

The Natural Family

Volume 32 Numbers 3-4 2018

WORLD CONGRESS OF FAMILIES XII	Opening Addresses Igor Dodon, President of the Republic of Moldova Monseigneur le Prince Louis de Bourbon, duc d'Anjou Allan C. Carlson, Founder of the World Congress of Families	136
FEATURES	Marriage, Family, and Their Advocacy at the United Nations Rubén Navarro	148
	Heaven, Earth, and Family <i>The Universal Declaration of Human Rights and Its Article 16</i> E. Douglas Clark	164
COMMENTARIES	The Blood Bath that Wasn't Supposed to Happen <i>Romania's Marriage Referendum</i> Peter Costea	196
	Homeschooling is Good for Society Allan C. Carlson	204
REVIEWS	Giving "Evolution" A Push <i>From Tolerance to Equality: How Elites Brought America to Same-Sex Marriage</i> (Darel E. Paul) Reviewed by William C. Duncan	208
	Holding the Elites Accountable <i>The Sexual State: How Elite Ideologies are Destroying Lives and Why the Church Was Right All Along</i> (Jennifer Roback Morse) Reviewed by Nicole M. King	212
RESEARCH HIGHLIGHT	The Open Secret Nicole M. King	216
NEW RESEARCH	Bryce J. Christensen and Nicole M. King	224

THE NATURAL FAMILY
AN INTERNATIONAL JOURNAL OF RESEARCH AND POLICY
Volume 32 Numbers 3-4 2018

Editor

Allan C. Carlson

Managing Editor

Nicole M. King

Senior Editor

Bryce J. Christensen

Editorial Board of Advisors

Edmund Adamus
Portsmouth Diocese

Phillip J. Longman
New America Foundation

Maria Sophia Aguirre
Catholic University of America

Jennifer Roback Morse
The Ruth Institute

Anatoly Antonov
Moscow State University

Federico Nazar
MoralNet.Org

William C. Duncan
Marriage Law Foundation

Giovanna Rossi
Catholic University of Milan

Patrick F. Fagan
Marriage and Religion
Research Institute

Avtandil Sulaberidze
Illia State University

Rafael Hurtado
Panamerican University

D. Paul Sullins
Catholic University of America

Márki Lázsló
Hungarian Academy of Sciences

David Van Gend
M.D., Australia

Evan Lenow
Southwestern Baptist
Theological Seminary

Lynn D. Wardle
Brigham Young University

THE NATURAL FAMILY: AN INTERNATIONAL JOURNAL OF RESEARCH AND POLICY (ISSN 2471-5506) is published quarterly by The International Organization for the Family, 934 North Main Street, Rockford, Illinois 61103. Subscription inquiries and services (800) 461-3113. **Subscription rates:** \$35 for one year (four issues); \$60 for two years (eight issues). Outside the USA: \$45 per year. Single copy price and back issues: \$10.00 in the USA; \$13.00 outside the USA. Opinions expressed herein do not necessarily reflect the views of The International Organization for the Family or its board of directors. Nothing in **THE NATURAL FAMILY** should be construed as an attempt to aid or hinder the passage of any bill before Congress.

© 2018 The International Organization for the Family. All rights reserved.

The Natural Family

Address of the President of the Republic of Moldova Igor Dodon to the Participants of the World Congress of Families

(Chisinau, September 14-16, 2018)

From September 14-16, 2018, participants in World Congress of Families XII gathered in the beautiful and culturally rich Republic of Moldova to discuss both the victories of and challenges facing the pro-family movement around the world. The following three addresses were delivered at the plenary session of WCF XII.

DEAR PARTICIPANTS OF THE WORLD CONGRESS OF FAMILIES!

On behalf of the Republic of Moldova, on the part of my fellow citizens, I am happy to welcome this authoritative international forum held in support of the family and organized in the capital of our country for the first time.

The World Congress of Families is one of the most representative international associations protecting traditional family values shared and supported by hundreds of organizations, dozens of thousands of activists, and millions of supporters worldwide.

In recent years, the World Congress of Families has been held in many cities around the world: Prague, Geneva, Mexico, Warsaw, Amsterdam,

Madrid, Sydney, Salt Lake City, and Tbilisi. This year, Chisinau has picked up the torch of hosting the Congress.

Today, the delegates from dozens of states, the representatives of Christian denominations and other confessions who have arrived in Chisinau to say their word on one of the most topical issues in the modern world, are in this hall.

Dear friends!

For all of us, the family is the most important social institution. It is the family that shapes the human personality. The family is where the spiritual, cultural, and social experience of previous generations is shared.

Christians refer to the family as a “small church.” This is correct, because in the family, a person learns the initial concepts of good and evil, the people around him, and the reason of coming to this world—the purpose of life.

Unfortunately, in the modern world, the institution of the family is more subject to erosion and destruction than any other social institution.

All of us are aware of the problems of depopulation, mass migration, increasing numbers of divorces and abortions, and the social vulnerability of the family.

However, there are more serious threats to the institution of the family nowadays. This is, first of all, an anti-family philosophy; I would even call it an anti-family ideology, which is artificially propagated all over the world, including with the participation of a number of international organizations. It is based on depriving mothers and fathers of their natural roles in the family and denying parents’ right to determine the priorities while bringing up their children.

I would like to dwell on specific issues that threaten the institution of the family in Moldova.

Basically, they are caused by the economic crisis and the extremely low living standards of the country’s population. Many people are unable to find any decent source of income in their homeland and therefore have to find jobs abroad. As a result, families actually disintegrate. Spouses do not have a chance to see each other for years and years.

Children are left to their grandparents, who take care of them; in

spite of having living parents, they are abandoned and become social orphans. Due to financial instability, young people are reluctant to have children. Many have abortions without thinking of the consequences of this step.

As a result, in our country, the processes of depopulation are developing at a rapid pace. This year, according to the National Bureau of Statistics, a little more than 36,000 children went to the first grade. A few years ago, the number of first-graders in our country was a quarter more. The number of students this year is 30 percent lower than five years ago. On average, 106 people leave the country every day.

Over the past 27 years—the years of independence—we have lost up to one third of our population for various reasons. According to recent demographic forecasts, by 2050, the population of the Republic of Moldova will be reduced by more than a million people—*i.e.*, the country is likely to lose more than another third of its population.

But if we take the latest trends into account, it seems that the loss of a million people will happen much earlier—in 10-20 years.

With this consideration in mind, we must, first and foremost, change our own attitude and the attitude of society towards the family and the problems examined by us.

For this purpose, the philosophy aimed at strengthening the institution of the family and based on the priority of traditional family values should become an alternative to the actively propagated anti-family ideology. Our motto is: “Every child should be brought up only in a family.” A family should only be regarded as an alliance between a man and a woman, a father and a mother.

We are eager to offer a comprehensive national program to support the family and promote family values in society. To implement this program, we will involve educational and preschool institutions, social services, creative unions, the Orthodox Church and other religious organizations, civil society, and mass media.

Since the factor of economy is the basis of many social phenomena, solving socioeconomic problems is the path to the invigoration of society. A comprehensive family social protection program should include extending maternity leaves, increasing maternity capitals, paying “family wages” to one of the parents, and creating decent conditions for

women to help them successfully combine their working activities and child-rearing.

Last year, I came up with a legislative initiative to pay maternity capitals in the amount of one-and-a-half of the average salary in the economy for each first newborn child in the family, two average salaries for the second child, and three for the third and each subsequent child. Unfortunately, the current composition of the Parliament rejected this suggestion and a number of other social initiatives aimed at strengthening the institution of the family. I believe that the next Parliament will demonstrate more patriotism and social responsibility and will not leave the initiative regarding maternity capitals without attention.

I would like to mention that, in the Parliament, the pro-presidential Party of Socialists has worked out dozens of social draft laws aimed at improving living conditions and supporting young families, mothers, and children. Within the framework of the First Lady's charitable foundation, *Din Suflet*, approximately 38,000 children in primary schools and pre-school children were offered assistance through the programs of support and reconstruction of kindergartens throughout the country over the past two years. *Din Suflet* makes a one-time payment of 4,000 lei to the families in which the fourth (and every subsequent) child is born.

I consider it necessary to instill love and a habit for a healthy lifestyle in children from a very early age. In this regard, we implement a comprehensive national program for the construction and development of facilities for free mass sports. In our country, every young family, every child who is born is a treasure that needs to be protected, and we should take care of them in order to increase it.

Unfortunately, not everyone shares this point of view. I would like to focus on the propaganda of the phenomena that offend our values and public morality. I am convinced that such propaganda should not take place in our society. Organizing festivals and other events that promote immoral principles must be strongly deprecated, even to the extent of outlawing them.

In this regard, I would like to say that I am ready to support all parents' organizations and associations created in order to protect children from negative influence.

Dear Congress participants!

Next year, our country will celebrate the 660th anniversary of the Moldovan state. The future of any country, the prosperity of any state depends not only on the economic situation, but also on the overall state of society, demographic statistics, population growth or decline trends, the number of fully functional families who have all the conditions for raising children, the opportunities for professional and career development, and decent salaries and a comfortable life in the respected age after the completion of active professional years. Therefore, in order to consolidate society around the comprehensive program of supporting the family, motherhood, and childhood as the foundation of the future of our state, the Republic of Moldova, I officially declare 2019 as the Year of the Family in our country. We will do our best, including through public policy in this sphere, to unite all healthful initiatives, organizations, and communities in order to achieve the essential goal of strengthening the institution of the family. May God help us do this!

To conclude, I would like to welcome the participants of the World Congress of Families to the hospitable Moldovan land once again and wish you a fruitful forum, my dear friends!

Thank you for your attention.

**Address of Monseigneur le Prince Louis de Bourbon,
duc d'Anjou, Head of the Royal House of Bourbon**

YOUR EXCELLENCY, MR. PRESIDENT OF THE REPUBLIC OF MOLDOVA,
Your Holiness, Eminence,
Ladies and Gentlemen, Dear Friends,

First of all, thank you for giving me the opportunity to speak on the subject of the family at the opening of this international symposium. This subject is important to me and to my wife. Indeed, in our Western societies, we live in a crucial moment regarding the role and place given to the family institution, faced with many assaults. By taking stock of the situation and calling for the necessary renewal, this international congress, under the chairmanship of the President of Moldova, Igor Dodon, and under the patronage of Patriarch Kirill and of Cardinal Parolin, will mark a milestone.

You need to know how to resist the attacks that the traditional family is facing. These ways are numerous: raising a large family, praying, leading political action, social or legal means, and always paying attention and being constantly vigilant. It is no exaggeration to say that families in many countries must assert themselves by resisting the many insidious measures that seek to weaken them. Conferences like this contribute to this spirit of resistance by facilitating exchanges and sharing knowledge. Together, it is easier to discern the stakes and the risks and to think of ways to remedy this situation which, if it were to continue, would lead to the ruin of society, even to that of civilization.

The question of the defense of the family is extremely serious as it touches the essential. The family, through natural transmission from generation to generation, is intrinsically linked to life, and attacking it leads to deadly attitudes. One cannot go without the other, even if, nowadays, some would like to lead us astray in other ways such as the theory of “gender” or unnatural practices such as surrogacy, which in French is often reduced to the initials, GPA, for the French phrase *gestation pour autrui*, seeking to hide the horror of the practice that the words evoke. The future is not there. On the contrary! Denying the natural family is denying life, as the speakers will remind us.

Speaking at the opening of this congress, it is up to me to pose the problems as I see them, and this in three aspects: as head of the House of Bourbon and successor of the kings of France; as head of a family; and as a person engaged in social life.

First of all, as Head of the House of Bourbon, I find myself heir to a family that has reigned for more than 800 years in France and which, especially, as all historians recognize, has made a small field a powerful and radiant state in Europe and beyond.

This work was possible because it was that of a family, the royal family. Thus, the fundamental laws of the kingdom, the constitution of the time, which allowed the kingdom’s development, were originally a family law. For the greater collective good, these laws organized the transmission of royal power from male to male in order of primogeniture. They thus guaranteed the stability of power and ensured a national dynasty. Such is the “Capetian miracle”—family and social law at the same time since it was based on an order and resulted in natural hierarchies between people. If all did not have the same duties, all had to contribute to the common good. The eldest of the males had the duty of ensuring the permanence of the State, the principal role of the royal function, but the other members of the family concurred in it: being a rightful heir, a function of the Dauphin; assuming the regency in case of the minority of the legitimate holder, often the role of mothers or uncles; or accepting different functions endowed with power charges, often the task of different princes or princesses. This way of conceiving the power of the dynasties is not over. In the royal families that remain in Europe, from a very young age, children and grandchildren, brothers and sisters participate in the royal

function. How to express better, than by this practice, how much the king and his family are at the service of society?

Beyond this, the king, head of the family, also symbolized the unity of society by being the model of all families. The bond which united the French to each other was, first and foremost, a family tie from the humblest to the king. Far from being an object of law, each Frenchman was above all a subject, that is to say a person with inalienable rights. This link between the social body and the head is currently lacking. This organic connection is perhaps the most important element that the dynasty, the royal family, could offer. These principles were understood, lived, and espoused by the great Louis IX whom the Church made a saint at the end of the 13th century.

These principles have not changed for centuries because they gave meaning to life in society, the latter being much more than a set of individuals held together by laws and regulations but a real community committed to the same collective destiny. That is why France was not only an internal political success, but above all a model of civilization to share. And I say this even today, when our country sometimes seems oblivious to its great principles, to the point of denying some, but, you see, the strength of the principles is that they remain against all odds. So I prefer to say that they are dormant! As the Comte de Chambord already said, France can, from one day to the next, reconnect with what remains the strength of the civilization of which it is a carrier, which rests on the common good. Fruit of the double heritage, Greco-Roman and Christian, this strength is transmitted through those who first find the opportunity to blossom within the family.

