CHILD, FAMILY, (RELIGION,) AND STATE IN RELIGIOUS STANCES ON HUMAN RIGHTS INSTRUMENTS: A PRELIMINARY LOOK

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We have seen the best of human rights protections inscribed on the books, but some of the worst of human rights violations inflicted on the ground . . . . We have witnessed the wisest of democratic statecraft and the most foolish of autocratic belligerence . . . .

Such . . . paradoxes have exposed the limitations of a secular human rights paradigm standing alone. . . . [They] underscore an elementary but essential point that human rights norms need a human rights culture to be effective. . . . Religions must thus be seen as indispensable allies in the modern struggle for human rights. To exclude them from the struggle is impossible, indeed catastrophic. To include them, by enlisting their unique resources and protecting their unique rights, is vital to enhancing the regime of human rights and to easing some of the worst paradoxes that currently exist.

– John Witte, Jr. 2

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[T]he UN Convention on the Rights of the Child, taken as a whole, is not . . . the best instrument for developing public policy that would protect children. Its strength is its provisions for shielding children from clearly named and agreed upon abuses. But these provisions are embedded in a framework of individual rights used to legitimate a kind and degree of state interference with the family which could seriously undermine the strength of marriages and families so essential to the true well-being of children. They also could make it very difficult for parents to pursue the spiritual purposes of these institutions as they are understood from a Christian perspective.

– Terence B. Anderson

**Introduction**

The ungainly title of this working paper conjures an impossibly broad topic: how do religious stances on the relative positioning of child, family, and state inform religious support for, or opposition to, human rights instruments bearing on children and the family? By adding “religion” to this trilogy, albeit in parenthesis, I make the papers concerns even broader. Thus, my subtitle, “a preliminary look,” signals that what follows will not be exhaustive, but exploratory; a selective sampling, rather than a systematic survey, of the set of relationships and regulatory questions implicit in the formulation, “child, family, (religion,) and state.”

The opening epigraphs intimate the concerns of the paper. Pointing to the paradox of, on the one hand, impressive declarations – on paper – of human rights and, on the other, gross violation – in actual societies – of human rights, legal scholar John Witte, Jr. argues for the need to enlist the unique resources of religion to ground human rights in a human rights culture. Although his specific focus concerns human rights to religious freedom, his point is readily

extended to human rights concerning the child and the family. On the one hand, the United Nations’ 1989 Convention on the Rights of the Child (“Convention”), the most comprehensive international document bearing on children, seems to reflect an advance in international human rights formulations and to have generated “an unprecedented degree of formal commitment on the part of governments,” as evidenced by its quick and virtually universal ratification (with the notorious exception of the United States).4 Using it as a benchmark, the UN continues to sponsor summits on children and issue declarations and plans of actions aimed at creating, as one such document puts it, “A World Fit for Children.”5 On the other hand, the press release announcing UNICEF’s 10th annual report, The State of the World’s Children 2005: Children Under Threat, declared that, “[d]espite the near universal embrace of standards for protecting children,” “more than half of the world’s children are suffering extreme deprivations from


5 Information on these sessions and on the document emanating from the May 2002 Special Session, A World Fit for Children, is available at www.unicef.org/specialsession/wffc (visited March 21, 2005).
poverty, war and HIV/AIDS, conditions that are effectively denying children a childhood and holding back the development of nations.”\textsuperscript{6} Clearly, a gap remains between such universal standards and the actual lives of many children.

Is the lack of a rights culture supporting children’s rights the problem? If enlisting religion as a resource would close this gap between rhetorical declarations and children’s lives, then the second epigraph suggests a stumbling block: human rights declarations, particularly concerning children, may seem to threaten, rather than to reinforce religious conceptions of family and parental rights and responsibilities. Although Christian ethics scholar Terence Anderson draws these conclusions with specific reference to Christian conceptions of family, he generalizes his point: the human rights framework, inspired by liberal conceptions of the primacy of the individual, of choice, and of self-development, clashes starkly with conceptions of organic communities of mutual obligations, found in various religions, and creates adversarial relationships within the family. In addition, the Convention’s “sanction of a high degree of state authority over families” poses a threat not only to the religious freedom of Christians, but to “those of other faiths who believe that to be a community transmitting a particular way of life is central to their calling.”\textsuperscript{7}

Anderson’s critique of the Convention contains a sentiment expressed, in far more


\textsuperscript{7}Anderson, \emph{supra} note *, at 49-50.
polemical form, by various socially conservative religious organizations in the United States that attack the Convention as well as another human rights instrument, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), as threatening parental, cultural, religious, and national sovereignty. Those polemics are the subject of this paper.

Human rights instruments express stances about the relative positioning of child, family, and state, as well as the place of religious and cultural institutions in shaping and supporting children and families. How do religious organizations regard such human rights instruments? Are religious conceptions of child, family, and state congruent with or in conflict with conceptions of human rights and correlative responsibilities bearing on children and families? The answers are as multiple as there are religious denominations and coalitions. Thus, an adequate answer would require a large survey of a range of religious organizations, ranging from the most conservative Christian groups to more moderate to liberal and progressive, as well as to include groups representing other religions.

As a first step in that larger project, this draft focuses on views elaborated by several conservative Christian groups who strongly oppose the human rights project as manifested in the Convention and CEDAW. In particular, I look at Concerned Women for America (CWA) and the Family Research Council (FRC), two conservative religious organizations viewed included

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8 For example, see the essays about different religious traditions collected in Religious Dimensions of Child and Family Life, supra note *; see also M. Christian Green and Paul D. Numrich, Religious Perspectives on Sexuality: A Resource Guide (Park Ridge Center for the Study of Health, Faith, and Ethics, 2001).
as among those several “key” conservative groups contributing both to the “moral values” movement and to President Bush’s re-election.\(^9\) I also analyze the recent document, “The Natural Family: A Manifesto,” co-authored by Dr. Allan Carlson of the Howard Center for Family, Religion & Society (and also affiliated with the FRC) and Paul T. Mero, of the Sutherland Institute, and endorsed by CWA, FRC, and a number of conservative religious organizations.\(^10\) Then, I look at the influential conservative think tank, the Heritage Foundation. Its mission does not expressly refer to bringing religious principles to bear on public policy, but its conception of the “traditional American values” it promotes clearly includes a prominent place for religion.

These groups oppose the UN Convention, CEDAW, and related human rights instruments. CWA and FRC, in particular, engage in continual lobbying efforts, as NGO’s, to counter what they view as the “anti-family” agenda of other NGOs and the United Nations bureaucracy. (This perception by conservative religious groups that the UN and many NGO’s are anti-family and anti-religion is part of what some have identified as “the conservative and progressive divide” between religious groups at the UN.\(^11\)) I will attempt to assess the extent to

\(^9\)For this characterization, see Cochran, *supra* note *, at 2685.


\(^11\)For an informative discussion of the “conservative and progressive” divide between
which such groups’ objections appeal to religious and theological conceptions of child, family, and state. As the link such groups often make between the Convention and CEDAW illustrates, the place of men and women within families and society – and a conviction that gender equality (and androgyny) undermines families – is also an indispensable element of both their critical and normative projects.

As a placeholder for what will eventually be a broader sampling of groups, I include a preliminary discussion of policy stances on children’s human rights and on child, family, and state taken by the National Conference of Catholic Bishops and the National Council of Churches. The Conference is difficult to characterize in simple conservative/liberal or right/left terms because it combines Catholicism’s socially conservative stances on issues like marriage, contraception, and abortion with its more progressive emphasis upon social justice and public responsibility for the poor and vulnerable. More unqualifiedly liberal is the National Council of the Churches of Christ in the U.S.A. (NCC). NCC offers an important example of a religious stance that accepts children’s rights and affirmatively values family diversity.

religious nongovernmental organizations at the UN, see Religion and Public Policy at the UN (A Religion Counts Report, 2002).
One inspiration for this paper was a statement made to the United Nations, on the occasion of the tenth anniversary of the International Year of the Family, by Wade F. Horn, Assistant Secretary for Children and Families, United States Department of Health and Human Services. Horn set out to explain “how Americans view the role of the state in relationship to the family and how these principles guide family policy in the United States.”

Strikingly, even though the United States remains an outlier in not ratifying the major instrument concerning the rights of children, the UN Convention on the Rights of the Child, Horn invoked other, earlier UN human rights instruments on the foundational and fundamental place of the family in all human societies and on the state’s responsibility to support the family.

As I examined writings by conservative religious groups opposing the Convention, I found a similar stance: such groups invoke the UN Universal Declaration of Human Right’s provision (Article 16 (1)) that “The family is the natural and fundamental group unit of society and is entitled to protection by society and the State” as a benchmark by which to critique the Convention and other subsequent human rights efforts deemed to be hostile to the “natural family.” For such organizations, the “natural family” is a rallying cry, as illustrated by the recent, apocalyptic call to action, “The Natural Family: A Manifesto.”

**Backdrop: The 2004 Election and the Place of Religion in the Public Square**

A second source of inspiration for this paper was Martha Fineman’s challenge to

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feminists and progressives, in the wake of the 2004 election, to take religion and religious perspectives more seriously and to seek to engage and understand religiously-based claims about family and family values. A series of media analyses, following the November 2004, contended both that the “religious right” (referring to Christian conservatives) played a key role in securing that victory and that the religious right now expects to play a large role in setting the agenda for Bush’s second term, including the foreign policy agenda. Familiar “pro-family” or “moral values” agenda items include restricting abortion and stem cell research and defending marriage by passing a constitutional amendment to ban same-sex marriage. (For example, these issues appeared in the “Protecting Our Families” plank of the Republican Platform, along with “healthy marriage” promotion as welfare policy, abstinence-only education, and other items.) In addition, as one recent cover story in *Time* magazine observed, the expansion of the religious right’s agenda into human rights issues abroad (such as global AIDS funding and legislation against sex

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13 Martha Albertson Fineman, lecture given at CUNY Graduate Center, November 10, 2004, in The Public Square Fall 2004 Series.


trafficking) “creates new possibilities for influencing the Administration’s foreign policy.”16

But some analysts also caution that, notwithstanding claims made by evangelical Christians, Bush’s victory grew in part from a strategy of cultivating a broader “faith coalition” including social conservatives from diverse religious groups, including Catholics, Orthodox Jews, Hispanic evangelicals and Catholics, Mormons, and (far less successfully) African Americans, who feel that popular culture trivializes religion and who tend to hold traditional views on sexuality.17 An intriguing parallel may be found in calls for, as the Manifesto puts it, a “great civil alliance of religious orthodoxies” within and among nations to defend the family.18

No doubt, analyses of the precise impact of religious belief and convictions about moral values played in the 2004 election will continue. For example, the Pew Forum on Religion & Public Life has identified a growing “faith-based partisan divide” between Republicans and Democrats.19 It confirmed that “[w]hite Evangelicals are by far the most important component of the GOP coalition,” but also found that the divide stems not from religious denomination as such, ____________________

16 Tumulty and Cooper, supra note *.


18 See infra __ for discussion.

but religious outlook and frequency of attending worship services. That is, “church attendance tied with race as the single most important influence in 2004,” more important than gender, age, income, and region, and even more important than in 2000. To be sure, “people of faith” make up the bulk of the membership of both parties. But “Americans who regularly attend worship services and hold traditional religious views increasingly vote Republican, while those who are less connected to religious institutions and more secular in their outlook tend to vote Democratic.”

