government began providing for us through the welfare state, which also expanded its police functions. Swelling cadres of social workers acted as plainclothes police for purposes such as child "protection" or child support enforcement. One need not disapprove of every particular instance of this great expansion of state power to recognize that it has profoundly altered the roles of the family and its individual members.

The mentioned substitutes for paternal authority brought massive and bloated bureaucracies, fulfilling Tocqueville's prophecy that democracy would lead to increasingly bureaucratic intru-

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sion into private life. "The state has . . . made itself almost the sole reliever of all miseries," he wrote in 1840. "Public administration has become not only more centralized but more inquisitive and detailed; everywhere it penetrates further into private affairs than formerly; in its manner it regulates more actions, and smaller actions, and it establishes itself more every day beside, around, and above each individual to assist him, counsel him, and constrain him."<sup>18</sup> These bureaucracies expand in part by creating problems that they will then also need to solve. They create new "crimes," increasingly "white collar" crimes which are not violent, crimes which most people (including juries) cannot understand, crimes that require specialized professional "experts" to adjudicate, crimes that are safe for female police.

As politics becomes more feminized or "gendered," these new crimes begin to resemble those mentioned earlier that can be committed only by men and fathers. Government's takeover of family functions is ironically justified by fathers' lack of civic virtue. The larger problem is a vicious cycle whereby the state, by undermining the family, erodes perhaps the main source of virtue.

Fathers whose children are confiscated by divorce courts do not heroically try to rescue them or mount organized opposition to the divorce machinery, because the enervating power of the bureaucratic behemoth makes resistance seem pointless. Fathers are thus politically neutered and, as a result, often despised by their own children and the rest of us. The children learn to serve and obey the state as the substitute and effective father.

*Fathers  
politically  
neutered.*

And, along with fathers, the rest of us are also neutered and reduced to servility. Innocent citizens are daily being rounded up by the vanload and incarcerated without trial or charge or any due process protections. Meanwhile, others passively await their turn as government operatives are ignored or encouraged by spokesmen of the left, center, and right.

### *Undermining American Ideals*

Forty years of not merely easy but *involuntary* divorce have acculturated us not only to immorality but also to tyranny. That most people do not readily see the tyranny in what has been described (until government takes control of their own children, property,

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<sup>18</sup> *Democracy in America*, ed. Harvey Mansfield and Delba Winthrop (Chicago: University of Chicago Press, 2000), 652-653.

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and freedom) may be the most alarming observation of all. “Before my own experience, my tendency was to look down condescendingly on divorced people and, for the most part, blame the men,” writes one correspondent to a national magazine. “My attitude, of course, changed drastically when it happened to me.”<sup>19</sup> Government agents routinely seize control of the children, property, and movement of vast numbers of citizens who have committed no crime, and we acquiesce because our culture has made what is happening appear commonplace: “divorce,” “custody battle,” and “division of property.” Euphemisms conceal a stark and shocking reality.

*The divorce regime undermines virtue and freedom.*

The logic underlying the divorce regime undermines both virtue and freedom because it teaches principles of immorality and tyranny to children, the next generation of citizens. Here the otherwise hackneyed theme of republican political thought, that morality and freedom are connected, is vividly vindicated. Fidelity to agreements and one’s word is disdained because divorce allows us to break them at whim. Under the divorce regime the authority of fathers and parents generally is fragile, because court orders can readily be obtained to undermine or countermand it. Family wealth—traditionally used by fathers to obtain obedience from children and put limits on government—is increasingly useless for both purposes, because it can be simply confiscated by the court and handed to whomever the court chooses: the wife or children or lawyers or government. Children need not learn responsibility with money, because the government hands it to them unconditionally after confiscating it from their fathers. Differences within the family are settled, not by negotiation or compromise or intervention by relatives or church, but by government orders.

The effects described illustrate in the concrete an important part of the meaning of the breakdown of “values,” about which we so often hear in the abstract. If the parents of children of divorce are not replaced by government officials altogether, parental authority is at least replaced by government directive. Many children today believe that this is normal and that the state is potentially their parent. They grow up thinking that it is normal for government officials to direct their family life, to separate them from their parents, to require one or both parents to stay away from them without proving any guilt, to order their parents about as if

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<sup>19</sup> *Touchstone*, April 2009, 8.

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they themselves were naughty children, to employ handcuffs and jails to ensure that their parents comply with orders to which no conscientious parent will ever willingly agree, to overrule parental authority and decision-making and allow children and adolescents to defy their parents' wishes, to force their parents to pay the government money they have done nothing to owe, to supervise the spending and redistribution of family wealth.

The foregoing and much more is a large part of the reality of divorce in America today. It is causing more than social chaos; it is undermining our republic and our freedom and our will to have either one. That virtue might be lost was for those who founded the American republic the greatest fear. They did not dwell on this fear in relation to the family, because no one was then threatening the family. They took it for granted. "The reason why the founders 'ignored' the family was that it was not an issue for them."<sup>20</sup>

Where the issue of the family's effect on virtue did gain considerable attention early in our republic's history was in the context of slavery, a system of household tyranny that many regarded as undermining both private family manners and public virtue, in both slave and master. "There must doubtless be an unhappy influence on the manners of our people produced by the existence of slavery among us," Thomas Jefferson argued. "The whole commerce between master and slave is a perpetual exercise of the most boisterous passions, the most unremitting despotism on the one part, and degrading submissions on the other." But most pernicious in Jefferson's view was its impact on the children: "Our children see this, and learn to imitate it. . . . If a parent could find no motive either in his philanthropy or his self-love for restraining the intemperance of passion towards his slave, it should always be a sufficient one that his child is present."<sup>21</sup>

Politically, the most powerful argument against slavery was not its physical cruelty but its moral degeneracy: the tyrannical habits it encouraged in the slaveholder, the servile ones it fostered in the slave, and the moral degradation it engendered in both. Such dispositions were considered incompatible with the republican virtue required for free self-government. And again, the impact was viewed as especially detrimental to children. "Their hearts, while yet tender with childhood, are necessarily hardened by this con-

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<sup>20</sup> Forte, "The Framers' Idea of Marriage and Family," 102.

<sup>21</sup> *Notes on the State of Virginia*, chap. 18.



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duct, and their subsequent lives perhaps bear enduring testimony to this legalized uncharitableness," warned abolitionist Charles Sumner. "They are unable to eradicate it from their natures. . . . Their characters are debased, and they become less fit for the magnanimous duties of a good citizen."<sup>22</sup> Something similar is happening today in the children of divorce. No people can remain free who harbor a system of tyranny or raise their children according to its principles.

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<sup>22</sup> John L. Thomas (ed.), *Slavery Attacked: The Abolitionist Crusade* (Englewood Cliffs, NJ: Prentice-Hall, 1965), 124.