But I would like to come also to a second point. If the Head of the House of Bourbon incarnates, the royal family and its values, he is also a head of a family like all of you. This family I feel in my being, deep within me. This family consists of those who preceded me and to whom I must be who I am. You see, there is not a day when I do not think of my ancestors, who have left me a story that sometimes exceeds me; when I do not think of my brother too soon lost; my father, who died when I was too young; my grandparents, my dear grandmother who died a few months ago. To them all, I am indebted for what I am, a small link in a huge chain. It is absurd to want to believe that we are orphaned individuals

who would have everything from the state.

Of course, if I value those who have gone before me, this is even more true for those who are now at my side, every day, every moment. What would I be without my wife, or my dear children—and among them I include the fourth who is expected in a few months, but who is already a person in our family? This spiritual aspect is at the heart of the family and part of its mystery. The family is an entity in itself, just as the couple is more than the husband and the wife. Thus attacking the family is ruining the natural balance, it is breaking the chain of generations that extends from the origins of the world to what will be its end. This dimension of the family is essential and to question it is to attack the greatest foundations of human society. It is up to us, to us parents, to defend it.

We are responsible for this social cell, a place of true solidarity and a bulwark against precariousness and isolation. This defense of the family extends through all of life, from conception to natural death and, beyond that, to the respect due to the dead; the defense of family continues through the transmission of values and especially through education but cannot be limited to education.

This is why it is necessary to affirm and especially to continue despite the pitfalls of often hostile legislation. Those who attack the natural family know what they are doing. Through the family they seek to reach the whole society and its foundations. This is how totalitarianisms are born. This danger is present. Regrettably!

You see, and this will be my third point about the social role of each of us, based on the experience of history and recent events, when some seek to break the social pact, very quickly and always they try to break families. Let us think of the Vendée, where women and children were killed even more than the combatants themselves and in atrocious ways; remember the Armenians and the genocidal policies that followed and in many parts of the world continue; as we have seen, there is still little for the Christians of the East. Each time, under the reign of red, brown, and now green totalitarianism, families are worried for what they represent. Each time there are forced separations, the creation of child soldiers, and enslavement for girls and women. On this point the royal families paid their taxes. Remember Louis XVI, murdered with wife, son, and sister; Nicholas II with wife and children.

These instances demonstrate how the family, despite all its fragility, remains for some the main enemy. It is therefore the duty of all, especially those who aspire to religious, social, political but also cultural functions, to defend the family—that is, life.

So, finally, after drawing your attention to the connection between royal family, natural family, and social family, I will make a proposal: Why not propose to UNESCO to include in their World Heritage sites, the model of the traditional natural family—a father, a mother, children—a model that has proved its worth? Would not that instill a real dynamic in the family institution by making it a model with irreplaceable values for tomorrow? Thank you for listening to me. May Saint Louis, my grandfather, the king of the 11 children, protect our families.

Address of Allan C. Carlson, Founder of the World Congress of Families

THE IDEA FOR A WORLD CONGRESS OF FAMILIES was conceived in Moscow, Russia, in January 1995. The initial purpose was to compare and contrast family trends in the East and the West. Specifically, to what degree were negative family developments in the Eastern nations recently freed from communism—plummeting marriage and fertility rates, rising out-of-wedlock births and divorce, and a seeming disregard for children—a consequence of the Marxist system? Or were such trends more directly tied to similar developments in the Western nations adhering to liberal capitalism?

This week, we gather for the 12th major World Congress of Families session here in the beautiful city of Chisinau, Moldova, to continue, update, and advance that vitally important dialogue between East and West. I am honored and delighted to be here, and I bring greetings from over 50 active pro-family and pro-life groups in North America.

I also want to remind this gathering of an important legacy from the early years of the WCF. It quickly became clear that this project required a grounding in clear definitions of certain key phrases. The most important of these was “The Natural Family.” Specifically, the making of family and population policies can be effective only if policymakers have a clear objective: an ideal family model, toward which law, regulations, and custom strive.

In May 1998, we gathered 30 persons in a second century, B.C. room in the ancient city of Rome. Our hosts were Ambassador Alberto and

Christine Vollmer, of Venezuela. The group represented all the scattered children of Abraham: Roman Catholics, Russian and Eastern Orthodox, Lutherans and other Evangelical Protestants, Mormons, Sunni and Shiite Muslims, and Orthodox Jews. It also included important research scholars from the fields of demography, law, history, sociology, and psychology. After a long conversation and debate, this group agreed on the following definition.

The Natural Family is the fundamental social unit, inscribed in human nature, and centered around the voluntary union of a man and a woman in a lifelong covenant of marriage for the purposes of:

- Satisfying the longings of the human heart to give and receive love;
- Welcoming and ensuring the full physical and emotional development of children;
- Sharing a home that serves as the center for social, educational, economic, and spiritual life;
- Building strong bonds among the generations to pass on a way of life that has transcendent meaning; and
- Extending a hand of compassion to individuals and households whose circumstances fall short of these ideals.

This definition, the group agreed, was wholly consistent with Article 16:3 of the Universal Declaration of Human Rights and was affirmed as well by the findings of contemporary social science. Where alternate phrases—such as “traditional family” or “nuclear family”—look backward or confuse, the Natural Family is positive, self-evident, and authentically progressive. It continues to be fundamental to the work of the World Congress of Families.

FEATURES

Marriage, Family, and Their Advocacy at the United Nations

Rubén Navarro

THE FAMILY IS A NATURAL UNION consisting of a husband and a wife, a father and a mother, a man and a woman together with their natural offspring or adopted children. The family, rooted in the marriage of a man and a woman, historically has been protected because it is a personal relationship with public implications, unique and essential to the common good. Similar conceptions have existed since time immemorial, within a diverse variety of cultures and religious beliefs which have protected and promoted the family as the fundamental group unit of society.

This essay explores the definitions, meaning, and discrepancies surrounding various terms relating to marriage and the family. The LGBTI agenda and “gender ideology” have evolved throughout the history of the United Nations, and some of their dangers and objectives will be unveiled.

The aim of this essay is to provide readers with public and insider knowledge stemming from discussions, negotiations, and meetings within the UN and its various bodies, in order to elucidate the initiatives in favor of and against marriage and the family.

Family in International Law: Where We Stand Now

The United Nations was originally based on sound principles, including the prevention of a third World War. The functioning of the UN

is guided by the principles of sovereignty and of the independence of member states; each state determines by which political, cultural, social, economic, and/or religious conditions and peculiarities it will abide. The principle of subsidiarity is also applied, so that the actions are taken by the authorities closest to their citizens.

Another fundamental principle of the UN is the importance of achieving consensus or unanimous adoption, which implies a guarantee of the independence of states and respect for their sovereignty. If all states participate in a given negotiation, the negotiation is free and open, all parties are heard, and a result is reached by consensus; this is considered a win-win situation. Regrettably, not all states or UN bodies seek consensus; sometimes they even attempt to impose their agenda and ideology at any costs.

The Universal Declaration of Human Rights (UDHR) has been considered a milestone in human rights law. It was drafted by representatives with different legal, social, religious, and cultural backgrounds from all regions of the world, and in its Article 16.3 it recognizes that: “The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.”¹

The 169 nations that have signed and ratified the International Covenant on Economic, Social and Cultural Rights recognize the family as the natural and fundamental group unit of society, and also recognize the importance of protecting and assisting the family, particularly at its establishment and while it is responsible for the care and education of dependent children.

Additionally, the 1989 Convention on the Rights of the Child declared the importance of the family to society, particularly for children.² Other

1. The United Nations, Universal Declaration of Human Rights, December 10, 1948, available at <https://www.ohchr.org/EN/UDHR/Pages/Language.aspx?LangID=eng>. Article 23.1 of the International Covenant on Civil and Political Rights has the same wording as art. 16.3 of the UDHR. See <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

2. Preamble of the CRC: “Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community . . .”; “Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love, and understanding.”

similar recognition of the importance of the family can be found in the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention on the Rights of Persons with Disabilities. The first reads: “States Parties, recognizing that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, shall take appropriate measures to ensure the protection of the unity of the families of migrant workers.” The Preamble to the CRPD continues such phrasing: “Convinced that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, and that persons with disabilities and their family members should receive the necessary protection and assistance to enable families to contribute towards the full and equal enjoyment of the rights of persons with disabilities . . . ”³

The Yogyakarta Principles: The Great Deception

Marriage and family have been protected for good reason; notably, for the public good which stems from them: As the Vatican itself has observed,

The marital union also provides the best conditions for raising children: namely, the stable, indissoluble loving relationship of a mother and a father present only in marriage. The State rightly recognizes this relationship as a public institution in its laws because the relationship makes a unique and essential contribution to the common good.⁴

To the contrary, the Yogyakarta Principles⁵ aim for the application of human rights concerning “sexual orientation” and “gender identity.” But contrary to what many legislators, diplomats, treaty monitoring bodies,

3. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 2003), Art. 44.1, available at <http://www.un.org/documents/ga/res/45/a45r158.htm>. The Convention of the Rights of Persons with Disabilities (adopted 2008), available at <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/convention-on-the-rights-of-persons-with-disabilities-2.html>.

4. Permanent Observer Mission of the Holy See in Geneva, *Preserving the Universality of Human Rights in the context of Sexual Orientation and Gender Identity* (Vatican City: Libreria Editrice Vaticana, 2012).

5. Full text available at <https://yogyakartaprinciples.org/>.

and others think (or perhaps want the public to think), these principles have *no binding authority* in international law. The Yogyakarta Principles do not come from an agreement of the states, but rather from a November 2006 declaration made following a three-day meeting in Yogyakarta, Indonesia, of a self-proclaimed “distinguished group of human rights experts.”⁶

The Yogyakarta Principles define the terms “sexual orientation” and “gender identity” (SOGI) in a blurry way, through understanding the existence of a plurality of emotions, affections, and sexual attractions as an implicit denial of sexual differences and even of the very existence of male and female.

In a mere decade following the Indonesia meeting, the UN has seen the proliferation of the use of terms such as “gender,” “sexual orientation,” “gender identity,” “assigned gender,” and “sexual minorities.” Despite the promotion of those terms by powerful states, UN institutions, and UN employees and lobbies, there remains an evident opposition to them at the General Assembly, the Human Rights Council, and other UN institutions by both states and non-governmental organizations (NGOs).

In 2017, another meeting was held, this time in Geneva, in which the participants adopted the so-called “Yogyakarta Principles plus 10.” The new principles involved more transsexual and intersex defenders to create a

document emerged from the intersection of the developments in international human rights law with the emerging understanding of violations suffered by persons on grounds of sexual orientation and gender identity and the recognition of the distinct and intersectional grounds of gender expression and sex characteristics.⁷

6. For an in-depth analysis of the Yogyakarta Principles, see: Carmen Marsal, “Los principios de Yogyakarta: derechos humanos al servicio de la ideología de género,” *Dikaion* 21.1 (June 2011): 119-30, available at <http://dialnet.unirioja.es/descarga/articulo/4494506.pdf>; see also, Piero A. Tozzi, “Six Problems with the Yogyakarta Principles,” New York, International Organizations Research Group, 2008 BRIEFING PAPER Number 1 (2007), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1551652; and Jakob Cornides, “A Brief Commentary on The Yogyakarta Principles,” *Selected Works* (Brussels: 2009).

7. Yogyakarta Principles Plus 10, adopted November 10, 2017, available at <http://yogyakartaprinciples.org/principles-en/yp10/>.

Pro-life and pro-family advocates are concerned with attempts to erode national sovereignty and religious, cultural, social, and moral values. The nature and definition of marriage and the family, the limitations on the right of individuals to fully exercise their freedom of conscience and expression, the rights of parents regarding their children, and other important issues are under threat. The methods of challenge vary but include the establishment and appointment of controversial mandate holders, divisive resolutions, unsupported reports, unrequested studies, and other initiatives.

The LGBTI Agenda and Gender Ideology

Despite no clear recognition of their aims under international law, the LGBTI agenda and the gender ideology lobbies have over the past several decades tended to focus on the individual and his wishes and desires alone. Some of the goals of this movement include redefining and de-naturalizing marriage, as well as creating new rights. Expanding or creating new rights when the natural conditions are not possessed affects the essence of human rights and prevents their universality.⁸ Marriage should meet some conditions, among them being a heterosexual, lifelong union which welcomes children.

Marriage is not the only field wherein conditions must be met. To be considered a medical doctor, at a minimum, one needs to enroll in a university, pass a certain number of exams, and obtain a degree. A carpenter can become a medical doctor if he goes to a university and fulfills those requisites. Likewise, a man with a same-sex attraction could enter a marriage, provided he joins a heterosexual, lifelong union which welcomes children.⁹ Such unions are not unheard of.

How did the switch to emphasis on personal desire come about? Shifts in perceptions of sexual morality, the promotion of abortion, and

8. Rubén Navarro, "El matrimonio, la familia, la 'ideología de género' y la 'Agenda LGBT' en la Organización de las Naciones Unidas" inside the collective work "La batalla por la familia en Europa," coordinated by Prof. Francisco José Contreras, Sekotia, Spain, 2016.