The Report attributes the cause of this “new church attendance gap” to “the mix of social and cultural issues that have come to the fore in the modern era,” that is, “so-called moral issues” such as prayer in school, abortion, homosexuality, and gay marriage “have tended to push the religiously observant into one corner and the more secular into the other.” However, the Report also notes that these differences are “amplified and exacerbated” by a “more general division over the popular culture” -- more religiously observant Americans “decry” the “morally decadent influence” of various forms of popular entertainment and view Hollywood as hostile to religion.

An intriguing aspect of attention in the media to questions of values is the inclusion of reports of religious leaders questioning the conflation of talk of “moral values” and “values voters” with issues abortion and same-sex marriage and calling for a broader definition of moral

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20 Id., at 2. However, although African Americans generally “hold traditionalist religious views,” they still identify strongly with the Democratic party “by a margin of more than seven to one, and in 2004 supported Kerry by nearly nine to one.” Id. at 4.

21 Id., at 5.
values to include such matters as poverty (particularly child poverty), racial injustice, human rights, and the environment. Not only have more liberal religious groups, such as the National Council of Churches, made such appeals. Just before the election, the National Association of Evangelicals issued a paper, “For the Health of the Nation: A Civic Call to Civic Responsibility,” calling for Christian civic engagement that includes not only working “to nurture family life and protect children” (here affirming marriage and condemning abortion), but also on such issues as seeking economic justice, protecting human rights, seeking peace, and conserving the environment. Reportedly, Democratic leaders have met with Jim Wallis, a left-leaning evangelical Protestant and author of God’s Politics: Why the Right Gets it Wrong and the Left Doesn’t Get It, in hopes of better communicating about faith and values and countering an image of being overly secular. As Democratic party leaders look for ways to “recapture the values debate,” a number of religious leaders and religious congregations are also exploring how to develop a broader “faith-based agenda” that would relate their faith to a broader range of political

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23 “For the Health of the Nation: A Civic Call to Civic Responsibility,” available at

issues.\textsuperscript{25}

Examining religious stances about child, family, religion, and state brings into consideration questions about the place of families in the moral, social, and political order. It also draws attention to the place of religion in shaping families and the political order. Notably, poll data suggests increasing acceptance of “religion in the public square”: although “church and state should keep a healthy distance,” religion “should have a substantial presence in American public life.”\textsuperscript{26} As I will now demonstrate, all of the religious organizations examined in this paper – conservative as well as liberal – seek to bring religious ideals to bear on public policy concerning families.\textsuperscript{27}

The Core Mission of “Pro-Family” Conservative Organizations:

Defending the “Natural Family” Against “Anti-Family” Agendas

Certain themes recur in conservative Christian organizations’ opposition to human rights


\textsuperscript{26}\textit{Religion & Public Life}, 9.

\textsuperscript{27}For a recent essay on the appropriateness of bringing religiously grounded morality to bear on public policy, see Michael J. Perry, Why Religion In Politics Does Not Violate La Conception Americaine de La Lacite, (Emory University School of Law, Public Law & Legal Theory Research Paper Series, Research Paper No. 05-01).
instruments bearing on the family. First, such organizations generally distinguish between the good intentions and sound principles of the Universal Declaration of Human Rights of 1948 and the dangerous social engineering manifest in later human rights instruments, such as the Convention and CEDAW. Indeed, in their mission of defending the “natural family,” they frequently quote from Article 16 (2) of the Declaration: “The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.” They approvingly refer to the Declaration’s inclusion of “the right to marry and to found a family” (Article 16 (1)). With respect to the rights of parents, they invoke the Declaration’s statement that “Motherhood and childhood are entitled to special care and assistance” (Article 25) and its recognition of the right of parents to “choose the kind of education that shall be given to their children.” (Article 26 (3)). Sometimes they assert an evident tension between the “anti-family”

Articles of the Convention and its more “pro-family” Preamble (i.e., it echoes the Universal Declaration in affirming the family as “the fundamental group of society,” and states that the family “should be afforded the necessary protection and assistance” so that it can “fully assume its responsibilities” as the “natural environment for the growth and well-being of all its members and particularly children”).

From that sound beginning, they contend, the human rights project has gone astray and now threatens to undermine the “natural family.” How so? One threat is the movement away from speaking about marriage and “the family” to “families.” This opens the door to legitimizing nonmarital families and homosexual relationships. A second threat is the Convention’s assignment of rights to children, which usurps parental authority and enlists the state – and UN bureaucrats – as children’s protector against parents. Particularly objectionable are rights of children to express views in matters affecting them, right to religious and other expression, rights to association, and rights to health services. Will children, they ask, be able to sue their parents if they can not visit internet chat rooms or porn sites? Will 10-year old girls be free to get abortions without consulting their parents? Moreover, the term “best interests of the child,” frequently used in the Convention, may be interpreted not as parents wish it to be but in keeping with the radical agenda that animates UN bureaucrats, thus threatening family integrity and autonomy.

A third threat relates to sex equality: human rights instruments – especially as implemented by UN Committees – undermine the natural family by denying basic differences between women and men and calling for redressing gender discrimination, for “gender

\[ \text{supra note} * \]
mainstreaming,” and for eliminating gender stereotypes. This reduction of gender difference to stereotype and discrimination, they contend, undermines motherhood, in particular, full-time, stay-at-home motherhood as a noble vocation, and threatens the traditional division of labor in the home. So, too, do UN calls for governments to enable women to balance work and family responsibilities. Conservative organizations also critique calls for educating children in ways that avoid gender stereotypes.

To the extent that convictions about gender difference are rooted in cultural and religious traditions, conservative groups contend, these human rights instruments also threaten to trample such traditions in the name of gender equality. This “anti-family” agenda leads to a world in which mothers are compelled to work and to leave their children in professional day care centers. In this world, nations are reprimanded for, on the one hand, for celebrating Mother’s Day and, on the other, for not giving full employment benefits and protections to prostitutes. Indeed, this juxtaposition of condemning Mother’s Day while condoning prostitution is a favorite example in conservative writings.30

30See, e.g., Wright, CEDAW Committee Rulings, Aug. 27, 2002, available at www.cwfa.org (visited Feb. 23, 2005) (reporting that the CEDAW Committee criticized Belarus “for continuing prevalence of sex-role stereotypes, as also exemplified by the reintroduction of such symbols as a Mother’s Day and a Mother’s Award, which [the Committee] sees as encouraging women’s traditional roles” and that the Committee criticized Germany that “although they are legally obliged to pay taxes, prostitutes still do not enjoy the protection of labour and social law.”
This relates to a fourth objection: these UN treaties remove authority and responsibility, that is, sovereignty, from nations and from parents and put control over the family in the hands of UN “experts” who monitor compliance with these treaties. Thus, conservative groups compile parades of horribles illustrating the threat to the traditional family and to national sovereignty.

A fifth objection is that “anti-family” NGOs use the vehicle of treaty ratification and implementation as a way of forcing on particular nations a radical feminist form of social engineering – indeed, a cultural colonialism – that would never succeed if forced to go through the normal democratic process. As human rights scholar Catharine Powell observes, although the United States’s failure to ratify CEDAW is often justified in terms of arguments about U.S. constitutionalism and federalism, another ground for objection is culture. Conservative groups like CWA and the Heritage Foundation, as well as by some conservative legislators, contend that CEDAW will interfere with the United States’s right to cultural self-determination and is a form of cultural colonialism.31

These several objections commonly surface in writings by conservative religious organizations warning of the “anti-family” agenda promoted under the guise of UN human rights instruments. But it bears noting that some of these objections could be raised – and have been raised – to the Convention without explicitly grounding them in a religious framework. The

31Catherine Powell, “Behind the Veil of Ignorance: Toward a Culturally Conscious Account of Human Rights for Women in Post-September 11 America” (discussing testimony in Congress by CWA and position paper by Heritage Foundation) (unpublished manuscript on file with author).
Convention’s project (as the Preamble states) of ensuring children the “special care and assistance” appropriate to children through the vehicle of rights raises a host of challenging questions, which I will not attempt to take up here.\textsuperscript{32} Suffice it to say that its model of divided sovereignty, that is, its allocation of rights to children \textit{and parents} and of authority and responsibility to secure children’s well-being and respect their rights to parents \textit{and the state} creates a complicated triangle of relationships among child, family (that is, parents and guardians), and state. And the difficult project of calibrating children’s rights to, as the Convention puts it, their “evolving capacities” only increases the potential for conflict. When this triangle becomes a rectangle by adding the dimension of UN responsibility for monitoring and encouraging compliance, then the questions of sovereignty and jurisdiction only multiply.\textsuperscript{33}

My point here is that some conceptual challenges posed by the idea of children’s rights should be familiar from United States constitutional jurisprudence about the existence of and limits to such rights and how they coexist both with the dual sovereignty of parental rights and responsibility and state authority with respect to children. On one view of this jurisprudence, if

\textsuperscript{32}For example, many of the rights of the child included in the Convention replicate or modify rights of the person included in the UN Universal Declaration of Human Rights. In what ways to children’s rights raise issues that “rights of the person” do not? For an instructive collection of essays about children’s rights, inspired by the Convention, see Alston and Parker, \textit{supra} note *.

the U.S. ratified the Convention, it would violate parental liberty: granting children rights that the state should protect and using such ambiguous, or capacious terms as best interests of the child and well-being opens the door both to empowering children to reject the exercise of parental authority and to inject the state’s view of the child’s best interest into the family.\textsuperscript{34} Moreover, just as communitarian scholars associate the emergence of autonomy, as an animating theme in U.S. family law, with a regrettable decline in a sense of family bonds and belonging, so they similarly critique the rights-based focus of the Convention for, as Bruce and Jonathan Hafen put it, “abandoning children to their autonomy.”\textsuperscript{35}

Religiously-based objections, as Anderson’s comments suggest, share these concerns about disaggregating the family into individuals. But they also focus on the special place of the family as a vital site of cultural and religious transmission and on the dangers of paternalistic state intervention, especially when bureaucrats have a different conception of child well-being than religious parents. For example, Anderson invokes as a cautionary tale earlier paternalistic, bureaucratic “child saving” efforts in the U.S.\textsuperscript{36} Similarly, Don Browning has spoken of the

\textsuperscript{34}Another basis for opposition is the Convention’s recognition of positive rights. For discussion, see id.


\textsuperscript{36}Anderson, \emph{supra} note *, (relying upon Christopher Lasch, \emph{Hillary Clinton, Child Saver}, Harper’s Magazine, 74 (Oct. 1992)).
threat to the family posed by the rise of “bureaucratic rationality,” or the state taking on more and more functions that used to be fulfilled by families and other institutions of civil society. This development conflicts with the Roman Catholic principle of “subsidiarity,” under which parents naturally take an interest in their children and should have primary responsibility for them; the state should assist, rather than replace, the family. Yet, in contrast to Anderson, he detects “subsidiarity” at work in the Convention in its recognition of the priority of parental and family rights with respect to rearing and socializing children and guiding their moral development.³⁷ He offers as an example, Article 5, which declares that “States Parties shall respect the responsibilities, rights and duties of parents . . . to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.”³⁸ However, critics of the Convention would quickly point out the parents’ role is with respect to “rights” of the child as set forth in the Convention, thus superimposing into family life an external view of what is best for children.

Some version of the subsidiarity argument features in conservative religious defenses of the “natural family.” Indeed, animating the so-called “new Christian right” is a perspective of “familism,” or the conviction that “throughout human history, the family has been the fundamental component of a civilized society,” and that, indeed “the traditional family is a design

³⁷ Id.

³⁸ Id. at 218-19.
ordained by God.” The historical roots of this familism in America are evident in the use of religious metaphors to describe the home, for example, as a church, a little congregation, a temple. (Thus, just as marriage and the family have served as powerful metaphors for democratic self-government, they have also served as a religious symbol.) On some versions of such familism (for example, “The Natural Family: A Manifesto”), families are the true, primary locus of sovereignty and the state exists for the sake of protecting families.

I now look at CWA, FRC, and the Heritage Foundation. For each organization, I ask about its critiques of children’s (and women’s) rights and affirmative vision of child, family, and state. What sort of vision flows from the defense of “the natural family”? To what extent does this vision have explicitly religious, or theological, foundations? Do religious ideas of parental rights and responsibilities animate such vision?

**Concerned Women for America**

The organization Concerned Women for America describes itself as “the nation’s largest public policy women’s organization with a rich 25-year history of helping our members across the


40 Id.


country bring Biblical principles into all levels of public policy.” CWA’s mission is “to protect and promote Biblical values among all citizens – first through prayer, then education, and finally by influencing our society – thereby reversing the decline in moral values in our nation.” Its “vision statement” refers to helping “women and like-minded men” come together to “restore the family to its traditional purpose and . . . allow each member of the family to realize their God-given potential and be more responsible citizens.”

_A Religious Vision of Child, Family, and State?

“Definition of the Family” is listed first among the six “core issues” that CWA has determined “need Biblical principles most,” and which reflect, at their root, “a battle over worldviews.” CWA’s web site declares: “CWA believes that the traditional family consists of one man and one woman joined in marriage, along with any children they may have. We seek to protect traditional values that support the Biblical design of the family.” A number of its other issues bear on the family, for example, “Education” (“CWA seeks to reform public education by returning authority to parents.”) and “Sanctity of Human Life” (“CWA supports the protection of all life from conception until natural death. This includes the consequences resulting from

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43 This statements and others quoted in text are from “About CWA,” available at www.cwfa.org/about.asp (visited Feb. 23, 2005).

44 Id.; “Our Core Issues,” available at www.cwfa.org/coreissues.asp (visited Feb. 23, 2005);

45 This and other quotes from text appear in “Our Core Issues.”
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abortion.”) In addition, the core issue of “National Sovereignty” implicates family. CWA believes that “neither the United Nations nor any other international organization should have authority over the United States in any area, including economics, social policy, military, and land ownership.” Both concerns over family definition and national (and parental) sovereignty drive CWA’s active opposition, as an NGO at various United Nations events, to the Convention and CEDAW and its ongoing efforts to defend the “traditional family.” (CWA leaders, for example, have been among delegations appointed by President George W. Bush to attend important UN summits pertaining to children, family, and women’s rights.)

Which Biblical principles guide CWA’s mission? What is the “Biblical design of the family”? Strikingly, the Bible verses linked, on CWA’s web site, to “Biblical principles” do not concern family and family governance, but are about salvation and the role of Jesus in taking punishment for persons’ sins. The website explains that all are sinners and “deserve punishment in Hell,” but that people can “call on the Lord.”

The link on CWA’s website for “Definition of the Family” yields a listing of hundreds of writings. The prevalence among them of opposition to same-sex marriage, often invoking the Bible, indicates that a central aspect of the “Biblical design” of the family is that connotes marriage between one man and one woman. For example, “Don’t Mess With Marriage” begins: “It’s a simple truth that marriage is only between a man and a woman. Webster’s Dictionary

agrees. So does Nature. So does the Bible.\textsuperscript{47} To recognize same-sex marriage would “discard the basic design of a male and a female in marriage.”\textsuperscript{48} Other writings discuss marriage as “the natural family,” the union of “the only type of couple capable of natural reproduction of the human race – a man and a woman.” Marriage is society’s way of giving children both the mother and father they need and for government to create any other (“counterfeit”) form of marriage is to tamper, at society’s peril, with “civilization’s primary institution.”\textsuperscript{49}

These assertions about marriage do not add up to a robust theology of marriage or parenting. If inclusion on its web site signals a form of endorsement, then CWA implicitly offers a theological statement in including, under “The Definition of Marriage,” the document, “A Christian Declaration on Marriage” (authored by the Chair of the Committee on Marriage and Family Life of the National Conference of Catholic Bishops).\textsuperscript{50} This “Declaration” describes marriage as “God’s first institution,” and states that “God has established the married state, in the order of creation and redemption, for spouses to grow in love of one another and for the


\textsuperscript{48}Id.


procreation, nurture, formation, and education of children.” Citing to scriptures, the Declaration views marriage as manifesting God’s Kingdom on earth:

In marriage many principles of the Kingdom of God are manifested. The interdependence of healthy Christian community is clearly exemplified in loving one another (John 13:34), forgiving one another (Ephesians 4:32), confessing to one another (James 5:16), and submitting to one another (Ephesians 5:21). These principles find unique fulfillment in marriage. Marriage is God’s gift, a living image of the union between Christ and His Church . . . .

By our commitment to marriage as instituted by God, the nature of His Kingdom will be more clearly revealed in our homes, our churches, and our culture.51

This Declaration illustrates the centrality, in Christian thought about marriage and family, of the ideas of creation and redemption, as well as gift.52 Society’s stake in the well-being of marriage, the Declaration explains, is that “when a marriage is true to God’s loving design it brings spiritual, physical, emotional, economic, and social benefits” to the couple, the family, the Church, and the “wider culture.” Thus, all these entities have “obligations to prepare, strengthen, support, and restore marriages” and to reverse the divorce trend.53

A second document offering a theological vision of the family, not authored by CWA but endorsed by its leaders, is “The Natural Family: A Manifesto,” published by the Howard Center for Family, Religion & Society and the Sutherland Institute. As discussed below, the Manifesto affirms the natural family as “a fixed aspect of the created order, one ingrained in human nature,”

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51 Id.

52 Don Browning discusses these Christian themes in Marriage and Modernization (2003).

53 Id.
and affirms women and men as “equal in dignity and innate human rights, but different in
function” – a gender complementarity indispensable for organizing family life. Dr. Janice
Crouse, Senior Fellow at CWA and affiliated with its Beverly LaHaye Institute, praises the
Manifesto as a necessary, “unambiguous statement about the family.” CWA’s web site includes
an audio link to the press conference announcing the Manifesto, including a link to her remarks
made “in support of the traditional family.” But her remarks did not contain obvious religious
references. The gist was that the abandonment of the “natural family” in favor of alternatives to
marriage has been “disastrous for women and children,” as evidenced by the “pathetic results” of
the experiment of sexual liberation. She concluded by extolling the natural family as a “strong
fortress” for the “waves of life.”

Tying together CWA’s own statements and its apparent endorsement of these other,
more theological statements, its affirmation vision of the “natural family” is of marriage as God’s
first and greatest institution, essential to society, and protective of women and children. Another
recurring theme in CWA’s writings and advocacy work is the imperative of protecting traditional

54 “The Natural Family: A Manifesto,” at 15, 16. For elaboration, see infra.

55 For the full quotation, see “The Natural Family: A Manifesto: Here are some of the

56 “The Natural Family: A Manifesto,” remarks by Dr. Janice Crouse “in support of the
traditional family,” available at www.cwfa.org (Visited March 17, 2005).

57 Id.
gender roles in marriage and defending motherhood against pernicious radical feminist ideas.

**CWA’s Opposition to the Convention and CEDAW**

Express theological statements are not prominent in CWA’s sustained opposition to international human rights instruments such as the UN Convention and CEDAW. Instead, it casts its arguments more in terms of sovereignty: both “national sovereignty” (one of its “core issues”) and parental sovereignty. The Convention, it charges, would “make Congress the national guardians of children, charged with seeking ‘the best interests of the child’ (Article 3), and answerable to the United Nations.”

However, “the government’s definition of a child’s best interests is often very different from a parent’s definition.” CWA gives the example of spanking, warning that it would likely be deemed a form of child abuse and neglect, which would have “severe legal implications for many American families.”

Another CWA objection is that “in contrast to the traditional concept, upheld in America, that children are ‘minors’ in need of parental protection,” the Convention “usurps parental authority by embracing the view that children are autonomous agents who are capable, in all areas, of making adult decisions and dealing with adult situations.” This “radical legal doctrine” supposedly gives children the same legal rights as adults and, in effect, lets government assume “the primary role of rearing your children.”