9. Richard Cohen, "Coming Out Straight: Understanding and Healing Homosexuality" (Oakhill Press, 2005). Richard Cohen, a former homosexual, now married with three children, struggled for most of his life with unwanted same-sex attractions. His book, although controversial, explains his personal journey out of homosexuality and is intended to help and heal many lives.

the popularization and improving efficacy of contraceptive methods in the second half of the 20th century, combined with the sexual revolution, were a start. One of the most important implications of these developments was that sexual relationships were separated from marriage, family, and offspring. The place and role of marriage in society began to be questioned, and other *de facto* or legal structures were created. These new substitutes had some of the elements of marriage, but not all. Promoters of gender ideology and the LGBTI agenda want to change the understanding of marriage and the family, as these represent cultural, religious, and traditional values that oppose their goals.

But these efforts lack legal authority. The only legally binding definition of the word *gender* in the UN system is the one provided by the Statute of the International Criminal Court, which appears in Article 7.3: “For the purposes of this Statute, it is understood that the term ‘gender’ refers to the two sexes, male and female, within the context of society. The term ‘gender’ does not indicate any meaning different from the above.”

Judith Butler, one of the ideologues of the “gender ideology” movement, stated that “gender is neither the causal result of sex nor as seemingly fixed as sex.” Butler also argues that “when the constructed status of gender is theorized as radically independent of sex, gender itself becomes a free-floating artifice, with the consequence that man and masculine might just as easily signify a female body as a male one, and woman and feminine a male body as easily as a female one.”¹⁰

The American College of Pediatricians states that “Human sexuality is an objective biological binary trait: ‘XY’ and ‘XX’ are genetic markers of male and female, respectively—not genetic markers of a disorder. No one is born with a gender. Everyone is born with a biological sex.”¹¹

Lawrence S. Mayer and Paul R. McHugh explain as clearly as possible the frequently confused terms *sex* and *gender* in an article in *The New Atlantis*:

10. Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (Abingdon, UK: Routledge, 1990).

11. American College of Pediatricians, “Gender Ideology Harms Children,” updated September 2017, available at <https://www.acped.org/the-college-speaks/position-statements/gender-ideology-harms-children>.

The concept of biological sex is well defined, based on the binary roles that males and females play in reproduction. By contrast, the concept of gender is not well defined. It is generally taken to refer to behaviors and psychological attributes that tend to be typical of a given sex. Some individuals identify as a gender that does not correspond to their biological sex.¹²

Mayer and McHugh continue, explaining the consequences of gender dysphoria, how it is treated in adults and children, and the lack of scientific evidence on the psychological benefits of hormonal or surgical interventions:

Gender dysphoria—a sense of incongruence between one’s biological sex and one’s gender, accompanied by clinically significant distress or impairment—is sometimes treated in adults by hormones or surgery, but there is little scientific evidence that these therapeutic interventions have psychological benefits. Science has shown that gender identity issues in children usually do not persist into adolescence or adulthood, and there is little scientific evidence for the therapeutic value of puberty-delaying treatments. We are concerned by the increasing tendency toward encouraging children with gender identity issues to transition to their preferred gender through medical and then surgical procedures.¹³

In consequence, and to avoid confusing terms, the use of the word *sex* to refer to masculine and feminine should be preferred to the word *gender*. Many experts—the American College of Pediatricians among them—have concluded that “gender ideology” harms children.¹⁴ There are several examples of how the promotion of a fluid or changing gender creates problems for children and adults.¹⁵ Walt Heyer states, from

12. Lawrence S. Mayer and Paul R. McHugh, “Part Three: Gender Identity,” *Sexuality and Gender: Findings from the Biological, Psychological, and Social Sciences*, *The New Atlantis* 50 (Fall 2016): 86-113.

13. *Ibid.*, 11.

14. *Ibid.*, 10.

15. Paul W. Hruz, Lawrence S. Mayer, and Paul R. McHugh, “Growing Pains: Problems with Puberty Suppression in Treating Gender Dysphoria,” *The New Atlantis* 52 (Spring 2017): 3-36.

his own experience living socially and legally as a woman for eight years before transitioning back to living as a man, that in spite of cross-gender hormones and genital surgery, a biological change from male to female or the opposite is impossible: “Underneath all the cosmetic procedures, vocal training, and hair growth or hair removal lies a physical reality. Biologically, the person has not changed from a man into a woman or vice versa.”¹⁶

On the other hand, social science consistently demonstrates that children who grow up connected with and jointly raised by both of their biological parents experience better outcomes overall than children who grow up in single-parent or step-parent households:

In the case of children, we find the same situation: living in a family led by the biological father and mother multiplies the benefits received due to the solidarity of both parents, which, in turn, stabilizes the relationships and increases the resources available to take care of daily needs, which may be emotional, educational, economic, or related to physical or mental health.¹⁷

The cost of family breakdown is socially and economically high.¹⁸ Member states should therefore, in search of the common good, refrain from enacting policies which directly encourage the increased formation of alternative family units and parenting arrangements, and instead endorse and promote policies which incentivize the maximum proportion of children being born and raised to adulthood in stable, permanent, and natural families.

16. Walt Heyer, “My ‘Sex Change’ Was a Myth. Why Trying to Change One’s Sex Will Always Fail,” *The Daily Signal*, August 23, 2017, available at <https://www.dailysignal.com/2017/08/23/sex-change-myth-trying-change-ones-sex-will-always-fail/>. More information can be found at Heyer’s website, *SexChangeRegret.com*, and his blog, *WaltHeyer.com*.

17. Fernando Pliego Carrasco, “Families and well-being in democratic societies,” presentation at the 19th International Family Congress of the International Federation for Family Development (IFFD), 2018, available at <http://www.familyperspective.org/icm/Cf2.pdf>.

18. Marriage Foundation, press release, “Government under pressure to back marriage as cost of family breakdown hits £51 Billion, more than the defence budget,” January 29, 2018, available at <http://marriagefoundation.org.uk/government-pressure-back-marriage-cost-family-breakdown-hits-51-billion/>. Data based on the ongoing study “Counting the Cost of Family Failure” by the Relationships Foundation.

The slippery slope that begins with changing definitions, and which continues with the promotion of gender ideology and the LGBTI agenda, is usually followed by legislation which supposedly aims to fight discrimination and so-called “hate speech.” Unfortunately, such legislation typically ends in a limitation of fundamental rights and freedoms.

Adina Portaru analyzed a draft Spanish Equality Bill proposed by the far-left party Unidos Podemos which pretended to be fighting against discrimination based on sexual orientation, identity, gender expression, and sexual characteristics, in favor of the social equality of lesbians, gays, bisexuals, transsexuals, transgender people, and intersex people.¹⁹ Some of the concerns surrounding that law and similar laws are the subjectivity and ambiguity latent in them, as well as their limitations on the practice of freedom of speech, opinion, and expression. As the infractions are assessed based on the offended subject and his or her feelings, many people may decide to self-censor their opinions and expressions in order to avoid being denounced. Hate-speech laws affect the presumption of innocence by requiring a defendant to prove that an offense did not take place. A derived consequence would be the multiplication of proceedings and the proliferation of opportunist litigation. Similar laws could spread all around the world.

Equality bills usually include compulsory “comprehensive sexual-ity education,” as well as medical dictates that limit the rights of parents over their children. Quite frequently parents will not be able to help children who are dealing with gender dysphoria in a way they see fit. Governments will provide them with hormone blockers and hormonal cross-treatment, making decisions on behalf of the children without involving the affected parents—and without the evaluation of a specialist, pediatrician, or psychologist.

The application of so-called “equality” and hate-speech legislation could render fundamental freedoms obsolete. Additionally, they might even criminalize religious beliefs and practices. Certain Western judicial

19. Adina Portaru, “Memorandum on the Spanish Equality Bill,” prepared for ADF International, August 14, 2017, available at <https://adflegal.blob.core.windows.net/international-content/docs/default-source/default-document-library/resources/media-resources/europe/24082017-spanish-equality-bill-memo-eng.pdf>.

systems and national human rights institutions have already decided cases based on national anti-discrimination or hate-speech laws, which have severely restricted individuals' freedom of religion, conscience, and expression.²⁰ Accordingly, it is not unforeseeable that adoption of these categories into the lexicon of international human rights law could eventually lead to the investigation and prosecution of individuals and institutions for violations against the precepts of the LGBTI agenda and gender ideology.

Initiatives at the United Nations

Through the years, and especially during the 21st century, there have been various initiatives within the UN to promote the SOGI agenda. Some of the most important efforts, and the subsequent reactions from pro-marriage and pro-family advocates, are summarized below.

In 2003, Brazil and the European Union proposed a resolution at the Human Rights Commission in Geneva entitled "Human Rights and Sexual Orientation." The resolution did not find enough support to be approved, but it was the first step in the strategy. The Yogyakarta Principles, despite not being legally binding and having a weak legal basis, nonetheless had an effect, and were used as justification by those advocating for gender ideology and the LGBTI agenda.

At the 2008 UN General Assembly in New York, some states presented a proposal to include sexual orientation and gender identity as protected categories of non-discrimination in the resolution on "Extrajudicial, summary or arbitrary executions." During the same session, a second statement was presented by member states from the Sub-Saharan African, Oceania, and Middle East regions, warning that the aforementioned categories "have no legal foundation," that they "focus on certain persons on the grounds of their sexual interests and behavior,"

20. Cases include Swedish pastor Ake Green (see <http://akegreen.org/>); fire chief Kelvin Cochran in Atlanta, Georgia (see Sarah Kramer, "Chief Cochran Won His Case! Here's What His Victory Accomplished," Alliance Defending Freedom, October 16, 2018, available at <https://www.adflegal.org/detailpages/blog-details/allianceedge/2018/10/16/chief-cochran-won-his-case-here-s-what-his-victory-accomplished>); the florist Barronelle Stutzman, as well as the baker Jack Phillips (see Barronelle Stutzman, letter to the editor, "All We Ask Is For the Freedom to Live Out Our Beliefs," *USA Today*, February 25, 2018, available at <https://eu.usatoday.com/story/opinion/2018/02/25/stutzman-all-we-ask-freedom-live-out-our-beliefs/364630002/>).

and that they create “new rights” or “new standards” by “misinterpreting” the non-discrimination clauses of human rights instruments.²¹

The first proposal, to name sexual orientation and gender identity as protected categories, based its arguments on the “principle of the universality of human rights, as established by the Universal Declaration of Human Rights,” stating that “all human beings are born free and equal in dignity and rights.” The text continued:

We reaffirm that everyone has the right to enjoy their human rights without any distinction with regard to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, as established by article 2 of the Universal Declaration of Human Rights, articles 2 and 26 of the International Covenant on Civil and Political Rights, and article 2 of the International Covenant on Economic, Social and Cultural Rights.

Up to that point, the proponents of the proposal were just quoting internationally agreed-upon documents. Then they included a deliberate misrepresentation: “We reaffirm the principle of non-discrimination, which requires that human rights be equally applied to all human beings regardless of their sexual orientation or gender identity.” This was a fallacious argument, one which uses a “half-truth” and pretends that everything follows. In this case, internationally agreed-upon documents and protected categories were treated with the same authority as SOGI concepts which had never found consensus.

In June 2011, South Africa introduced a resolution before the Human Rights Council entitled “Human Rights, Sexual Orientation and Gender Identity.”²² *Inter alia*, the resolution expressed “grave concern at acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation and gender identity” and requested the UN High Commissioner for Human Rights to commission a study documenting discriminatory laws and practices,

21. UN General Assembly, 63rd Session, 70th Plenary Meeting, Dec. 18, 2008 A/63/PV.70, available at <https://undocs.org/A/63/PV.70>.

22. Resolution A/HRC/RES/17/19, available at <https://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/RES/17/19&Lang=E>.

and acts of violence against individuals based on their sexual orientation and gender identity, in all regions of the world. After the study, there would be a panel discussion and a follow-up on the recommendations of the study. The resolution was not adopted by unanimity, but rather by a vote with 23 in favor, 19 against, and 3 abstentions. Those in favor of the resolution stated that it did not seek to impose values on member states, but rather to initiate a fact-based, genuine, and constructive dialogue with the aim of preventing violence and discrimination against people on the basis of their sexual orientation or gender identity.

The states opposing such a resolution stressed that those controversial notions imposed on other countries had no basis in international law or international human rights standards. The resolution was accused of ignoring respect for cultural and social diversity, as well as religious freedom. Some states highlighted that personal sexual interests and decisions (unlike characteristics such as age, religion, nationality, or sex) do not constitute human rights obligations or protected characteristics. During the debates, it was also noted that while violence can never be justified, its occurrence should not be transformed into the promotion or justification of specific forms of sexual behavior. (No one doubts that in this case, then-President Obama and Secretary of State Hillary Clinton, and their policies, were vital in advancing gender ideology and the LGBTI agenda at the UN and other international institutions—as well as in applying political, diplomatic and economic pressure to those states which did not comply with those ideas.²³)

The next SOGI resolution at the UN Human Rights Council was number 27/32 of September 2014 and entitled “Protection against violence and discrimination based on sexual orientation and gender identity,” adopted by a recorded vote (25 to 14, with 7 abstentions). The most

23. The White House, Presidential Memorandum—International Initiatives to Advance the Human Rights of Lesbian, Gay, Bisexual, and Transgender Persons, December 6, 2011, “Sec. 5. Engaging International Organizations in the Fight Against LGBT Discrimination. Multilateral fora and international organizations are key vehicles to promote respect for the human rights of LGBT persons and to bring global attention to LGBT issues.” Of high influence was the speech from the Secretary of State, Hillary Clinton, titled “Gay rights are human rights.” For further information, see: Chris Johnson, “Four Years Later, Clinton’s LGBT Geneva Speech Hailed for Impact,” *Washington Blade*, December 6, 2015, available at <https://www.washingtonblade.com/2015/12/06/4-years-later-clintons-lgbt-geneva-speech-recognized-for-impact/>.

controversial SOGI resolution, number 32/2, was proposed in June 2016 by a group of Latin American nations. The draft resolution proposed the condemnation of all violence and discrimination against individuals on the basis of sexual orientation and gender identity, and the establishment of an independent expert to monitor instances of violence and discrimination on those grounds. This resolution was adopted by a recorded vote (23 to 18, with 6 abstentions).