Here, CWA refers to the various Articles in the Convention declaring the child’s rights to express views freely “in all matters affecting the child.”

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59 *Id.*
as well as the child’s rights of expression, religion, and privacy.

CWA has praised the U.S.’s mission to the UN, during the Bush Administration, for distancing itself from the Convention. Declaring a “red-letter day for pro-family advocates worldwide,” as “our children return from the grasp of the global parenting” movement, CWA reported Ambassador E. Michael Southwick remarks naming “the erosion of parental authority” as a new challenge and stating that it is “misleading and inappropriate to use the Convention as a litmus test to measure a nation’s commitment to children.”

Subsequently, CWA’s Janice Crouse served as a member of the “right-leaning” U.S. delegation to the UN summit on the rights of the child, held in May 2002.

CWA also raises cultural objections to international human rights instruments, focusing in particular on cultural imposition of ideals of sex equality and children’s autonomy. CWA asserts that such ideals clash with United States “culture” and threaten the family. Indeed, it views CEDAW, in particular, as a form of “neo-Marxist contemporary colonialism”: the dumping of feminist ideologies on the Third World and the “intrusion into our lives” by unelected UN bureaucratic elites “with a radical vision incompatible with the values and wishes of the vast

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majority of citizens.” Part of this radical agenda includes “children’s autonomy from their parents” and “leftist ideas about equality and sexual freedom.” This UN general strategic to advance gradually into the “field of private family concerns, under the guise of human rights,” moving from viewing the family as the basic unit of society to calling for children to be autonomous.

Through CWA’s objections to CEDAW, it is possible to glean more about its conception of child, family, and state, along with its views about the “culture” of the family. CWA critiques provisions in CEDAW that forbid discrimination on the basis of sex, that call for changes in traditional roles in society and the family to achieve full equality between men and women, and that call upon countries to modify social and cultural patterns to eliminate prejudices “based on stereotyped roles for men and women.” Such provisions, CWA argues, beg the question, “Whose culture will prevail? Who will determine what patterns of conduct must be modified?” CWA’s attacks on CEDAW typically include a long list of cautionary examples of how, in rulings by the CEDAW Committee, it has attacked as problematic stereotypes women’s noble role as mother and homemaker. The implications if the U.S. were to ratify CEDAW are made clear:

Many women in the United States choose to put their family first, staying home to raise their children, care for elderly relatives, and contribute to religious organizations, charities and communities. CEDAW and its Committee consider their work to be subservient, not

62 Janice Shaw Crouse, *The Stalking Horse Named CEDAW*,

63 *Id.*
worthy of commendation, and, frankly, deserving to be outlawed.\textsuperscript{64}

Another objection is that CEDAW requires nations to indoctrinate children in gender neutrality and would prohibit children and teachers “from recognizing that there are fundamental differences between boys and girls and that some roles based purely on sex, such as motherhood, are noble.”\textsuperscript{65}

At bottom, a core basis for CWA’s objection to CEDAW is that the latter conflicts with CWA’s conception of the place of family and of women and men within the family. “The foundation of a healthy society is strong families, individual morality, and freedom,” CWA author Wendy Wright asserts, but “CEDAW and its Committee view all these as hindrances to women achieving equality.” To ratify CEDAW, she contends, would “condemn women in America and around the world to destructive social policies that devastate the foundation for stable societies – motherhood, marriage, and family.” No reservations from CEDAW “could protect our laws and culture from [CEDAW’s] skewed belief that there is no difference between men and women.”\textsuperscript{66}

This basic litany of charges about CEDAW recurs in numerous CWA documents – veritable front-line reports of CWA representatives fighting the good fight in defense of women and the traditional family. It bears mention that CWA and the affiliated Beverly LaHaye Institute have been highly active within and outside of the United States on the issue of stopping sex

\textsuperscript{64}Wendy Wright, \textit{CEDAW: A Global Tool That Would Harm Women}, www.cwfa.org

\textsuperscript{65}Id.

\textsuperscript{66}Id.
trafficking of women and children. 67 Indeed, CWA has received favorable attention from the Bush Administration for its “faith-based” work on this issue, including a recent federal grant for combating sex trafficking between Mexico and the United States. 68 For CWA, attending to the evils of trafficking seems to be an appropriate international concern, given it puts the focus on rescuing victims and protecting vulnerable women and children, rather than on the UN’s usual “utopian spin and radical drivel.” 69 (I was not able to determine, however, from my visiting of CWA’s web site, whether it supports the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, which the U.S. has signed and ratified.)

The Family Research Council, The Howard Center, and the Vision of Dr. Allan Carlson

The Family Research Council’s motto is “Defending Family, Faith, and Freedom.” Like CWA, its mission statement explicitly refers to bringing religion to bear on public policy:

The Family Research Council (FRC) champions marriage and the family as the foundation of civilization, the seedbed of virtue, and the wellspring of society. FRC shapes public


69 Crouse and Wright, supra note * (reporting on paenl at UN Commission on the Status of Women).
debate and formulates public policy that values human life and upholds the institution of marriage and the family. Believing that God is the author of life, liberty, and the family, FRC promotes the Judeo-Christian worldview as the basis for a just, free, and stable society.  

Among the “Core Principles” animating FRC are affirmations of the existence and sovereignty of God and that “the American system of law and justice was founded on the Judeo-Christian ethic.” The other three core principles relate to the place of family: “Life and love are inextricably linked and find their natural expression in the institutions of marriage and the family;” “Government has a duty to protect and promote marriage and family in law and public policy;” and “American democracy depends upon a vibrant civil society composed of families, churches, schools, and voluntary associations.”

A perusal of FRC’s web site reveals that its policy areas, of which it boasts “an archive” of research and expert opinion, include not only “Marriage and Family” and “Religion and Culture,” but also “Human Sexuality,” “Education,” “The Courts,” “Human Life and Bioethics,” “Economics and Taxes,” “Government,” and the catch-all, “Other Issues.” (FRC, for example, was frequently in the news for its calls to restore Terry Schiavo’s feeding tube.) Many of the papers listed under the link for “Marriage and Family” are by Dr. Allan C. Carlson, identified as Distinguished Fellow in Family Policy Studies at FRC, as well as president of the Howard Center.

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71Id.

whose motto is “For Family, Religion, and Society.” Both FRC and the Howard Center identify themselves as NGOs actively working to promote a “pro-family” agenda and counter an “anti-family” agenda at the UN. Carlson is a co-author of the recent “The Natural Family: A Manifesto,” which looks forward to “the prospect of a great civil alliance of religious orthodoxies, within nations and around the globe . . . to defend our family systems from the common foe.” In view of the many works by Carlson featured on FRC’s web site, consideration of his World Congress of Families and his vision of the “natural family” are in order.

The World Congress of Families

Through the Howard Center, Carlson initiated the “World Congress of Families,” aimed at bringing together “people of faith” and men and women of good will – who affirm that “the natural family is established by the Creator” and “inscribed in human nature” – to “strengthen the natural family as the fundamental unit of society” and address threats to the family. What are these threats? The Mexico City Declaration, emanating from World Congress of Families III, held in March 2004, identifies “challenges to the family’s very legitimacy as an institution” arising from: “extreme individualism, easy divorce, radical homosexual activism, irresponsible sexual

73Howard Center website, available at www.profam.org (Visited March 18, 2005).


75“World Congress of Families III: A Call to All People of Good Will . . . ,” available at www.worldcongress.org (visited March 18, 2005).
behavior, and the reinterpretation and misapplication of human rights.” FRC’s website includes an address delivered at a World Family Congress critiquing the Convention as a threat to the family. This threat pertains to parental and religious sovereignty: the Convention’s reference to “evolving capacities” will empower ten year olds to have access to abortion. The reference to “best interests of the child” will be interpreted differently by “international bureaucrats” than by groups like FRC, who think it is in a child’s best interest to be brought up in a two-parent household “that worships regularly at a church, mosque, or synagogue.” The essay also criticizes the absence of any talk about marriage in UN documents about the needs of children.

The Geneva Declaration, arising out of World Congress of Families II, held in Geneva in 1999, identifies still more challenges to the family’s institutional legitimacy: “devaluation of parenting, declining family time, morally relativistic public education, confusions over sexual identity, sexually transmitted diseases, abortion, poverty, human trafficking, violence against

76 Id. (emphasis supplied).


78 Id.

women, child abuse, isolation, excessive taxation, and below-replacement fertility.”  

This inclusion of “below-replacement fertility” reflects characteristic themes in Carlson’s writings: depopulation, not overpopulation, is the real world crisis, and government should encourage, not discourage, “responsible married-couple families to have children.” I turn now to Carlson’s normative vision of the natural family.

Religion, Fecundity, Home Economy: Dr. Allan Carlson’s Vision of the Natural Family

Carlson contends that the “unwritten sexual constitution of our civilization,” which had its genesis in the sexual order adopted in early Christianity, has been the bond between marriage and procreation. He justifies earlier laws against contraceptive use as preserving that constitution and decries the notion of marital privacy in Griswold v. Connecticut as a “direct assault” on that constitution, emptying marriage of meaning and denying natural law. In the wake of Eisenstadt v. Baird, and then Lawrence v. Texas, he contends, the Court found “a right to uninhibited sexual expression.” But Carlson also concedes that recriminalizing contraception is a position few


81 “A Call to All People of Good Will,” supra note *.


83 Id. at 7. Carlson characterizes Griswold and these later opinions as examples of modern day Gnosticism because they would sever procreation from marriage and/or glorify sexual
would argue for today. Instead, he urges recourse to political power (e.g., the Federal Marriage Amendment and court-stripping bills) and to trying to reconnect procreation and marriage by adopting public policies that would favor “child-rich homes.”

Carlson traces declining fertility – and the diminished place of the child – to the declining influence of religion on persons’ beliefs concerning fertility. In Europe, he contends, “secular ideas of individualism, rational calculation of economic gain, and materialism won out because Christian obedience to the Genesis command, ‘be fruitful and multiply,’ waned.” A related culprit is embracing the “Swedish model” for society, which, he contends, entails welcoming “the disappearance of motherhood as a vocation,” demanding full gender equality, the priority of work over family, day care, and the like. How do seemingly family-friendly policies like “generous day care, paid parental leave, child allowances and other welfare benefits” reflect “post-family, anti-child values”? On his view, they devalue stay-at-home motherhood and would replace parental responsibility for children with that of the state.