As in previous resolutions and statements on the topic, criticism of this resolution focused on its inclusion of categories of protection based neither on binding UN documents nor on consensus reached by member states. Some stated that the 32/2 resolution failed to consider the sovereign rights of each country with respect to their religious, ethical, and cultural values. Many of the opposers noted the fact that the resolution promoted not a clear but rather a broad interpretation of the term “discrimination,” which could be used to create a so-called “fundamental human right to same-sex marriage and adoption,” as well as limitations on freedom of religion and freedom of association. Several member nations of the Organization of Islamic Cooperation and the African Union underlined that they would never cooperate with the establishment of a SOGI independent expert, and that if one were appointed, they would not recognize his legitimacy or take any notice of his reports.

The first independent expert on “sexual orientation and gender identity” nominated was Dr. Vitit Muntarbhorn, who unveiled at a meeting organized by the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) the five linchpins (decriminalization, depathologization, status recognition, gender-diverse cultural inclusion, and empathization) that would direct future actions, based on the totality of human rights and calling for global partnership.²⁴

In some cases, diplomatic, economic, and political pressure exists and has an evident influence on the outcome of the negotiations or work done at the United Nations. Even South Africa, which was the main initiator of the “sexual orientation and gender identity” resolution in 2011, criticized the proponents of the resolution in 2016 for such an “arrogant

24. Dr. Vitit Muntarbhorn, 2016 ILGA (International Lesbian and Gay Association) World Conference, available at <https://www.ilga.org/vitit-muntarbhorn-ilga-world-conference-2016>.

and confrontational approach” and eventually abstained from voting on the resolution.²⁵

From 2014 to 2017, resolutions on the protection of the family at the Human Rights Council have also been essential cornerstones in recognizing the importance of the family, its contributions, and its rights and duties, as well as some of the challenges it faces and the policies that would help increase its well-being.²⁶ Those resolutions, based on Article 16.3 of the Universal Declaration of Human Rights, highlighted the family as the fundamental group unit of society while recognizing the family as a potent force for social cohesion and integration, intergenerational solidarity, and social development. Those resolutions also supported the truth that the family has the primary responsibility for the nurture and protection of children.

Unfortunately, many Western and Latin American countries opposed resolutions on the protection of the family, mostly due to a lack of explicit recognition of so-called “diverse forms of the family” (despite the fact that no specific family model was enshrined in the resolutions).

The Universal Periodic Review (UPR) is a participative process at the Human Rights Council that includes an examination of the performance in the area of human rights for all UN member states, with a full cycle taking approximately four years. The state under review presents the situation, making commitments and revealing both the challenges it faces and the initiatives taken to solve them. Afterward, the state receives comments and recommendations from the other states. Although UPR recommendations are not legally binding, the states under review will be publicly criticized and come under pressure to conform.

Quite frequently, Western states have used the UPR disrespectfully regarding national sovereignty, culture, values, and religion, and have made recommendations based on the assumption that abortion and same-sex unions are international rights. If the UPR is meant to evaluate

25. UN Web TV, Min. 03:00:35, available at <http://webtv.un.org/search/ahrc32l.2rev.1-vote-item3-41st-meeting-32nd-regular-session-of-human-rights-council/5009164454001/?term=2016-06-30&cat=Meetings%2FEvents&sort=date&page=3#player>.

26. Resolutions Human Rights Council 26/11 (June 2014), 29/22 (June 2015), 32/23 (June 2016), and 35/13 (June 2017).

a state's human rights record, then calls for a nation to decriminalize abortion or same-sex behavior assume that these practices are international human rights—which they are not. As such, the UPR currently seems to be a mechanism for imposing certain political or social agendas of the secular West on the rest of the world.²⁷

There are other actors around the UN, such as working groups, committees of experts, treaty monitoring bodies, independent experts, special rapporteurs, the Office of the High Commissioner for Human Rights, the different UN organizations, as well as the UN Secretariat. Some or many of them are embracing and promoting the LGBTI agenda, mostly without an officially approved mandate.²⁸

Moving Forward

In spite of such movements, it is still possible to defend marriage and family at the UN. There are still many ways to address these anti-family movements. NGOs can present oral and written statements, reports, speak against situations or policies, or prepare so-called “shadow reports,” both for treaty monitoring bodies and the Universal Periodic Review. Other forms of participation include public campaigns, encouraging citizens to contact the representatives of States, ministries of foreign affairs, and political representatives, in order to keep them accountable. Those who promote the LGBTI agenda and gender ideology have had victories not because of the merits of their legal or moral arguments, but unfortunately because of the inaction of those who should have been defending marriage and the family.

CITIZENS ARE NO LONGER WILLING to have an agenda that goes against their profound convictions dictated to them. Parents do not accept being pushed away from being the primary educators of their children; they

27. Some countries have privately recognized that up to 90% of their international advocacy and efforts go to the promotion of women's “rights,” sexual minorities, the LGBTI agenda, sexual and reproductive “rights,” and “safe” abortion.

28. As an example, we can cite the promotion of the LGBTI agenda and the Yogyakarta Principles at the “Free and Equal” UN campaign—according to its own definition, “an unprecedented global UN public information campaign aimed at promoting equal rights and fair treatment of LGBTI people”; see “About UN Free and Equal” available at <https://www.unfe.org/about/>.

want to give them love and education, not aggressive and inappropriate sex education and contraception. People want institutions to respect democracy and the boundaries of international law.

Oftentimes, representatives of countries that have strong social, cultural, and religious values promoting the family have nevertheless taken the lead in the opposite direction. Unfortunately, sometimes certain diplomatic representatives defend an agenda contrary to that of their country or their society. Ignorance in the capital, the congress, or the general population concerning the actions of their representatives in Geneva or New York can have catastrophic effects. Accountability is necessary.

States should promote the family, which is rooted in marriage. Ultimately, the stability and improvement of society are dependent on healthy family life. If not because of conviction or because of international law, states should protect and promote the family because of its benefits to society, thus avoiding the major costs resulting from the breakdown of the family.

The main reason for writing this essay is to help raise awareness of the importance of the UN, its intricacies, debates, and resolutions in the General Assembly in New York, the Human Rights Council in Geneva, and the myriad other UN entities and organs. An objective was to shed a little light, because to the “untrained eye” the situation may seem obscure, confusing, and complicated.

If we have a clear understanding of both the importance of the UN and what is happening in the UN’s institutions, denouncing abuses and defending marriage and the family become much more feasible. The decisions of the UN affect us much more than we realize, but less than those who seek to impose gender ideology and the LGBTI agenda above consensus and without respecting the sovereignty or independence of states would like. There is hope and much work to do to protect and promote the family.

Rubén Navarro is an attorney and advocacy expert on religious freedom, sanctity of life, and marriage and family. He can be reached at rubennavarroun@gmail.com.

Heaven, Earth, and Family: The Universal Declaration of Human Rights and Its Article 16

E. Douglas Clark

AT 70 YEARS AND COUNTING from the adoption of the Universal Declaration of Human Rights, it is easy to forget that “What is most surprising about the Declaration is that it happened at all.”¹ How it happened is a story that began long ago but took a giant leap forward with the two great declarations of the 19th century. “Appealing to the Supreme Judge of the world for the rectitude of our intentions,” and “with a firm reliance on the protection of divine Providence,” the signers of the Declaration of Independence proclaimed in 1776, “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights; that among these are Life, Liberty, and the pursuit of Happiness.” Soon thereafter the French Declaration of the Rights of Man and Citizen of 1789, similarly made “in the presence and under the auspices of the Supreme Being,” spoke of “the natural, inalienable and sacred rights of man” as it declared that “Men are born and remain free and equal in rights.”

These two declarations would serve as guides to the creation of the Universal Declaration, but it never would have become a reality without the intervening catastrophe known as World War I. At the centenary marking its end on November 11, 2018, just a month before the 70th

1. Jay Winter and Antoine Prost, *René Cassin and Human Rights: From the Great War to the Universal Declaration* (New York: Cambridge University Press, 2013), 237.

anniversary of the Universal Declaration on December 10, an article was posted on the internet at precisely 11:00 am—the 11th hour of the 11th day of the 11th month—in which Dr. Allan C. Carlson wrote,

Today, at the eleventh hour, humanity commemorates the 100th anniversary of the end of World War I. Nineteen million people had perished in the conflict; another 23 million had been wounded. The empires of central and Eastern Europe lay in ruins. Affected peoples around the globe looked primarily to one man—U.S. President Woodrow Wilson—to build a just and durable peace.²

Wilson proposed the creation of what is commonly referred to as “The League of Nations,” but the actual title is fraught with significance, says Carlson.

It bore a distinctive biblical title: “The Covenant of the League of Nations.” “Covenant” is a motif central to both Jewish and Christian Scriptures. At its most basic level, a covenant is an oath-bound relationship between two or more parties. The operative biblical idea is relationship—a community of mutual obligation and benevolence, of common well-being. It’s the same word the Bible uses to describe the marriage relationship. Wilson’s vision for the Covenant of the League of Nations was informed by this scriptural idea.³

Carlson points to historian Malcolm Magee’s observation that Wilson

used ‘covenant’ not as an elegant synonym for ‘treaty,’ but rather in its full Old Testament and New Testament meaning of nations and peoples accepting divine order in return for divine blessings. . . . [Wilson] acted from a faith in God and in accordance with an anticipation of the coming of a covenantal international world order.⁴

2. Allan C. Carlson, “Woodrow Wilson, the Bible, and the End of the Great War,” November 11, 2018, *The Hill*, <https://thehill.com/opinion/white-house/415973-woodrow-wilson-the-bible-and-the-end-of-the-great-war>.

3. *Ibid.*

4. Malcolm D. Magee, *What the World Should Be: Woodrow Wilson and the Crafting of a Faith-Based Foreign Policy* (Waco, Texas: Baylor University Press, 2008), 6, 15.

Wilson's vision of a world founded on covenant and divine order was not to be realized via the League of Nations, which the United States never joined because the Senate never approved. And "within 15 years," Carlson adds, "Adolf Hitler and his Nazi Party would come to power in Germany, soon plunging Europe into a second and bloodier World War."⁵

Taking the lives of an estimated 70 million people or more, it would turn out to be what René Cassin would characterize as the costliest human rights campaign in history. When he accepted the 1968 Nobel Peace Prize for his key role in drafting the Universal Declaration, Cassin declared, "For those peoples forced to fight in order to halt that immense machine geared for the destruction of human liberty and dignity, the Second World War constituted a genuine 'crusade for human rights.'"⁶

It was a crusade both of weapons and words, including discussions in the summer and fall of 1944 at the Dumbarton Oaks Conference, formally called the Washington Conversations on International Peace and Security Organization. There representatives from the United States, Britain, China, and the USSR discussed the creation of a highly expanded version of Wilson's League of Nations. The most ardent proponent was President Franklin Roosevelt, who after his inauguration in January 1945 would tell Congress of his hopes for a "universal organization in which all peace-loving nations will finally have a chance to join."⁷

By the beginning of the next organizational meeting, known as the United Nations Conference on International Organization, or the San Francisco Conference, on April 25, 1945, President Roosevelt had died two weeks earlier. Two weeks after the meeting began, Germany surrendered, whereupon Ethiopia's head of state, Haile Selassie, declared to his countrymen,

May it be taken as divine significance, that, as we mark the passing of the Nazi Reich, in America at San Francisco, delegates from all United Nations, among whose number Ethiopia stands, are now met together

5. Carlson, "Woodrow Wilson, the Bible, and the End of the Great War."

6. René Cassin, Nobel Lecture, December 11, 1968, available at <https://www.nobelprize.org/prizes/peace/1968/cassin/lecture>.

7. Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (New York: Random House, 2001), 4.

for their long-planned conference to lay foundations for an international pact to banish war and to maintain World Peace. Our churches pray for the successful triumph of this conference. Without success in this, the Victory, we celebrate today, the suffering that we have all endured will be of no avail. To win the war, to overcome the enemy upon the fields cannot alone ensure the victory in peace. The cause of war must be removed.⁸

At the conclusion of the San Francisco Conference on June 26, the delegates signed the UN Charter they had just created, determined, as they expressed in the opening lines, “to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind” and “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.”⁹ Recurring throughout the Charter is the phrase “human rights and fundamental freedoms,”¹⁰ which were to be protected by a commission for human rights.¹¹

President Truman’s support was unequivocal, as he stated at the closing session of the conference: “The Charter is dedicated to the achievement and observance of human rights and fundamental freedoms. Unless we can attain those objectives for all men and women everywhere—without regard to race, language or religion—we cannot have permanent peace and security.”¹²

Small Hinges, Great Enterprise

By the time the United Nations formally came into existence on October 24, 1945, Japan had surrendered and the war had ended. But the crusade

8. V.E. Day Proclamation, May 8, 1945, available at https://en.wikiquote.org/wiki/Haile_Selassie (normalizing spelling).

9. Charter of the United Nations, Preamble, available at <http://www.un.org/charter-United-nations>.

10. *Ibid.*, Articles 1, 13, 55, 62, 76, available at <http://www.un.org/charter-United-nations>.

11. *Ibid.*, Article 68, available at <http://www.un.org/charter-United-nations>.

12. Public Papers, Harry S. Truman, 1945-1953, Address in San Francisco at the Closing Session of the United Nations Conference, June 26, 1945, available at <https://trumanlibrary.org/publicpapers/index.php?pid=73&st=&stl>.

for human rights was far from over. With the opening session of the UN General Assembly scheduled for January 10, 1946 in London, President Truman telephoned Eleanor Roosevelt, widow of the late president, and asked if she would serve as a member of the U.S. delegation.

“Oh, no!” she responded. “It would be impossible! How could I be a delegate to help organize the United Nations when I have no background or experience in international meetings?” The President was unyielding. “I have confidence in you, Mrs. Roosevelt. . . . Just you think about it for a while, as a favor to me. You’re going to be needed in London. I’m holding that appointment open until we’ve talked some more.” When Eleanor finally accepted, she did so with “fear and trembling.”¹³

It is said that the gates of history turn on small hinges, and so it would be with the seemingly minor appointment of Mrs. Roosevelt, whose “boundless energy and infectious enthusiasm”¹⁴ would play a major role in producing the Universal Declaration. Years later Charles Malik, one of the chief drafters, would observe about the process that produced it, “The United States, besides championing the traditional American values, especially in respect of the supreme worth of the individual, contributed, in the person of Mrs. Roosevelt, dignity, authority and prestige.”¹⁵

Throwing herself into her new assignment as a member of the U.S. delegation to the first General Assembly, Eleanor so impressed her colleagues that after their return home from London, she was asked by the United Nations to serve on the Nuclear Commission on Human Rights—a preparatory committee to help organize the permanent Human Rights Commission—and at its first meeting on April 29, 1946, was unanimously elected chairman. Opening remarks were made by Henri Laugier, Assistant Secretary-General of Social Affairs, a man of

13. Elliott Roosevelt and James Brough, *Mother R: Eleanor Roosevelt's Untold Story* (New York: G.P. Putnam's Sons, 1977), 68-69. The book is dedicated “To F.D.R., a man of conviction, and A.E.R., a woman of faith.”

14. Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting, and Intent* (Philadelphia: University of Pennsylvania Press, 1999), 32. Eleanor would later say of herself, “I had really only three assets: I was keenly interested, I accepted every challenge and opportunity to learn more, and I had great energy and self-discipline.” Roosevelt and Brough, 105.

15. Habib C. Malik, ed., *The Challenge of Human Rights: Charles Malik and the Universal Declaration* (Oxford: Charles Malik Foundation: Centre for Lebanese Studies, 2000), 156.

“indefatigable energy”¹⁶ with “the intellectual voracity of a man of the Renaissance,”¹⁷ who grasped the unique opportunity now presented to the committee.

It is a new thing and it is a great thing in the history of humanity that the international community, after a war which destroyed material wealth and spiritual wealth accumulated by human effort during centuries, has constituted an international mechanism to defend the human rights in the world. . . . Do not measure the importance of your commission on the basis of its present dimensions. We are only at the starting point of a very great enterprise. . . . You will have to study all the declarations of rights which were born in the spirit of man and people on the march toward their liberation. . . . You will have to look for a basis for a fundamental declaration on human rights, acceptable to all the United Nations. . . . I pray that your actions and work may be a permanent guide for men of good will, who are looking toward a better future, and that they will show them the way, like a guiding star.¹⁸

Laugier later spoke at the opening of the first meeting of the Human Rights Commission on January 27, 1947, again providing perspective when he declared that “no one part of the action undertaken by the United Nations to make peace secure had more power or a wider scope than this.” Their great task, he stated, consisted in “following up in the field of peace the fight which free humanity had waged in the fields of war, defending against offensive attacks the rights and dignity of man and establishing . . . a powerful recognition of human rights.”¹⁹

16. Winter and Prost, 229.

17. “Henry Laugier, Ex-U.N. Official For Social Affairs, Is Dead at 84,” *New York Times*, January 21, 1973, available at <https://www.nytimes.com/1973/01/21/archives/henry-laugier-exun-official-for-social-affairs-is-dead-at-84.html>. Laugier had earned doctorates in medicine and science and won citations as a doctor in World War I. He had been a professor at the Sorbonne and the Paris Medical School and director of the National Center for Scientific Research, and was invited to New York by the Rockefeller Foundation to help organize the departure of scientists from occupied France. He then served as chancellor of the University of Algiers and director of cultural relations in the de Gaulle Government prior to his post in the United Nations.

18. Doc. E/HR/6, 1 May 1946, Record of Meeting 29 April 1946 of the Commission on Human Rights of the Economic and Social Council, online at http://www.un.org/en/ga/search/view_doc.asp?symbol=E/HR/6 (commas added for clarity after “community” and “centuries”).

19. Human Rights Commission, First Session, Summary Record of the First Meeting Held at Lake

The Commission commenced its herculean task by unanimously electing Eleanor Roosevelt as chairman, Peng-chun Chang as Vice-Chairman, and Charles Malik as Rapporteur.²⁰ Together with René Cassin, this remarkable constellation of talent would make the decisive difference, according to Professor Mary Ann Glendon.

Among the Declaration's framers, four in particular played crucial roles: Peng-chun Chang, the Chinese philosopher, diplomat, and playwright who was adept at translating across cultural divides; Nobel Peace Prize laureate René Cassin, the legal genius of the Free French, who transformed what might have been a mere list or "bill" of rights into a geodesic dome of interlocking principles; Charles Malik, existentialist philosopher turned master diplomat, a student of Alfred North Whitehead and Martin Heidegger, who steered the Declaration to adoption by the UN General Assembly in the tense cold war atmosphere of 1948; and Eleanor Roosevelt, whose prestige and personal qualities enabled her to influence key decisions of the country that had emerged from the war as the most powerful nation in the world. Chang, Cassin, Malik, and Roosevelt were the right people at the right time. But for the unique gifts of each of these four, the Declaration might never have seen the light of day.²¹

The "inner core" of drafters is how Professor Johannes Morsink refers to those four individuals and a couple of others, while also naming "a long list of second-tier drafters [who] at various points made significant contributions."²² Malik would speak of "the hundreds of individuals and institutions that had something to do, directly or indirectly, with our work in its initial stages," and the "thousands of minds and hands [that] have helped in its formation."²³ As scholars would say of the Declaration,

Success, New York, on Monday, January 27, 1947, at 11:00 a.m., E/CN.4/SR, January 28, 1947, 1-2, UN, available at http://www.un.org/en/ga/search/view_doc.asp?symbol=E/CN.4/SR.1.

20. *Ibid.*

21. Glendon, xx-xxi; and see "Drafting of the Universal Declaration of Human Rights" on United Nations website, with vignettes of some of the principal drafters, available at <https://research.un.org/en/undhr/draftingcommittee>.

22. Morsink, 32.

23. Malik, 121, 124.

“a collective wrote it.”²⁴

Seeking to produce a document “sufficiently definite to have real significance both as an inspiration and a guide to practice” but “sufficiently general and flexible to apply to all men, and to be capable of modification to suit people at different stages of social and political development,”²⁵ the drafters labored for two years. In addition to the multitude of informal gatherings and discussions, there were 81 Commission meetings and 44 meetings of its Drafting Committee before the text went through another 150 meetings and 170 amendments by the entire UN membership (58 nations at the time) in its Third Committee, followed by two days of discussion in the General Assembly²⁶ before its adoption on December 10, 1948 as a declaration. “It is not a treaty; it is not an international agreement,” Mrs. Roosevelt emphasized the day before. “It is not and does not purport to be a statement of law or of legal obligation. It is a declaration of basic principles of human rights and freedoms, to be stamped with the approval of the General Assembly by formal vote of its members, and to serve as a common standard of achievement for all peoples of all nations.”²⁷

Universal and Individual

With so many cooks in the kitchen, one could hardly expect a perfect product, nor did the framers themselves. “They never claimed,” notes Glendon, “that the document they had produced under difficult circumstances represented the last word. . . . One speaker after another on December 9, 1948, had acknowledged that the Declaration was not perfect.”²⁸ Since then it has drawn and continues to draw criticism from some quarters,²⁹ but as Professors Jay Winter and Antoine Prost have

24. Winter and Prost, 240.

25. Glendon, 78.

26. Morsink, 28; Hunt, 203.

27. Statement to the United Nations General Assembly on the Universal Declaration of Human Rights, December 9, 1948, available at <https://erpapers.columbian.gwu.edu/statement-united-nations-general-assembly-universal-declaration-human-rights-1948>.

28. Glendon, 231.

29. Morsink, ix-xi

recently written, the more we know about its creation, the more “we can see the error of those who say that the document was a failure, a backward step away from enforceable human rights, a cover for imperial designs, an insignificant, rhetorical flourish, full of sound and fury, told by an idiot, but in essence, signifying nothing of importance in international history.”³⁰

In fact, it would be difficult to overstate the importance of that landmark text, being “the first document of an ethical sort that organized humanity has ever adopted,”³¹ said Cassin in his Nobel Lecture. And “for all its shortcomings,” observes Professor Lynn Hunt, the Declaration “has set the standard for international discussion and action on human rights.”³² On the day before its adoption, Mrs. Roosevelt told her fellow delegates, “We stand today at the threshold of a great event both in the life of the United Nations and in the life of mankind. . . . This declaration may well become the international Magna Carta of all men everywhere.”³³

And so it has become. Writing for the Declaration’s 60th anniversary, Irish poet and Nobel Laureate Seamus Heaney began by looking back a

30. Winter and Prost 237-238. One human rights activist even maintains that the Declaration contains the seeds for the unraveling of human rights: “The international human rights system is built on a faulty foundation, one inconsistent with the foundations of the idea of human rights itself. The Universal Declaration of Human Rights (UDHR) of 1948 mingled human rights based on natural law with positive rights granted by states—rights that emerged from specific political traditions. By doing so, it aggrandized positive economic and social rights as human rights intrinsic to human beings, while degrading authentic human rights into nothing more than arbitrary gifts of the state. But the international community did not grant human rights to the people of the world. If we accepted that notion, we would be no more respectful of human rights than Chinese Communists and other state ideologues who claim the prerogative to define human rights to suit their own politics. . . . The UDHR established a way of thinking about human rights that has shaped our contemporary approach to the issue. Tragically, it set processes in train that have led to the disintegration of human rights as a concept. If we are serious about addressing the problems in human rights discourse today, we need to recognize that these problems stem from the UDHR, and stop treating it as a sacred cow, immune from criticism.” Aaron Rhodes, *The Debasement of Human Rights: How Politics Sabotage the Ideal of Freedom* (New York: Encounter Books, 2018), 32-33.

31. René Cassin, Nobel Lecture, December 11, 1968, available at <https://www.nobelprize.org/prizes/peace/1968/cassin/lecture>.

32. Lynn Hunt, *Inventing Human Rights: A History* (New York: W. W. Norton & Company, 2007), 205.

33. Statement to the United Nations General Assembly on the Universal Declaration of Human Rights, December 9, 1948, available at <https://erpapers.columbian.gwu.edu/statement-United-nations-general-assembly-universal-declaration-human-rights-1948>.

decade.

In an essay published in 1998 to mark the 50th anniversary of the Universal Declaration of Human Rights, Thomas Buergenthal, a former President of the Inter-American Court of Human Rights, drew an important distinction. He pointed out that whereas the original Charter of the United Nations internationalized human rights as a legal concept, the subsequent Universal Declaration gave the concept moral force.

When the Declaration was being framed in 1948, several of the UN member states were, for better or worse reasons, against a document that would be legally binding, with the result that the text is more akin to an exhortation than an edict. And yet, as Buergenthal also pointed out, it is the “eloquent, expansive and simple” nature of the language in the document which has proved most potent in the long run—as is evident from the brief First Article: “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”

In the boldness and buoyancy of these words there are echoes of many of the great foundational texts of western civilization, from Sophocles’ “wonders of man” chorus through Christ’s Sermon on the Mount on up to the American Declaration of Independence and the French Declaration of the Rights of Man. So even if this First Article cannot guarantee what it declares, if its writ cannot be made to run in China or Zimbabwe or Guantánamo, it nevertheless gestures so confidently towards what human beings desire that it fortifies a conviction that the desirable can in fact be realized. . . .

Since it was framed, the Declaration has succeeded in creating an international moral consensus. It is always there as a means of highlighting abuse if not always as a remedy: it exists instead in the moral imagination as an equivalent of the gold standard in the monetary system. The articulation of its tenets has made them into world currency of a negotiable sort. Even if its Articles are ignored or flouted—in many cases by governments who have signed up to them—

it provides a worldwide amplification system for “the still, small voice.”³⁴

Amplified into more than 440 languages,³⁵ the Declaration is said to be “the most universal document in the world”³⁶ and has become “the single most important reference point for cross-national discussions of how to order our future together on our increasingly conflict-ridden and interdependent planet.”³⁷ Standing as “a moral and educational manifesto”³⁸ and “a powerful inspiration for an array of rights conventions and declarations in the postwar period,”³⁹ it has been “adopted in or has influenced most national constitutions since 1948” and “served as the foundation for a growing number of national laws, international laws, and treaties, as well as regional, national, and sub-national institutions protecting and promoting human rights.”⁴⁰ According to Glendon,

The most impressive advances in human rights—the fall of apartheid in South Africa and the collapse of the Eastern European totalitarian regimes—owe more to the moral beacon of the Declaration than to the many covenants and treaties that are now in force. Its nonbinding principles, carried far and wide by activists and modern communications, have vaulted over the political and legal barriers that impede efforts to establish international enforcement mechanisms.⁴¹

It is no exaggeration to say, along with Professor Hans Ingvar Roth,

34. Seamus Heaney, “Human Rights, Poetic Redress,” *Irish Times*, March 15, 2008, available at <https://www.irishtimes.com/news/human-rights-poetic-redress-1.903757> (Americanizing the spelling for “internationalised,” “civilisation,” and “realised,” and adding quotation marks around the language quoted from Article 1).