Strikingly, Carlson contends that the United States, in which there has been a sustained increase in fecundity, apparently related to “the higher degree of religious identification and experience apart from marriage.

84 Id. at 9.


86 Id. at 6.
behavior shown by Americans,” now has more in common with – and should band together with – Third World nations. Why? Those nations have “family morality” systems that “still acknowledge and respect a transcendent God and a religiously grounded family system.”

Because “the future lies with those nations that fear God and affirm Life and Family,” Carlson urges that, in foreign policy, the United States should pursue such an alliance and adopt domestic policies that stress the procreative purpose of marriage and view “large families, created responsibly through marriage,” as “special gifts to their societies deserving affirmation and encouragement.” On this new orientation, the U.S. should abolish Title X, because its funding of family planning services discourages fertility and encourages hedonism.

One final aspect of Carlson’s vision of the natural family, also reflected in WFC declarations and the Manifesto, is reviving the family as a site of productive activity, that is, as a home economy. Contending that one source of family decline is the shift from the “productive home” to the “companionate home;” he proposes to bring both parents back into the home through, for example, encouraging home schooling of children and the “wired home,” which allows homes to be places of commerce and the professions. Restoring motherhood as a vital

87 *Id.* at 11.

88 *Id.* at 10.

89 *Id.* at 10-11.

vocation features prominently in this scheme. Indeed, Carlson traces the loss of the stay-at-home mother in suburbia – the “linchpin” of the suburban way of life – to forces including anti-discrimination laws of the 1960s and feminism.\(^91\) He praises federal funding, through the Smith-Lever Act of 1914, of teaching farming to men and boys and homemaking and housekeeping to women and girls and, through the Smith-Hughes Act, of teacher training in agriculture, the industrial arts and homemaking. This “federally engineered education” of homemaking for girls and breadwinning for boys was a successful “family-building experiment.”\(^92\) He unfavorably compares the “sexually egalitarian spirit of Title IX,” which, in prohibiting discrimination on the basis of sex in federally-funded programs, drove “a final nail in the coffin of the sexual division of labor” that undergirded the “renewed American family” of the 1950s.\(^93\)

Is there a religious vision animating this call for the return to the “productive” home? Carlson speaks of home education in terms of “homecoming” – recovering a “vital family function” lost to “the aggressive state” and returning to “the primal or natural social units” of “families, villages, neighborhoods, faith communities.”\(^94\) Common public schooling, he contends,

\(^91\)Id.

\(^92\)Dr. Allan C. Carlson, *Reinventing the Schoolroom: Education as Homecoming*, available at www.frc.org (visited March 20, 2005). Is this the origin of my all-girls Home Economics class in 7\(^{th}\) and 8\(^{th}\) grade, while the boys had shop?

\(^93\)Id.

\(^94\)Id. at 7.
consciously displaced family as “the center of children’s lives,” and (except for a brief period) encouraged family decline. WFC’s Mexico City Declaration, for example, affirms parents’ “primary authority and responsibility to direct the upbringing and education of their children,” which includes “moral and spiritual” education. It contends: “The state usurps the parental role when it monopolizes and mandates the educational system and deprives parents of their intrinsic authority over their children’s education.” Affirming parents’ duty to their children and society to educate their children, it advocates allowing parents to spend their resources, including tax money, for schools of their choice or to engage in home education.95

And what is the place of religion? A plank on “The Family and Religion” affirms parents’ rights to engage in the religious education of their children. It declares that religious institutions should “not accommodate cultural trends that undermine the created nature of the family,” but instead affirm that “the natural human family is established in creation,” “The family is essential to a good society,” and “life and sexuality are gifts from the creator to be enjoyed, respectfully and wholesomely.”96

“The Natural Family: A Manifesto”

The vision elaborated by FRC and the WFC, and in the many writings of Carlson is of a society centered around the “natural family” in which government protects and supports, and does not usurp the family’s vital roles in society. In the recent document, “The Natural Family: A Manifesto,” these themes come together in what Carlson hopes will provide a new philosophical

95“A Call To All People of Good Will. . . ,” supra note *.

96Id.
and historical understanding of family to guide and mobilize “pro family” efforts. Since its release in March, 2005, a number of conservative leaders and groups have endorsed the Manifesto, but it is too early to tell whether it will emerge as a mobilizing text. Notably, conservative revolutionary Paul Weyrich (founder of the Free Congress Foundation) praises the Manifesto as a “a philosophical playbook suggesting thoughts and words to help us [the pro-family movement] meet the opposition with the best ammunition, which is our beliefs served straight-up and expressed in a positive, unapologetic manner.”

I will assess the Manifesto as a theological – often apocalyptic – and political statement about the place of child, family, and state. I will also comment on its striking indictment of governmental efforts to promote gender equality as a source of violence to persons and to human rights.

First, what theological vision does the Manifesto offer? The “natural family” is “part of the created order” and “imprinted on our natures.” The Manifesto defines the natural family as:

the union of a man and a woman through marriage for the purposes of sharing love and

97 Remarks by Dr. Allan Carlson at Press Conference, audio link available at www.cwfa.org (visited March 15, 2005).

98 For the endorsements, see “The Natural Family: A Manifesto: Here are some of the endorsements,” available at www.profam.org (Visisted March 23, 2005).


100 The Natural Family: A Manifesto, at 5.
joy, propagating children, providing their moral education, building a vital home economy, offering security in times of trouble, and binding the generations.\textsuperscript{101}

The natural family is the “ideal, optimal, true family system.” Although some varied living situations are “caused by circumstance or dysfunction, all other ‘family forms’ are incomplete or are fabrications of the state.” For the natural family can not be “re-defined by eager social engineers.”\textsuperscript{102} Indeed: “Regarding the natural family, we deny any such thing as social evolution. The changes we see are either decay away from or renewal toward the one true family model.”\textsuperscript{103} (Contrast an obvious target of this rhetoric: Massachusetts’s highest court’s assertion that marriage is “an evolving paradigm.”)

These many references to the “true” and “authentic” model of family reinforce the theological nature of this vision of family. The Manifesto acknowledges its religious premises, but also maintains that the natural family is “universal”:

We confess to holding Christian values regarding the family: the sanctity of marriage, the desire by the Creator that we be fruitful and multiply; Jesus’ miracle at the wedding feast; His admonitions against adultery and divorce. And yet, we find similar views in the other great world faiths. Moreover, we even find recognition of the natural family in the marriage rituals of animists. Because it is imprinted on our natures as human beings, we know that the natural family can be grasped by all persons who open their minds to the evidence of their senses and their hearts to the promptings of their best instincts.\textsuperscript{104}

\addcontentsline{toc}{section}{Notes}

\begin{footnotes}
\item[101] Id. at 15.
\item[102] Id.
\item[103] Id. at 29.
\item[104] Id. at 26-27.
\end{footnotes}
The Manifesto appeals to reason (that is, universals about human nature) as well as to religious conviction about the created order, but its tone is fervent and apocalyptic. It states: “We are called to be the . . . moral soldiers, in this drive to realize the life ordained for us by our Creator.” Evocative of the Book of Revelations, and other writings about the Last Days, it claims that, as a “new spirit” – the “essence of the natural family” – spreads in the world, “the enemies of the natural family grow worried” and “their fury grows.” But it promises: “the time is close when the persecution of the natural family, when the war against children, when the assault on human nature shall end.”

It looks forward, as noted above, to a “great civil [and global] alliance of religious orthodoxies” in defense of “our family systems from the common foe.” But it warns that the Manifesto’s “true allies” are those who embrace “the whole case for the natural family,” not just parts (thus, “one cannot affirm the natural family while also defending . . . infant day care”).

What political vision issues forth from the Manifesto? In a word: families are the primary site of true sovereignty in society. “States exist to protect families and to encourage family growth and integrity.” Prior to the state, the natural family – not the individual – is “the fundamental

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105 *Id.* at 35.

106 *Id.* at 33.

107 *Id.* at 32.

108 *Id.* at 4-5.
unit of society.” This political vision also values the local over the national: ‘neighborhoods, villages, and townships [are] the second locus of political sovereignty.’ Thus:

    Just political life also flows out of natural family homes. True sovereignty originates here. These homes are the source of ordered liberty, the fountain of real democracy, the seedbed of virtue. Neighborhoods and villages initially express this broader political life, through which families police themselves without violating the autonomy of homes. The ideal government, in this sense, is local. Even a nation “is nothing but the aggregate of the families within its borders.”

As the highlighted language suggests, the Manifesto takes a dim view of state invasions of the home, under the guise of protecting children from parents, as well as of children “turned over to state-funded day care” and to public schools that mock chastity and fidelity and marriage. What of state intervention to address family violence? The Manifesto acknowledges that “all families fall short of perfection and a few families fail,” but that research makes clear that women and children are safest within the marital family: “The natural family is the answer to abuse.” At the same time, the Manifesto acknowledges that “all worthy social institutions” should provide husbands and wives, and fathers and mothers, with the necessary nurturing and encouragement

109 Id. at 15, 16.

110 Id. at 14.

111 Id. at 5 (quoting Theodore Roosevelt).

112 Id. at 7.

113 Id. at 28.
toward their “proper roles.”\textsuperscript{114}

Households “framed by marriage,” in this political vision, are also “the primal economic unit, a place marked by rich activity, material abundance, and broad self-reliance.”\textsuperscript{115} Private property in family hands is “the rampart of independence and liberty,” and thus, “in a just and good society, all families will hold real property.”\textsuperscript{116} (I can’t elaborate it here, but a notable feature in the Manifesto is that its emphasis on the home economy – and bringing parents back into the home – leads it to critique certain conservative defenses of capitalism and corporations that fail to attend to the impact of the market on the family.\textsuperscript{117}) Carlson’s particular vision of the fertile, productive, intergenerational household (that is, conjugal but not nuclear) is evident in the Manifesto’s looking forward to a world “restored in line with the intent of its Creator”:

We see these homes as open to a full quiver of children, the source of family continuity and social growth. We envision young women growing into wives, homemakers, and mothers; and we see young men growing into husbands, homebuilders, and fathers . . . . We look to a landscape of family homes, lawns, and gardens busy with useful tasks and ringing with the laughter of many children. We envision parents as the first educators of their children. We see homes that also embrace extended family members who need special care due to age or infirmity.\textsuperscript{118}

\begin{footnotes}
\item[\textsuperscript{114}] Id.
\item[\textsuperscript{115}] Id. at 13.
\item[\textsuperscript{116}] Id. at 14, 17.
\item[\textsuperscript{117}] Id. at 30-31.
\item[\textsuperscript{118}] Id. at 14.
\end{footnotes}
This vision of the Creator’s intended design for homes implies that, along with home economy, another part of the created and natural order is the gendered division of labor within the household. Indeed, the Manifesto identifies feminism as one of the forces aligned against the natural family and counters with an affirmation of different but equal:

We affirm that women and men are equal in dignity and innate human rights, but different in function. . . . [T]he calling of each boy is to become husband and father; the calling of each girl is to become wife and mother. Everything that a man does is mediated by his aptness for fatherhood. Everything that a woman does is mediated by her aptness for motherhood. Culture, law, and policy should take these differences into account.\(^{119}\)

The sexes are complementary, the Manifesto asserts, and in marriage, these “profound biological and psychological differences” become a source of strength and wholeness.\(^{120}\)

It follows, from this affirmation of different but equal, that men and women should be allowed “to live in harmony with their true natures.” For example, the Manifesto affirms “women’s rights,” but continues: “Above all, we believe in rights that recognize women’s unique gifts of pregnancy, birthing, and breastfeeding.”\(^{121}\) It vows to end “the aggressive state promotion of androgyny.”\(^{122}\) In condemning such state efforts, the Manifesto takes the familiar conservative rhetorical attack upon feminism as a form of totalitarian social engineering to a new—and, frankly, astonishing—level:

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\(^{119}\) Id. at 16.

\(^{120}\) Id. at 17.

\(^{121}\) Id. at 25.

\(^{122}\) Id. at 21.
The goal of androgyny, the effort to eliminate real differences between women and men, does every bit as much violence to human nature and human rights as the old efforts by the communists to create “Soviet Man” and by the nazis to create “Aryan Man.” We reject social engineering, attempts to corrupt girls and boys, to confuse women and men about their true identities.\textsuperscript{123}

This categorical and unjustified attack on governmental efforts to redress sex discrimination and foster sex equality is yet another illustration of the conservative conviction that fostering equality within families can only harm families. Thus, in noting the violence done by androgyny to human rights, it no doubt implied refers to implementations of the Convention and CEDAW, for it objects to attacks on the Universal Declaration of Human Rights, “a document that proclaims fundamental rights to family autonomy, to a family wage for fathers, and to the special protection of mothers.”\textsuperscript{124}

In sum, the vision set forth in the “Manifesto” is that of familism, the primacy of the “natural family.” The state serves the family, the primary locus of sovereignty. Strikingly absent are discussions of the institutional place of organized religion in this new society. Perhaps this is because the home itself, with home schooling and the return of mothers and fathers to the home, will be the first, most vital site of religious life.

\textbf{The Heritage Foundation}

One of the most powerful social conservative think tanks, the Heritage Foundation does not explicitly identify its mission as promoting Biblical values. Instead, it appeals to the heritage of “traditional American values:”

\textsuperscript{123}\textit{Id.} at 26.

\textsuperscript{124}\textit{Id.} The Declaration does not expressly link the family wage to the father. [confirm]
We draw solutions to contemporary problems from the ideas, principles and traditions that make America great.

We are not afraid to begin our sentences with the words “We believe” because we do believe: in individual liberty, free enterprise, limited government, a strong national defense, and traditional American values. . . .

As conservatives, we believe the values and ideas that motivated our Founding Fathers are worth conserving. And as policy entrepreneurs, we believe the most effective solutions are consistent with those ideas and values.\textsuperscript{125}

In explaining “the nature of marriage,” the Heritage Foundation’s web site does not make an express theological appeal. It may implicitly do so in referring to marriage as “a fundamental institution, deeply rooted in all societies, which has been tested and reaffirmed over thousands of years.” The “permanent union of one man and one woman,” marriage is not (as Massachusetts’s Supreme Court held) “an evolving paradigm,” but “a time-tested pillar of civilization.”\textsuperscript{126}

Further, a perusal of the Heritage Foundation’s explication of “traditional American values” and the “values and ideas that motivated our Founding Fathers” quickly leads to more expressly religious views about child, family, and state, as well as the respective roles and responsibilities of family, religion, and state.

*The Two Pillars of Family and Religion*

The religious orientation informing some Heritage Foundation authors is evident in the remarks made, in support of “The Natural Family: A Manifesto,” by Patrick Fagan, William H.G.

\textsuperscript{125} “About the Heritage Foundation,” available at www.heritage.org/About/aboutHeritage.cfjm (visited March 18, 2005).

FitzGerald Fellow in Family and Cultural Issues at The Heritage Foundation. At the press conference announcing the Manifesto, Fagan began by stating that “man is made in the image and likeness of God, whose nature is to belong,” going on to assert the religious importance of belonging, in marriage, and in motherhood and fatherhood, and of how persons come closest to divinity through such belonging. He contrasted this ideal with America’s “culture of rejection,” manifest in family fragmentation, abortion, disinterest by young women and men in marrying, and “gulag prisons” filled with fatherless young men. He praised the Manifesto as calling us to rebuild structures that allow us “to belong to each other again,” so that, when we “face God,” at the end of our lives, we can place before Him our efforts to belong.

In the essay, Why Religion Matters: The Impact of Religious Practice on Social Stability, Fagan also stresses the theme of belonging. Contending that “the core of the religious commitment is an intention to have a positive relationship with another Being, a transcendent . . . Being,” he theorizes that religion’s positive effects emanate from its contribution to persons forming “positive reciprocal relationships” with others in families, marriages, and elsewhere in society. The “regular practice of religion” contributes to “stable married family life,” and the


128 Id.

latter itself is a powerful buffer against many destructive social forces. Fagan contends: “Religion performs the foundational work that ensures the success of secular society’s other four basic institutions: family, school, market-place, and government.”

Given the links between “married family life” and “regular religious practice,” he concludes: “For the sake of the nation’s future health, it is time to redirect public policy so that these vast resources, instead of being weakened further, can be rejuvenated and encouraged. Many of the goals of social policy and social work can be attained, indirectly and powerfully, through the practice of religion.” This type of social health argument has obvious similarities to the social health arguments advanced by the marriage movement about the inoculating effects of healthy marriage in fostering child and adult well-being and reducing social pathology. (Fagan, in fact, is a signatory to the declaration, “The Marriage Movement: A Statement of Principles,” issued in 2000.) Written in 1996, Fagan’s essay also anticipates the current political interest in February 16, 2005).

\[130\] Id., at 27,

\[131\] Id., at 28.


“faith-based initiatives” to enlist religious organizations to help to address social problems.

Moreover, he sounds the familiar theme that the Founding Fathers viewed religion – and family – as seedbeds of civic virtue. In support, he cites George Washington’s farewell address, which referred to “religion and morality” as “indispensable supports” for the “dispositions and habits which lead to political prosperity.” Thus, he concludes, the Founding Fathers did not intend that federal government establish a state religion, but they did not intend to banish religion from the public square or “from operations of the state.”

In developing the salutary relationship between religious practice and family life, the essay focuses on consequences like lower rates of divorce and cohabitation and higher levels of marital happiness (including sexual satisfaction). But does religion make a specific contribution to the parent-child relationship? Do more religious parents have a distinctly beneficial style of parenting? Fagan asserts that “the religious practices of parents, particularly their unity on religious influences, powerfully influence the behavior of children,” for example, reducing the


134I have discussed the civil society revival movement elsewhere: Linda C. McClain and James E. Fleming, Some Questions for Civil Society-REvivalists, 75 Chi.-Kent L. Rev. 301 (2000); McClain, The Place of Families, Chapter 3.

likelihood of nonmarital pregnancies and births and crime and delinquency.\textsuperscript{136} Children’s own religious practice may have an inoculating effect, e.g., encouraging “a spirit of optimism among socially at-risk but advancing children,” while low church attendance may correlate with pessimism among youth.\textsuperscript{137} Accordingly, one of Fagan’s “policy implications” is that religious leaders should “take special care of the religious formation of children at risk of losing their faith in God, especially during the transition period from childhood to adolescence,” and, in particular, view inner city neighborhoods as “‘mission’ territories that beckon loudly.”\textsuperscript{138}

\textit{The Convention and CEDAW: Threats to the Trio of Family, Religion, and National Sovereignty}

Given the vital role of the institutions of family and religion, on Fagan’s view, both merit special concern by those “who guide the future course of the United States.”\textsuperscript{139} In opposing the Convention and CEDAW, Fagan links these two treaties to a campaign “to undermine the foundations of society – the two-parent married family, religions that espouse the primary importance of marriage and traditional sexual morality, and the legal and social structures that protect these institutions.”\textsuperscript{140} The trio of “family, religious freedom, and national sovereignty”

\textsuperscript{136}\textit{Id.} at 11-13.

\textsuperscript{137}\textit{Id.} at 14.

\textsuperscript{138}\textit{Id.} at 27.

\textsuperscript{139}\textit{Id.} at 24.

\textsuperscript{140}Patrick F. Fagan, \textit{How U.N. Conventions on Women’s and Children’s Rights}
deserve protection against attacks by agents of the UN.\textsuperscript{141}

The structure of Fagan’s attack on the Convention and CEDAW parallels that found in other conservative criticisms of the UN: He measures the UN’s supposed “new countercultural agenda” against its earlier recognition, in the Universal Declaration of Human Rights, that “[T]he family is the natural and fundamental group unit of society and is entitled to protection by society and the state.”\textsuperscript{142} Further, he asserts that the UN has had a long-standing respect for national sovereignty, evident in the inclusion, in treaties and documents, of “language affirming a nation’s right to determine its cultural norms and practices.” This tradition, he contends, has given way to a “countercultural agenda espoused in U.N. committee reports and documents” – particularly relating to implementation on the Convention and CEDAW – that attacks “the natural rights of the family,” along with each nation’s sovereignty to determine “domestic policies on parental rights and the free expression of religious values and beliefs.”\textsuperscript{143}

What, exactly, is this “countercultural agenda” and how does it threaten the trio of family, religion, and national sovereignty? One component is “undermining the fundamental role of the family,” through “undermining the roles and rights of parents,” pushing “state-sponsored child

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\textsuperscript{141} \textit{Id.}, at 21.

\textsuperscript{142} \textit{Id.} at 1.

\textsuperscript{143} \textit{Id.} at 1-2.
care as surrogate family,” and “expanding children’s rights.” With respect to children’s rights, Fagan contrasts the Universal Declaration of Human Rights’s support for parental authority with the Convention’s recognition of children’s rights to privacy, to expression, and to have a say in matters affecting them. These rights – and their implementation – establish “legal and structural wedges between parents and their children in the home.” Rather than strengthening the role of parents, to aid them in the difficult task of raising children, they “weaken the freedom and authority of parents.”