35. Hans Ingvar Roth, *P. C. Chang and the Universal Declaration of Human Rights* (Philadelphia: University of Pennsylvania Press, 2016), 133.

36. “*The Universal Declaration of Human Rights* is the Most Universal Document in the World,” article on official *Universal Declaration* website available at <http://www.ohchr.org/EN/UDHR/Pages/WorldRecord.aspx>.

37. Glendon, xvi-xvii.

38. Winter and Prost, 239.

39. Roth, 134.

40. “Allergan Commits to the UN Universal Declaration of Human Rights,” available at http://www.allergan.com/miscellaneous-pages/allergan-pdf-files/human_rights_charter.

41. Glendon, 236.

that the Declaration has become “a moral guiding star”⁴²—precisely what Laugier in the first meeting of the Nuclear Committee urged its members to create.

The key to this resounding impact, continues Roth, is the Declaration’s sustained focus on the individual. “What made the UDHR such a landmark was that the individual, the single human being, for the first time in history was accorded a status within international law.” Much of the credit for this, Roth maintains, is due to Peng-chun Chang:

Protection of the individual human being’s dignity always lies at the heart of any human rights ethics. Chang also emphasized the fundamental rights and dignity of human beings in the same spirit as various European Enlightenment philosophers, and it was arguably he who most forcefully advocated that respect for human dignity should be included in the preamble to the UDHR.⁴³

This was no betrayal of his Chinese heritage but rather an affirmation. “When some Western Enlightenment thinkers encountered the teachings of Confucius through Jesuit missionaries who had traveled to China,” explains Professor Peimin Ni, “they were astonished and excited by the fact that a humanitarian philosophy had already served as the backbone of Chinese civilization for almost two millennia.”⁴⁴

The Declaration’s sustained focus on the individual arises from the fact that, as expressed tautologically by Aaron Rhodes, “the subject of human rights is the individual person; only individual humans can have human rights.”⁴⁵ The quandary becomes how to interpret the statement in Article 16 that there is a group that as a group is endowed with human rights: the family. The statement constitutes the final of three subsections and contains the Declaration’s only instance of the word “natural.”

- Men and women of full age, without any limitation due to race,

42. Roth, 135.

43. *Ibid.*, 135-36.

44. Peimin Ni, *Confucius: The Man and the Way of Gongfu* (Lanham, Maryland: Rowman & Littlefield, 2016), 1.

45. Rhodes, 26.

nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

- Marriage shall be entered into only with the free and full consent of the intending spouses.
- The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 16: Plain Meaning, Usage, and Context

How does one go about interpreting the meaning of this unique article attributing human rights to a group? Besides the application of common sense, is there any interpretive tool that could cast light on the meaning? Through generations of American jurisprudence, courts have developed accepted rules of interpretation to discern the meaning of a statute. And while the Universal Declaration is not a statute but merely a declaration, yet the drafting and negotiating process that created it was essentially a legislative process, prompting us to look to the most compelling interpretive guide available: the rules of statutory construction. One of the clearest summaries was adapted from the rules followed by the United States Supreme Court under Chief Justice William Rehnquist, including the following.

- *Plain meaning rule*: follow the plain meaning of the statutory text, except when text suggests an absurd result or a scrivener's error.
- *Expressio unius*: expression of one thing suggests the exclusion of others.
- *Noscitur a sociis*: interpret a general term to be similar to more specific terms in a series.
- *Ejusdem generis*: interpret a general term to reflect the class of objects reflected in more specific terms accompanying it.
- Follow *ordinary usage of terms*, unless Congress gives them a specified or technical meaning.

- Follow *dictionary definitions of terms*, unless Congress has provided a specific definition. Consider dictionaries of the era in which the statute was enacted. Do not consider “idiosyncratic” dictionary definitions. . . .
- Each statutory provision should be read by *reference to the whole act*. Statutory interpretation is a “holistic” endeavor. . . .
- *Avoid* interpreting a provision in a way *inconsistent with the policy of another provision*.
- *Avoid* interpreting a provision in a way that is *inconsistent with a necessary assumption of another provision*. . . .
- Interpret the *same or similar terms in a statute the same way*. . . .
- Consider legislative history if the statute is *ambiguous*. . . .
- *Presumption* in favor of *following common law usage* where Congress has employed words or concepts with well settled common law traditions. Follow evolving common law unless inconsistent with statutory purposes.⁴⁶

Applying these rules, one major indication of the plain and ordinary meaning of the family as “fundamental” in Article 16(3) was provided by Will Durant. Few historians have had a greater grasp of world civilizations, for which Durant was awarded the Pulitzer Prize and Presidential Medal of Freedom; and his 11-volume *The Story of Civilization* has been dubbed “the most comprehensive attempt in our times to embrace the vast panorama of man’s history and culture.”⁴⁷ Regarding the historical role of the family, Durant wrote,

46. “The Rehnquist Court’s Canons of Statutory Construction,” 1986-1993, posted on the National Conference of State Legislatures website, available at http://www.ncsl.org/documents/lss/2013pds/rehnquist_court_canons_citations.pdf (omitting footnotes and using italics instead of bolding). “This outline was derived from the Appendix to ‘Foreword: Law as Equilibrium,’ William N. Eskridge, Jr., Philip P. Frickey, 108 *Harv. L. Rev.* 26, November, 1994. Format modified by Judge Russell E. Carparelli, Colorado Court of Appeals, Sep. 2005.”

47. Available at <http://www.simonandschuster.com/books/The-Complete-Story-of-Civilization/Will-Durant/978147679713>.

The family has been the ultimate foundation of every civilization known to history. It was the economic and productive unit of society, tilling the land together; it was the political unit of society, with parental authority as the supporting microcosm of the State. It was the cultural unit, transmitting letters and arts, rearing and teaching the young; and it was the moral unit, inculcating through cooperative work and discipline those social dispositions which are the psychological basis and cement of civilized society. In many ways it was more essential than the State; governments might break up and order yet survive, if the family remained; whereas it seemed to sociologists that if the family should dissolve, civilization itself would disappear.⁴⁸

Concerning the founding of a family as mentioned in 16(1), the plain and ordinary meaning of “marry” and “marriage” would necessarily be what these terms meant in 1948 and, to borrow Durant’s words, what they have meant “in every civilization known to history”—marriage between a man and a woman, as presupposed also by the opening line of this same subsection: “Men and women of full age . . . have the right to marry and found a family.” The Declaration’s mention of “marriage” and its meaning as between husband and wife also suggests exclusivity of heterosexual marriage, based on the rule that “expression of one thing suggests the exclusion of others.”

And having thus designated “family” in 16(1) as founded on marriage between a man and a woman, statutory construction rules would require the same interpretation for “family” in 16(3), an interpretation that likewise succeeds in reflecting the more specific terms accompanying it in 16(1): men and women. This interpretation of family is further strengthened by additional language in 16(3) calling it not only the “fundamental” but also the “natural” group unit of society. Professor Richard G. Wilkins comments,

Article 16(3) of the Universal Declaration of Human Rights embodies fundamental truths that, for too long, have not been given their deserved attention and respect. . . . As reflected in the precise and elegant terms of

48. Will Durant, *The Mansions of Philosophy: A Survey of Human Life and Destiny* (New York: Simon and Schuster, 1929), 395-96.

the Universal Declaration, the family is not merely a construct of human will or imagination. The family has a profoundly important connection to nature. This connection begins with the realities of reproduction (underscored by recent studies which demonstrate that children thrive best when raised by married biological parents) and extends to the forces that shape civilization itself. It encompasses, among other things, the positive personal, social, cultural, and economic outcomes that current research suggests flow from a man learning to live with a woman (and a woman learning to live with a man) in a committed marital relationship. The family, in short, is the “natural and fundamental group unit of society” precisely because mounting evidence attests that the survival of society depends on the positive outcomes derived from the natural union of a man and a woman.⁴⁹

Another key to ascertaining the meaning of Article 16 is how it is echoed in over 100 national constitutions throughout the world.⁵⁰ Looking to these provisions would be roughly tantamount to following the statutory construction rule calling for a “presumption in favor of following common law usage.” Such constitutional provisions include:

- “The family is the basic nucleus of social organisation and shall be the object of special protection by the state” (Angola).⁵¹
- “The family is the natural, cellular base of society. Marriage is its legitimate foundation. The family and marriage are under the State’s particular protection of the State”⁵² (Burundi).
- “Each individual has the right to marry with the person of their choice, of the opposite sex, and to establish a family. The family,

49. Richard G. Wilkins in A. Scott Loveless and Thomas B. Holman, eds., *The Family in the New Millennium: World Voices Supporting the Natural Clan, Volume 1: The Place of Family in Human Society* (Westport, Connecticut: Praeger, 2007), xiv.

50. Collected in the World Family Declaration, available at www.worldfamilydeclaration.org, note 3.

51. Constitution of Angola (2010), Title 2, Chapter 2, Section 1, Article 35.1, available at https://www.constituteproject.org/constitution/Angola_2010.pdf.

52. Constitution of Burundi (2005), Title 2, Article 30, available at https://www.constituteproject.org/constitution/Burundi_2005.pdf.

the basic unit of the human community, is organized in a manner to assure its unity, its stability and its protection. It is placed under the protection of the public powers” (Democratic Republic of the Congo).⁵³

- “The family is the foundation of the society and it is the basic space for the integral development of persons. . . . The State guarantees the protection of the family. . . . The State shall promote and protect the family organization based on the institution of marriage between a man and a woman” (Dominican Republic).⁵⁴
- “The family, being the cornerstone of the preservation and the advancement of the Nation, as well as marriage, motherhood and childhood, shall be under the protection of the State” (Greece).⁵⁵
- “Recognizing the family as the primary and fundamental genesis of the spiritual and moral values of the society and the State. . . . The State guarantees the social, economic, and juridical protection of the family” (Guatemala).⁵⁶
- “Marriage and family constitute the natural and moral base of the human community. They are placed under the protection of the State” (Niger).⁵⁷
- “The family is the foundation of society. Its complete [integral] protection will be promoted and guaranteed. It includes the stable union of a man and a woman, the children, and the community

53. Constitution of the Democratic Republic of the Congo (2005, rev. 2011), Title 2, Chapter 2, Article 40, available at https://www.constituteproject.org/constitution/Democratic_Republic_of_the_Congo_2011?lang=en.

54. Constitution of the Dominican Republic (2015), Title 2, Chapter 1, Section 2, Article 55(2)-(3), available at https://www.constituteproject.org/constitution/Dominican_Republic_2015?lang=en.

55. Constitution of Greece (1975, rev. 2008), Part 2, Article 21.1, available at https://www.constituteproject.org/constitution/Greece_2008?lang=en.

56. Constitution of Guatemala (1985, rev. 1993), Preamble; Title 2, Chapter 2, Section 1, Article 47, available at https://www.constituteproject.org/constitution/Guatemala_1993?lang=en.

57. Constitution of Niger (2010, rev. 2017), Title 2, Article 21, available at https://www.constituteproject.org/constitution/Niger_2017?lang=en.

formed with anyone of their progenitors and their descendants” (Paraguay).⁵⁸

- “Marriage, being a union of a man and a woman, as well as the family, motherhood and parenthood, shall be placed under the protection and care of the Republic of Poland” (Poland).⁵⁹

Yet another statutory construction rule would require Article 16 to be read “by reference to the whole act,” or in light of the rest of the Declaration. As sociologist Gabriele Kuby does so, she begins by pointing to the Declaration’s first two Articles and their implication for Article 16.

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status . . .

The Universal Declaration of Human Rights expresses universal moral values derived from the Judeo-Christian image of man, based on biblical revelation: “God created mankind in his image; in the image of God he created him; male and female he created them” (Genesis 1:27). . . . The United Nations protects the family as the “natural and fundamental group unit of society” because it creates the connective tissue without which a culture crumbles: the bond between man and woman, and the bond between generations. Marriage and family antedate the state; they do not owe their existence to the state, but rather the state is dependent on them because they provide the fundamentals crucial to human coexistence—creating children and raising them to be people who can

58. Constitution of Paraguay (1992, rev. 2011), Part 1, Title 2, Chapter 4, Article 49, available at https://www.constituteproject.org/constitution/Paraguay_2011?lang=en.

59. Constitution of Poland (1997, rev. 2009), Chapter 1, Article 18, available at https://www.constituteproject.org/constitution/Poland_2009?lang=en.

make a positive contribution to society as a whole.⁶⁰

Even so, for all its importance, how can the family be said to have human rights if, as Rhodes insists, only individual humans can have human rights?⁶¹ In the biblical Creation story referenced by Kuby, at every step God declares that His Creation is “good” until His surprising utterance after the formation of the first human: “It is not good that the man should be alone; I will make an help meet for him.”⁶² (Or, as one esteemed scholar translates, “It’s not good for the human to be by himself. I’ll make for him a strength corresponding to him.”⁶³) Creation was not complete, nor would it be, until God created both man and woman and joined them together, whereupon the biblical narrative comments, “Therefore shall a man leave his father and his mother, and shall cleave unto his wife: and they shall be one flesh.”⁶⁴

According to biblical scholars, the joining of that first husband and wife, intended as “a model for every subsequent human marriage,”⁶⁵ was “a union of persons who together make up a new person.”⁶⁶ Hence the Revised English Bible’s translation: not “they shall be one flesh” but “the two become one.”⁶⁷ Jewish tradition similarly reports that “only through his wife can man truly become ‘man,’” for “only husband and wife together can comprise ‘Adam.’ The task is too great for either to perform alone and

60. Gabriele Kuby, *The Global Sexual Revolution: Destruction of Freedom in the Name of Freedom* (Kettering, Ohio: LifeSite, Angelico Press, 2015), 50-51 (correcting “in the image of God he created them” to “in the image of God he created him”).