Another component of the agenda is a supposed attack on stay-at-home motherhood, in evident tension with the provision in the Universal Declaration of Human Rights that “[M]otherhood and childhood are entitled to special care and assistance.” Such a provision, Fagan contends, recognizes that the family plays a central role that the state cannot replace and implies that society “should enable mothers to nurture their children and not push policies that would force mothers to forfeit precious time with their young children to go to work.” How troubling, then, that UN committees “disparage stay-at-home mothers and urge nations to make publicly funded day care widely available, even for newborns,” so mothers can work outside of the home.

The attack of motherhood, Fagan argues, is also an attack on culture. UN reports “instruct

\footnote{144} Id. at 11, 13.

\footnote{145} Id. at 4.

\footnote{146} Id., at 3-4.
nations to eliminate, through legislation, cultural norms that support the role of the mother at home.” Fagan offers a list of targets of this countercultural agenda: changing cultures by “changing sexual norms,” through promoting sex outside of marriage, abortion, and legalizing prostitution, and “redefining gender” by “reconstructing social norms.” Like other conservative critics, Fagan seems to equate any attempt to challenge traditional sex roles and to reconstruct social norms about gender roles within family and the broader society with an attack on family that threatens to undermine the channeling function of marriage.\footnote{Id. at 17.}

This agenda of treating gender as a social construction is dangerous, on his view, both because it leads to supporting homosexuality and because it would call into question the different treatment women and men receive and insist that any traditional roles men and women hold that seem to reinforce biological differences be eliminated. Indeed, similar to other conservative critics, Fagan labels government attempts to “reengineer social norms” as “endemic to totalitarian regimes, which try to remake individuals and societies through thought control.”\footnote{Id. at 18.}

In presenting any challenge to gender roles and stereotypes as an attack on cultural and religious traditions about the “natural family” and warning that U.S. adoption of the Convention or CEDAW would subject it to dangerous social engineering to foster gender equality, Fagan seems oblivious to the fact that sex equality is a feature not only of U.S. family law but also of
constitutional law.\textsuperscript{149} As I argue elsewhere, government may and should promote sex equality as an important public value.\textsuperscript{150} By contrast, the Heritage Foundation, like CWA and FRC’s Carlson, would deny that sex equality is a feature of U.S. political “culture.” As Powell observes, “cultural” objections to CEDAW or other assertions of women’s equality often treat culture as static and monolithic rather than subject to contestation, change, and internal dissent.\textsuperscript{151} The rhetoric about the “natural family” found in writings by the Heritage Foundation, CWA, the Family Research Council, and others, suffers exactly this oversimplification. Thus, Fagan might as well turn his critique of the UN’s supposed agenda of combating stereotypes to language in U.S. Supreme Court decisions, about Equal Protection, that states should no longer legislate on the assumption that women are destined only for the home and men for the world of work outside the home.\textsuperscript{152} Would the Heritage Foundation find equally objectionable the language from the

\textsuperscript{149} McClain, The Place of Families, Chapters 3 and 5; Mary Anne Case, \textit{Reflections on Constitutionalizing Women’s Equality}, 90 Cal. L. Rev.765 (2002).

\textsuperscript{150} McClain, The Place of Families, Chapter 3 and 5, and my earlier article on civic virtue in Fordham L. Rev.

\textsuperscript{151} Powell, \textit{supra} note *.

\textsuperscript{152} Fagan reports that a CEDAW plenary session report expressed concern about the continuing existence of language, in the Irish Constitution, that reflected a “‘stereotypical view’ of women in the home and as mothers.” The constitutional language in question is:
Nevada v. Hibbs decision in which the Court explains that the Family and Medical Leave Act was a legislative attempt to address the problem that gender role stereotypes about women’s domestic responsibilities and men’s work responsibilities contributed to discriminatory practices in the workplace? Clearly, some conservative defenders of the natural family, notably Allan Carlson, of the Family Research Council and the Howard Center, do explicitly criticize U.S. anti-discrimination law as playing a role in weakening the “natural family,” by fostering gender neutrality instead of the traditional division of labor between mother and father. The Manifesto’s reference to the “violence” of promoting androgyny states the charge even more emphatically.

United States Catholic Conference/National Conference of Catholic Bishops

The state, therefore, guarantees to protect the family in its constitution and authority, as the necessary basis of social order and as indispensable to the welfare of the nation and the state. In particular, the state recognizes that by her life within the home, woman gives to the state a support without which the common good cannot be achieved. The state shall, therefore, endeavor to ensure that mothers shall not be obliged by economic necessity to engage in labor to the neglect of their duties in the home.

Id. at 8 (quoting Article 41.2 of Irish Constitution). This appeal to women’s duties in the home sounds similar to the Supreme Court’s reasoning in Hoyt v. Florida, upholding Florida’s exemption of women from jury service. But it seems in tension with later Supreme Court decisions prohibiting reliance on stereotypical assumptions concerning women’s and men’s capacities.
In this section of the paper, which will be fleshed out in a later draft, my eventual goal is to explore stances taken by the United States Catholic Conference and the National Conference of Catholic Bishops toward human rights instruments and the place of child, family, and state. In particular, I will compare the conservative stances analyzed above with the mix of conservative and progressive elements in Catholic social teaching on such matters.\footnote{For example, \textit{Seven Key Themes of Catholic Social Teaching}, available at www.usccb.org/sdwp/projects/socialteaching/excerpt.htm (visited March 21, 2005).} In connection with the 2004 election, for example, the Conference’s web site posted \textit{The Challenge of Faithful Citizenship: A Catholic Call to Political Responsibility}, which explains that “responsible citizenship is a virtue; participation in the political process is a moral obligation” and urges Catholics “to seek a place at the table of life for all God’s children in the elections of 2004 and beyond.”\footnote{A summary of the Statement appears at www.usscb.org (visited March 7, 2005).} I will analyze the vision of child, family, and state elaborated in \textit{A Family Perspective in Church and Society}, issued by the Committee on Marriage and Family of the National Conference of Catholic Bishops.\footnote{National Conference of Catholic Bishops, \textit{A Family Perspective in Church and Society} (Washington, DC: United States Catholic Bishops, Tenth Anniversary Edition, 1998).} An initial observation is that there is convergence on certain issues, including: family definition (that is, the intimate community between one man and one woman is the proper basis for the family); changing gender roles (that is, women’s movement into the paid work force poses problems for families and threatens child well-being);
lamenting the shift of significant functions once performed by families to other social institutions and calling for policies that enable families to perform their (remaining) critical tasks.\textsuperscript{156} But there is also apparent divergence due to a greater emphasis, in Catholic social teaching, on how the family itself reaches outward as a “community at the service of humanity,”\textsuperscript{157} and on issues of public responsibility to address poverty, to “put the needs of the poor and vulnerable first,” and on the need to practice the virtue of solidarity.\textsuperscript{158} In addition, by contrast to the Manifesto’s blunt assertion that the state exists to support families, Catholic social teaching has a richer, more nuanced account of subsidiarity, or of how the family and other social institutions may be partners and have complementary roles and responsibilities.

In this draft, I will confine my focus to stances on the UN’s human rights project. A

\textsuperscript{156}Id. There are some resonances between the Manifesto and the Vatican’s “Charter of the Rights of the Family,” posted on the U.S. Catholic Bishops’ web site (at www.usccb.org/laity/marriage/charterfamily.htm (visited March 7, 2005)). The Charter describes the family as “a natural society,” which “exists prior to the State or any other community;” it is based on marriage, an intimate life union “in complementarity between a man and a woman.” The family is intergenerational. Much more than a “mere juridical, social, and economic unit,” it is “a community of love and solidarity,” “uniquely suited to teach and transmit cultural, ethical, social, spiritual, and religious values.” \textit{Id.}

\textsuperscript{157}Id., 8.

\textsuperscript{158}Seven Key Themes of Catholic Social Teaching, supra note *. 
theme in some writing posted on the Conference’s web site is that the United Nation’s worthy project of defending the family threatens to run amok and instead assault the family, and that Catholics should critically engage, rather than reject, this project. For example, the web site posts the essay, “Family and Society: International Organizations and the Defense of the Family,”159 authored by Harvard Law School professor Mary Ann Glendon, who has represented the Catholic Church in various human rights conferences. Glendon does not reject the project of international human rights instruments bearing on the family. Her point of departure is the UN Universal Declaration of Human Rights and the “pervasiveness,” in that document, of references to the family as the “fundamental unit” of society and to rights relating to family life. This declaration, she suggests, reflects “dignitarian” or “personalist” assumptions about “man and society.” For example, it treats the “bearer of individual rights not as a self-sufficient monad, but as a person situated in community and relationship.”

At the outset, Glendon comments, “there is no evidence that the Declaration’s drafters expected the United Nations itself to play much of a role in protecting the family.”160 Now the UN and its various agencies are “sprawling bureaucracies symbiotically entwined with large international lobbying associations,” yet it is still not obvious how such institutions can assist families. The bigger problem, Glendon contends, is a “surprising trend” of a “many-sided assault


160Id.
on several fundamental principles” enshrined in the Declaration, including the provision that “the family is the basic social unit and that it is entitled to protection.” She charges that these attacks “fly the flag of various liberation movements,” but also “represent bids for unprecedented forms of social control.”

In brief, Glendon identifies as problematic such developments as “the subtle erosion of the moral authority of parents” in the 1989 Convention and the 1995 Guidelines issued in connection with the International Year of the Family. These two documents taken together, she claims, look like “a deliberate effort to set individual rights in opposition to family relationships, to insert the state between children and parents, and to undermine the status of the family as a subject of human rights protection.” Here Glendon seems to reprise a critique she lodged, in Rights Talk, against the evolution of U.S. privacy doctrine from the sort of entity privacy found in Griswold v. Connecticut’s protection of the marital couple to the privacy of the individual, declared in Eisenstadt v. Baird. But an implicit reference for Glendon may also be the Holy See’s “Charter of the Rights of the Family,” which speaks primarily of family rights and, when it does speak of individual rights, and articulates children’s rights in ways that do not appear to empower children at the expense of parental authority (as the Convention’s critics contend that it does). For example, she points out that although the 1995 guidelines referred back to language about the family as the basic unit of society, they also state that “the power of the family is and should be limited by the basic human rights of its individual members. The protection and assistance

\[161\] Id.

\[162\] “Charter of the Rights of the Family,” supra note *.
accorded to the family must safeguard these rights.”