61. Rhodes, 26.

62. Genesis 2:18.

63. Genesis 2:18, in Richard Elliott Friedman, *Commentary on the Torah with a New English Translation* (New York: HarperSanFrancisco, 2001), 19.

64. Genesis 2:24. The comment was repeated by Jesus, Who emphasized that the marital bond is something “God hath joined together” (Mark 10: 6-9), and is presupposed by the Apostle Paul’s observation that “neither is the man without the woman, neither the woman without the man, in the Lord” (1 Corinthians 11:11).

65. Gary A. Anderson, *The Genesis of Perfection: Adam and Eve in Jewish and Christian Imagination* (Louisville: Westminster John Knox Press, 2001), 19.

66. Bruce Vawter, *On Genesis: A New Reading* (Garden City, New York: Doubleday, 1977), 75.

67. Genesis 2:24 in *The Revised English Bible with the Apocrypha* (Oxford and Cambridge: Oxford University Press and Cambridge University Press, 1989).

must therefore be shared by another.”⁶⁸ Only together do they “form one flesh, a perfect whole,”⁶⁹ and thereby “one complete human being.”⁷⁰

As God’s crowning creation, the family founded on marriage between husband and wife is the highest expression of what it means to be truly human. This could explain why the family, founded on marriage between husband and wife, is the only group that is, or could be, acknowledged in the Declaration as having human rights.

Drafting Article 16: One Unique Group

If there yet remains any ambiguity as to the significance of family in Article 16, statutory construction rules would require consideration of the Declaration’s legislative (in this case, drafting) history. What eventually became Article 16 was first proposed by Malik, the “Lebanese Thomist”⁷¹ who was praised by fellow delegates for “his lucid intelligence and his extraordinary talent for explanation”⁷² and has even been called (if such can be said of any of the drafters) “the pivotal figure in the work of the commission.”⁷³ Referring to the “whole plenum of intermediate institutions that span the chasm between the individual and the state,” Malik stated,

We speak of fundamental freedoms and of human rights; but, actually, where and when are we really free and human? Is it in the street? Is it in our direct relations to our state? Do we not rather enjoy our deepest and truest freedom and humanity in our family, in the church, in our intimate circle of friends, when we are immersed in the joyful ways of life of our own people, when we seek, find, see, and acknowledge the truth? These intermediate institutions between the state and the

68. Ephraim Oratz, ed., *T’rumath Tzvi: The Pentateuch with a Translation by Samson Raphael Hirsch and Excerpts from the Hirsch Commentary* (New York: The Judaica Press, 1986), 15.

69. Menahem M. Kasher, *Encyclopedia of Biblical Interpretation: A Millennial Anthology*, 9 vols. (New York: American Biblical Encyclopedia Society, 1953-1979), 1:118.

70. Oratz, 16.

71. Winter and Prost, 251.

72. Malik, 7, comment by Chilean delegate Hernan Santa Cruz, whom Morsink considers “a prominent member of [the] inner core of drafters.” Morsink, 30.

73. Ali A. Allawi, *The Crisis of Islamic Civilization* (New Haven, Connecticut: Yale University Press, 2009), 188.

individual are, I am convinced, the real sources of our freedom and our rights.⁷⁴

Remarkably similar views on this matter were held by both Malik and Chang, those “two philosopher-diplomats”⁷⁵ of towering intellect who “dominated the Commission,”⁷⁶ with Chang also being “a Confucian scholar”⁷⁷ and “master of the art of compromise.”⁷⁸ On the day before adoption of the Declaration, Malik singled out Chang for special recognition as “the distinguished vice-chairman of the Commission and drafting committee. He never failed to broaden our perspective by his frequent references to the wisdom and philosophy of the Orient and, by a special drafting gift, was happily able to rectify many of our terms.”⁷⁹ Mrs. Roosevelt remembered that at one point in the discussions, “Dr. Chang suggested that the Secretariat might well spend a few months studying the fundamentals of Confucianism!”⁸⁰

Chang’s inherited Confucian legacy, which over the years had “become increasingly pronounced for him,”⁸¹ played a prominent role “in his various statements . . . within the UN system.”⁸² While “Western tradition tends to view the individual in an atomized, disconnected manner, . . . Chinese tradition focuses on the individual as a vitally integrated element within a larger familial, social, political, and cosmic whole”⁸³ in which “‘goodness’ is to be good in one’s relation to others. The character

74. Malik, 110.

75. Glendon, 145.

76. Morsink, 30, quoting comment by John P. Humphrey, author of what Morsink calls “the crucial—because inclusive—first draft of the Declaration,” at Morsink, 29.

77. Winter and Prost, 251.

78. Morsink, 30.

79. Malik, 121.

80. United Nations, Universal Declaration of Human Rights, History of the Document, available at <http://www.un.org/en/sections/universal-declaration/history-document/index.html>, citing Eleanor Roosevelt’s memoirs.

81. Roth, 43.

82. *Ibid.*, 235.

83. “Individualism in Classical Chinese Thought,” Internet Encyclopedia of Philosophy: A Peer-Reviewed Academic Resource, available at <https://www.iep.utm.edu/ind-chin>.

for goodness . . . is pictographically significant in this respect. It consists of two components, one representing a human being . . . and the other meaning ‘two’ The suggestion is that goodness is something that can be manifested only in relation to other persons, in a community of fellow human beings.”⁸⁴

Likewise for Cassin—himself a man of extraordinary talent and accomplishment, and described as “the draftsman par excellence, the international jurist trained to write the law, and to give it the precision and the clarity it required,”⁸⁵ and well-schooled in “the art of the possible”⁸⁶—“the human being was above all a social being,” and while “freedom of individual conscience was inviolable,” yet “individual rights were embodied in groups, without which they could not exist.”⁸⁷

Mrs. Roosevelt concurred. “Where, after all, do universal human rights begin? In small places, close to home—so close and so small that they cannot be seen on any maps of the world.”⁸⁸ Accordingly, Glendon writes, “the principal framers, though they differed on many points, were as one in their belief in the priority of culture.”

Those convictions of the framers undergird one of the most remarkable features of the Declaration: its attention to the “small places” where people first learn about their rights and how to exercise them responsibly—families, schools, workplaces, and religious and other associations. These little seedbeds of character and competence, together with the rule of law, political freedoms, social security, and international cooperation, are all part of the Declaration’s dynamic ecology of freedom.⁸⁹

Or, as stated by Winter and Prost, the Declaration “is a statement not of unbridled individualism, but of the moral force of associative life,

84. Daniel K. Gardner, *The Four Books: The Basic Teachings of the Later Confucian Tradition* (Indianapolis, Indiana: Hackett Publishing Company, 2007), 139.

85. Winter and Prost, 240.

86. *Ibid.*, 238.

87. *Ibid.*, 244.

88. Glendon, 239-40.

89. *Ibid.*

without which human development is impossible.”⁹⁰ The striking thing is that among that entire “plenum of intermediate institutions . . . between the individual and the state,” only one is named in the Declaration. The delegate responsible for adding it was Malik, “the originator of the only right in the Declaration that specifically devolves to a group rather than an individual.”⁹¹

As initially proposed by Malik, Article 16 read, “The family deriving from marriage is the natural and fundamental group unit of society. It is endowed by the Creator with inalienable rights antecedent to all positive law and as such shall be protected by the State and Society.”⁹² Late in the ensuing debate over this proposal, it was suggested that the entire thing “be dropped because its contents were covered by other provisions in the Declaration, presumably the rights to association and social security. Both Cassin and Malik objected and repeated much of the rationale Malik had given [earlier].” Cassin “did not think it was possible to disregard human groups and to consider each person only as an individual,” while Malik

thought that this omission would be exceedingly regrettable. The family was the cradle of all human rights and liberties. It was in the family that everyone learned to know his rights and duties and it would be inexplicable if everything were mentioned except the family’s right to existence.⁹³

As Malik would tell an outside group, “we are here affirming that between the individual and the state there is a ‘natural and fundamental group unit of society.’ . . . Thus the natural dignity and fundamental importance of the family are enshrined in our declaration.”⁹⁴

Malik’s reference to the “natural dignity” of the family connects it to the Declaration’s preamble—recognizing “the inherent dignity

90. Winter and Prost, 239.

91. Glenn Mitoma, “Charles H. Malik and Human Rights: Notes on a Biography,” *Biography* 33.1 (Winter 2010), 226.

92. Morsink, 254.

93. *Ibid.*, 255.

94. Malik, 100.

and . . . equal and inalienable rights of all members of the human family”—and to Article 1: “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience.” For Malik, this endowment to individuals was from the same Creator who had likewise endowed the family with inalienable rights—rights which, due to the family’s pivotal role as “the natural and fundamental group unit of society,” necessarily rank high in the Declaration’s hierarchy of rights.

Thus did Malik himself provide the answer to his rhetorical query posed during the initial plenary general debate near the end of September 1948 on “the question of the order and structure of my rights. Do they all fall flat on one plane with equal validity and equal importance, or do they articulate themselves in an order of depth and hierarchy?”⁹⁵ In the end, according to human rights lawyer and judge Manfred Nowak, the inclusion of Malik’s phrase “natural and fundamental group unit of society” was intended “to emphasize that despite various traditions and social structures, a pillar of all societies is the family as the smallest group unit,” while the phrase “entitled to protection by society and the State” was meant to “shield the family as the cornerstone of the entire social order.”⁹⁶

Drafting Article 16: Malik, Chang, and the Implied Creator

What was changed in Malik’s original sentence was the severance of the language that the family was founded on marriage, and its subsequent relocation to its own subsection in 16(1), and the deletion of the assertion that the family “is endowed by the Creator with inalienable rights.” Malik had explained that “he had used the word ‘Creator’ because he believed that the family did not create itself” and “was endowed with inalienable rights which had not been conferred upon it by the caprice of men, and he cited the phrase ‘endowed by nature’ [at that time still] in Article 1 as precedent for the wording”⁹⁷—in support of which he had earlier cited the Declaration of Independence: “endowed by their Creator with certain

95. *Ibid.*, 115.

96. Manfred Nowak, *UN Covenant on Civil and Political Rights. CCPR Commentary* (Kehl am Rhein, Germany: N.P. Engel, 1993), 404.

97. Morsink, 255.

unalienable rights.”⁹⁸

The Soviet representative countered by saying that “many people did not believe in God, and that the Declaration was meant for mankind as a whole, whether believers or unbelievers.”⁹⁹ He was accommodated, and Article 16 ended up shorn of the express reference to the Creator. But according to Morsink, the fact that the word “natural” was retained “suggests that Malik was indeed thinking of a natural law approach to human rights. His use of the phrase ‘antecedent to all positive law’ in the earliest formation of the amendment points in the same direction.”¹⁰⁰

Or, as Professor Don Browning notes, Article 16 ended up with “less than Malik wanted, but more than first meets the eye,” for “the words ‘natural,’ ‘fundamental,’ and ‘group unit’ were retained and are not meaningless. Furthermore, they point to some model of natural law. . . . It is widely acknowledged that Malik was a kind of natural law philosopher and tried to ground the Universal Declaration in natural law theory. He was not completely successful, but he did not entirely fail.”¹⁰¹

Thus it was that if the Creator could not be referenced explicitly, the implicit reference is unmistakable, echoing language from the Declaration of Independence that spoke of the Creator and of Nature and Nature’s God. Having hoped for a similarly explicit reference to the Creator in the Universal Declaration, Malik had apparently prepared himself to accept, if need be, an implicit reference, as he stated in the General Assembly’s initial plenary debate.

Where do [my rights] come from? Are they conferred upon me by some external visible power such as the state or the United Nations, so that what is now granted me may some day be conceivably withdrawn from me? Or do they belong to my essence so that if they are violated in any way I cease to be a human being at all? If they did belong to my essence, should they not also be grounded in a Supreme Being who, by being the

98. Glendon, 89.

99. Morsink, 255.

100. *Ibid.*, 256.

101. Don Browning, “The Meaning of Family in the Universal Declaration of Human Rights,” in Loveless and Holman, 39.

Lord of history, could guarantee their meaning and stability? Explicitly or implicitly, these final issues will be decided in our treatment of the Declaration of Human Rights.¹⁰²

In a separate debate on whether to approve an amendment that would have mentioned God in Article 1, Chang, “eager to avoid a vote on the question of God,”¹⁰³ reminded his colleagues “that the Declaration was designed to be universally applicable,” and his country, with its ideals and traditions different from the West, “comprised a large proportion of humanity.” By not mentioning God,¹⁰⁴ “others with different concepts would be able to accept the text.”¹⁰⁵ Nor would it matter for “those who believed in God,” he said, for they “could still find the idea of God in the strong assertions [of Article 1] that all human beings are born free and equal and endowed with reason and conscience.”¹⁰⁶

Drafting Article 16: Heaven and Family in Chang’s Confucianism

What Chang apparently did not mention at the time was that the remaining language of Article 1 contained a clear echo of “heaven” from his own Chinese heritage. When the ancient sage Mencius, one of the principal interpreters of Confucianism, spoke of reason and conscience, he said, “It is what Heaven has endowed in us. All men have this mind, and all minds are endowed with this principle.”¹⁰⁷

Heaven is a core Confucian concept, which, thanks to Chang’s advocacy in the drafting process, was among the “historical-philosophical

102. Malik, 115-16.

103. Morsink, 286.

104. Glendon, 146, closely paraphrasing Chang’s argument.

105. Morsink, 287.

106. Glendon, 146, closely paraphrasing Chang’s argument. See also Morsink 286-287. Eleanor Roosevelt later commented, “Now, I happen to believe that we are born free and equal in dignity and rights because there is a divine Creator, and there is a divine spark in men. But, there were other people around the table who wanted it expressed in such a way that they could think in their particular way about this question, and finally, these words were agreed upon because they . . . left it to each of us to put in our own reason.” Glendon, 147.