Glendon directs her ire particularly at the draft documents emanating from the U.N. Women’s Conference in Beijing in 1995 and their scant mention of “marriage, motherhood, or family life,” except as “sources of oppression or obstacles to women’s progress.” She contends that the U.N. Committee on the Status of Women has become “to a great extent, the tool of special interest groups promoting a brand of feminism that was already passe in the countries where it originated,” that is, 1970s feminism “that had alienated the great majority of women through its inattention to the real life problems of work and family, its hostility to men and its disgraceful indifference to the welfare of children.”\(^\text{163}\) Also objectionable, in her view, were efforts made by a coalition led by the European Union to “deconstruct” the family and “remove every positive reference to marriage, motherhood, family, parental rights and religion,” the very sort of language that was “central to most of their own national constitutions.” As Glendon recounts the drafting process, these were not merely “misguided efforts to promote freedom and equality” of women or children or gay men and lesbians, but are better viewed as emanating from persons who seek to preserve privilege and power and exert social control. How so?

“Reproductive rights,” Glendon argues, may yield autonomy for some women, but are also a “convenient cover” for efforts “to control the family size of the poor by any means possible.” The portrait Glendon paints is of international “anti-family initiatives” that lead to an “iron triangle of exclusion” in the home countries of the backers of this agenda: “they are excluding new life through abortion and sterilization; they are barring the door against the stranger through

\(^{163}\) Id., at 3.
restrictive immigration policies; and they are turning their backs on the poor through cutbacks in family-assistance programs.” She further indicts this elite as seeing, in the children of the poor, “only a menace to the environment, a portent of social unrest and a threat to their own level of consumption.”

Who, exactly, is this new, “anti-family” class? Glendon describes it, at one point, as a “bureaucratic-managerial-therapeutic class animated by little more than the desire to consolidate the unprecedented prosperity” it attained in the late 20th century; at another, as “the mobile, semi-educated, knowledge workers that populate every nation’s governmental agencies, corporations, universities, professions, mass media, and social service agencies.” Rather than be in solidarity with the poor in their own countries, they have more in common with their cohorts in other countries. This brings Glendon to another claim: they “flock” to international organizations for favorable rulings, shunning the “ordinary political processes” of their home countries, which would “expose their agenda to the judgment of their fellow citizens.” Glendon’s attack resembles some of the claims made by CWA and the Heritage Foundation about the “cultural colonialism” of human rights instruments that would never be accepted, voluntarily, by people in the U.S.

In sum, on Glendon’s view, the decades since 1948 have brought a “steady rise in diverse movements that sought to treat the family (and religion) as obstacles to human rights, rather than as subject of human rights protection,” leading to the present crisis that “family-friendly principles of 1949” are at risk of “being suppressed or distorted beyond recognition.” But Catholic Christianity calls for action in the world, Glendon affirms, and the Church has engaged the UN

164 Id., at 4.
because of the good it has accomplished, despite its flaws. She offers the practical illustration of how the Holy See delegation (including Glendon) intervened in the Beijing drafting process to ensure inclusion of “family-protection language” and positive references to the family. Reflecting the Catholic stance of critical engagement, Pope John Paul II instructed the delegation to “Accept what is good in the document and vigorously denounce what is false and harmful.”\footnote{Id., at 5.} She offers the example of the success of that strategy: in the next year’s Istanbul Habitat conference, developing countries resisted Western pressure and recognized “the family” (rather than the code-word “families”) as the basic unit of society and deleted almost all references to “reproductive health” (thus avoiding “forc[ing] abortion on the developing world”).\footnote{Id., at 6.}

Glendon concludes her essay by echoing the Pope’s call to families themselves to become “‘protagonists’ of what is known as ‘family politics’ and assume responsibility for transforming society.” She offers several admonitions as to how to became “protagonists of family politics,” most of which involve the reassertion of family (and national) sovereignty with respect to children.\footnote{“Let us resist the self-appointed experts who pretend to know better than we ourselves how we should raise our children;” “Let us take back our children’s education from proselytizing secularists;” “Let us not starve the United Nations, but let us put it on a wholesome diet.” Another admonition is to help in “building the civilization of life and resisting the culture of death.”} The website for the U.S. Catholic Bishops includes other examples of this critical

\begin{addendum}
\item Id., at 5.
\item Id., at 6.
\item “Let us resist the self-appointed experts who pretend to know better than we ourselves how we should raise our children;” “Let us take back our children’s education from proselytizing secularists;” “Let us not starve the United Nations, but let us put it on a wholesome diet.” Another admonition is to help in “building the civilization of life and resisting the culture of death.”
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engagement by the Catholic Church with respect to human rights instruments concerning the family.  

National Council of Churches

The National Council of Churches, USA, comprises, according to its web site, “36 faith groups . . . 100,000 congregations . . . 45 million American Christians.” The NCC supports both the UN Convention on the Rights of the Child and CEDAW. For example, on the 50th anniversary of the Universal Declaration of Human Rights, it issued a resolution urging the United States to “reaffirm” its “commitment to universal human rights” by working toward the ratification and implementation of both instruments. Subsequently, it has praised CEDAW as creating “an international standard against which the treatment of women can be measured in the fields of life – including education, civil, political, economic, social, and cultural rights,” and has


urged that United States policy “here and around the globe should promote women’s rights in all aspects of life.” In contrast to CWA, it embraces a principle of equality between women and men: “No woman can proclaim to be fully free until all women enjoy equal status to men and protection from discrimination.”

These declarations endorsing human rights instruments do not address, explicitly, the place of child, family, and state. However, many of the documents written by the NCC’s Justice for Women Working Group (JWWG), part of NCC’s Justice and Advocacy Commission, do touch on these themes. Founded in 1977, JWWG describes its mission as tackling “the hard, concrete issues impacting women’s lives,” and locates its role “in the context of the churches that mirror society’s continued ambivalence toward women who seek equality and justice.”

A perusal of JWWG’s materials reveals several themes: a steady focus on addressing issues of women and children living in poverty; an insistence on linking personal responsibility to social responsibility; and an approach to family policy that acknowledges marriage as a foundational relationship, but also calls for congregations and public policies to affirm family forms other than the two-parent nuclear family.


172 “Justice for Women Working Group,” available at: [ ].

173 Id.; Justice for Women Working Group, National Council of the Churches of Christ,
These three themes interweave in the JWWG’s writings about welfare policy and marriage promotion. On the one hand, JWWG speaks of marriage as a “sacred institution,” noting that, in the Christian tradition, “the marriage covenant mirrors the covenant between God and humanity.” Thus, the religious community “has always supported marriage and families” and “the family is a major focus of congregational life.” “Healthy and strong marriages benefit adults and children” and can serve as “an inspiration” to others who seek to be in relationship.\textsuperscript{174} At the same time, JWWG critiques governmental welfare policy recommendations concerning marriage and family for assuming “that marriage is a cure-all for systematic social problems and that the work of promoting healthy relationships isn’t being done adequately.” Marriage, JWWG contends, “will never substitute for necessary social programs, or address the injustices of our economy.”\textsuperscript{175}

Addressing congregations, JWWG urges them to continue their work of nurturing couples and families, but “remain vigilant and self-observant in order to avoid focusing on the ‘dream’ family (the heterosexual, two-parent family with biological children), while ignoring the current reality.” Instead, “congregations that understand the real life conditions facing today’s families have multiple opportunities to witness God’s breaking through in new ways.”\textsuperscript{176}

JWGG draws on Christian social teaching to offer congregations principles about “family

\textsuperscript{174} For the Good of All Families: Affirming Our Interdependence, at 1.

\textsuperscript{175} Id.

\textsuperscript{176} Id.
well-being and our interdependence.” These principles resonate quite easily with many feminist analyses of family and of the interplay of personal and public responsibility. For example, JWGG elaborates upon the first principle, “Seek stability, security, and equity for all”:

An important sense of solidarity can be achieved by acknowledging the shared vulnerability and basic needs of all families. All families are vulnerable to illness, disability or death. Most families share the need for economic security, freedom from family violence, affordable health insurance, and child care supports. Indeed, pre-marital counseling and marriage enrichment programs can help couples approach marriage with realism and commitment in the face of such vulnerabilities. There is only so much that individual families can do, however, to ensure their own stability and security. For this reason, families and congregations also need to advocate for public policies that promote stability and security.  

JWWG’s second principle, “Advocate for the poor,” declares a public responsibility, rooted in justice, to meet “everyone’s basic needs, such as food, clothing, shelter, health care, and work” and for individuals and congregations to advocate “for social, economic and community supports for all people,” for jobs that pay a living wage and for quality child care and pre-school programs. Under a related principle, “Uphold the common good,” JWWG admonishes that congregations – “as the perceived purveyors of moral authority in our society” – have an important role to play “in pointing out that there can be no personal responsibility without social responsibility.” JWWG cautions that “our current policy preoccupation with self-sufficiency is not in keeping with Christian social and ethical teachings, which emphasize mutual caring and

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177 “The Many Ties That Bind,” in *For the Good of All Families*, at 4.

178 *Id.*
interdependence.”

Two other principles, “Practice covenant faithfulness” and “practice solidarity,” also direct attention to congregations’ obligation to serve the community, particularly those in need. In practicing covenant faithfulness, for example, congregations should heed the biblical example of “Jesus’[s] commitment to the poor, the widow, and the orphan”; stronger families should help those who are more fragile. The appeal to “practice solidarity” urges solidarity with low income women rooted in an awakened awareness of “our shared vulnerability – economic insecurity, troubled relationships, the possibility of divorce, family violence and ill health.” Thus, “for women of all backgrounds,” government’s focus on “the private lives of poor women – the realm of intimate relationships, marriage, and reproduction – should sound a warning.”

Finally, the principle, “Honor diversity,” entails valuing each family for its own strengths and notes the many pathways to family diversity: “A single-parent family may have formed due to a family or social crisis, but it is possible that it formed from a position of choice and strength.” Accordingly, in striking contrast to conservative religious groups who appeal to divine design to defend the marital family and warn against alternative families, JWWG contends: “The diversity of healthy families needs to be celebrated. God created a diverse and complex world; rarely is there only one way.”

\[179\] Id.

\[180\] Id., at 5.

\[181\] Id.
Final Analysis and Conclusion

[to be added in later draft!]