107. Wing-Tsit Chan, *A Source Book in Chinese Philosophy* (Princeton: Princeton University Press, 1969), 579. “The sense of commiseration, the sense of shame, the sense of deference and compliance, and the sense of right and wrong are this mind.”

roots . . . behind the birth of the UN Declaration,” says Roth, for “in Chinese thought, reference is frequently made to ‘the mandate of heaven,’ (tian ming) that has fulfilled a function that approximates to the notions of human or natural rights.”¹⁰⁸

Confucianism teaches that complying with “the mandate of heaven,” also known as “the order of heaven,”¹⁰⁹ means that one is following “the Way of Heaven,” an obligation falling upon not only rulers but every individual and establishing guidelines for “how he should lead his life and what he must do for an ideal society.”¹¹⁰ And at the very heart of that ideal society was the family founded on marriage between husband and wife—“the greatest of human roles,”¹¹¹ according to Mencius.

“With the Chinese,” wrote Miles Menander Dawson, “the family is the social unit, and Confucius has much to say on this subject.” One of the core Confucian texts “celebrates the prime importance of the marriage relation and of the useful principles for the regulation of human conduct which spring out of it.” Answering those “who saw in marriage a mere ceremony, conformity with which added no element of sacredness to a natural and necessary relation,” one Confucian text says,

He who thinks the old embankments useless and destroys them, is sure to suffer from the desolation caused by overflowing water; and he who should consider the old rules of propriety useless and abolish them, would be sure to suffer from the calamities of disorder. . . . This ceremony [*i.e.*, marriage] lies at the foundation of government.¹¹²

Summarizing the Confucian view of the foundational role of the family,

108. Roth, 132.

109. Ni, 2.

110. Xinzhong Yao, *An Introduction to Confucianism* (Cambridge: Cambridge University Press, 2000), 25.

111. Erin Cline, “What Can We Learn from Ancient Chinese Views of Marriage?,” Georgetown University, Berkley Center for Religion, Peace & World Affairs, available at <https://berkeleycenter.georgetown.edu/posts/what-can-we-learn-from-ancient-chinese-views-of-marriage>.

112. Miles Menander Dawson, *The Ethics of Confucius: The Sayings of the Master and his Disciples upon the Conduct of “The Superior Man”* (New York: G. P. Putnam’s Sons, 1915), 137, 140, available at <http://www.sacred-texts.com/cfu/eoc/eoc09.htm>, quoting from the Book of Rites, bk. 23.7 (available at <http://www.sacred-texts.com/cfu/liki2/liki223.htm>), brackets and italicization in original.

Professor Xinzhong Yao writes,

Confucian morality revolves around family relationships, especially around the relationships between parents and children, between elder and younger brothers, and between husband and wife. In these relationships, the primary emphasis is put on fulfilling responsibilities to each other with a sincere and conscientious heart. However, Confucian ethics is not confined to the family. It takes family virtues as the cornerstone of social order and world peace.¹¹³

This was precisely the insight for which Will Durant selected Confucius as the greatest thinker of all time, ahead of such luminaries as Plato, Aristotle, Copernicus, Newton, and Kant. Hailed by scholars as “the guiding star of the Chinese people” for over two and a half millennia¹¹⁴ and possibly “the greatest teacher in human history,”¹¹⁵ Confucius was born in the sixth century B.C. when the grandeur of ancient China was in sharp decline. To restore the luster of his homeland would require, said Confucius, a return to the practice of their ancestors.

The illustrious ancients, when they wished to make clear and to propagate the highest virtues in the world, put their states in proper order. Before putting their states in proper order, they regulated their families. Before regulating their families, they cultivated their own selves. . . . When their selves were cultivated, their families became regulated. When their families became regulated, their states came to be put into proper order. When their states came to be put into proper order, then the whole world became peaceful and happy.¹¹⁶

It was this family-focused Confucian heritage that Peng-chun Chang brought to the drafting process of the Universal Declaration. Laboring

113. Yao, 25, 169.

114. Herbert A. Giles, *Confucianism and its Rivals: Lectures Delivered in the University Hall of Dr. Williams Library, London. Oct.-Dec. 1914 (The Hibbert Lectures, Second Series)* (New York: Charles Scribner's Sons, 1915), 64, quote online at <http://www.sacred-texts.com/cfu/cair/cair04.htm>. Giles was a British diplomat in China and later professor of Chinese at Cambridge.

115. Michael Schuman, *Confucius: And the World He Created* (New York: Basic Books, 2015), xiii.

116. From “The Great Learning,” quoted in Will Durant, *The Greatest Minds and Ideas of All Time* (New York: Simon & Schuster, 2002), 12. For an alternate translation, see Chan, 86-87.

with his fellow diplomats in the United Nations to bring peace and happiness to a broken world, Chang advocated the tried-and-true core Confucian principle when “in very explicit fashion [he] defended the old Chinese traditions” regarding the “family issues” being debated.¹¹⁷ And he got what he wanted as expressed in Article 16. For Chang, the family constituted what it did for Malik—nothing less than the divine order for human society founded on the covenant of marriage between husband and wife.

Looking Back, Looking Forward, Acting Now

Woodrow Wilson’s vision of an international order among nations based on covenant and divine order was not fulfilled by the adoption of the Universal Declaration. It is not a covenant, and for good reason. Had it been, “it would never have passed.”¹¹⁸ But what the Declaration did do was far more significant, proclaiming the timeless truth that society can flourish only when founded on the divine order of the family based on the covenant of marriage between husband and wife. This is the understanding to which all the statutory rules of construction point.

Raising the worldwide banner of truth about the family was surely “a new thing and a great thing in the history of humanity.” Looking ahead to a brighter future, the drafters of Article 16 also looked back to capture the “wisdom distilled from the entire course of human history,”¹¹⁹ creating a document that “in essence . . . was Janus-faced. It looked to the past and to the future at one and the same time.”¹²⁰

That future is bringing challenges the drafters of the Declaration could hardly have imagined. “Time and forgetfulness are taking their toll” wrote Professor Glendon in 2001, as “the Declaration has come to be treated more like a monument to be venerated from a distance than a living document to be reappropriated by each generation. Rarely, in fact, has a text been so widely praised yet so little read or understood.”¹²¹ Even

117. Roth, 235.

118. Hunt, 204-205.

119. Richard G. Wilkins in Loveless and Holman, xiv.

120. Winter and Prost, 238.

121. Glendon, xvii.

more troubling, continues Glendon, is the intentional manipulation of the text to serve selfish private interests.

The Declaration's ability to weather the turbulence ahead has been compromised by the practice of reading its integrated articles as a string of essentially separate guarantees. Nations and interest groups continue to use selected provisions as weapons or shields, wrenching them out of context and ignoring the rest. . . . Forgetfulness, neglect, and opportunism have thus obscured the Declaration's message that rights have conditions—that everyone's rights are importantly dependent on respect for the rights of others, on the rule of law, and on a healthy civil society.¹²²

Of paramount concern is that the family, the very foundation of a healthy society, is in the crosshairs of what is being described as a “global sexual revolution” that masquerades under the name of rights but actually undermines the rights of the family. The result, says Gabriel Kuby in her widely acclaimed¹²³ exposé, is “the destruction of freedom in the name of freedom,” including freedom of speech, freedom of religion, and freedom of parents to guide their children in matters of morality.¹²⁴

And in a twist of irony, as Kuby explains, forces in and associated with the United Nations are now leading the worldwide charge against the family whose rights it once enshrined in the Declaration.

Within a few decades, the UN became an institution that would use its power and resources to change the image of humanity as declared by the Declaration of Human Rights and to replace universal moral values with relativistic postmodern “values” as the foundation of culture. God was deposed and the “autonomous human being” placed on His throne. . . . Today the UN and its powerful sub-organizations fight for dissolution of men's and women's sexual identity [and] elimination of marriage and family.¹²⁵

122. *Ibid.*, 239.

123. Endorsed by, among others, Pope Benedict XVI, Robert P. George, Austin Ruse, Alan E. Sears, Patrick F. Fagan, and Jennifer Roback Morse.

124. Kuby, 64-81.

125. *Ibid.*, 51.

Operating by obfuscation of its real aims¹²⁶ and implementing totalitarian methods,¹²⁷ the assault reverberates worldwide as it “reaches into every home and every heart,” continues Kuby. “There is no neutral territory to which we can escape. This revolution increases its speed and the fierceness of its attack on democratic freedoms from one day to the next,”¹²⁸ spurred on by “influential individuals and NGOs that drive its global implementation with help from the UN and EU institutions,” while advocates in every country “are supplied with money, education, jobs, and juridical support” and “gain power and influence in the international network of the global sexual revolution.”¹²⁹ It is an all-out war on civilization itself, “demand[ing] that all countries of the world take totalitarian measures to change their constitutions, laws, social institutions, educational systems and their citizens’ basic attitudes in order to enforce and legally compel acceptance and privileged status for homosexuality.”¹³⁰

How far this devastating attack will advance depends not upon the Universal Declaration itself but upon those willing to defend the truth it proclaims about the family. Ethiopian Emperor Haile Selassie, no stranger to powerful attacks on freedom, declared, “Throughout history, it has been the inaction of those who could have acted, the indifference of those who should have known better, the silence of the voice of justice when it mattered most, that has made it possible for evil to triumph.”¹³¹

The drafters of the Universal Declaration have long since performed their monumental work of enshrining the family as the natural and fundamental unit of society based on the covenant of marriage between husband and wife. Whether and to what extent this divine order will actually prevail on earth is now up to us.

E. Douglas Clark is the Director of UN and International Policy at the International Organization for the Family.

126. *Ibid.*, 71-73.

127. *Ibid.*, 65-71.

128. *Ibid.*, 5.

129. *Ibid.*, 81.

130. *Ibid.*, 65, italics in original.

131. Address in Addis Ababa, 1963, available at https://en.wikiquote.org/wiki/Haile_Selassie#Quotes.

COMMENTARIES

The Blood Bath that Wasn't Supposed to Happen: Romania's Marriage Referendum

Peter Costea

IN A SPAN COVERING LESS THAN THREE WEEKS, from the end of September through the beginning of October 2018, the European Union, Romania's main political parties, politicians, mass media, and social media trolls succeeded in annihilating the greatest democratic endeavor in Romania's post-communist era: the defeat of the citizens-initiated constitutional amendment to enact natural marriage in Article 48 of Romania's Constitution. I was there for the last two weeks of the campaign criss-crossing the country¹, campaigning in earnest and witnessing for myself the collapse of democratic intercourse and the blood bath left behind by the concerted attacks against the referendum by the European Union and its lackeys in Romania. How did this come to be, and what motivated the aggression of the opponents?

By way of background, Romanians have attempted since 2006 to amend Article 48 to make it consistent both with their tradition and with the natural meaning of marriage. In 2006 they launched a similar constitutional amendment, which was supported by 650,000 signatures, well

1. Sabra Ayres and Laura King, "The religious right lost the fight over gay marriage in the U.S., but it sees hope in Eastern Europe," *Los Angeles Times*, October 5, 2018, available at <https://www.latimes.com/world/europe/la-fg-romania-referendum-20181005-story.html>.

in excess of the half a million needed to trigger a national referendum. However, in July 2007 Romania's Constitutional Court halted the process because the geographical dispersion of the signatures fell short of the legal requirements. According to law, at least half of Romania's 40 counties had to provide at least 20,000 valid signatures each for the process to move forward.²

A second attempt was initiated in November 2015 when a group of Romanian citizens initiated the same constitutional amendment to enact the institution of natural marriage between a man and a woman in Romania's Constitution. Though they only needed the backing of half a million valid signatures for this purpose, they instead obtained three million in the required six-month period. In the summer of 2016 the amendment was ruled constitutional by Romania's Constitutional Court, and it was then voted on and approved by a large margin in Romania's lower chamber of Parliament, the Chamber of Deputies, in May 2017. Bickering among Romania's political parties over the amendment led to repeated and frivolous appeals to Romania's Constitutional Court, and the country's President, Mr. Klaus Iohannis, who is to take up the Presidency of the European Union for six months in the first half of next year, also positioned himself against the proposed amendment. All appeals were exhausted by late spring 2018 and on September 11, 2018, Romania's Senate adopted the amendment with a vote of 107 to 13.³

By law, the amendment was to be put to a vote in a national referendum within 30 days of its adoption in the Senate. The government scheduled the referendum for the weekend of October 6 and 7, giving the citizens only a little over three weeks, 24 days to be precise, to campaign in favor of or against the constitutional proposal. However, this time period was further reduced by a week because, according to Romanian law, the Constitutional Court had to validate the amendment a second time. The second validation was more challenging; among others, a slew

2. Clifford Bob, *The Global Right Wing and the Clash of World Politics* (Cambridge: Cambridge University Press, 2012), 96-108.

3. "Senatul a decis: Referendum pentru familie pe 7 octombrie," *antena3.ro*, September 11, 2018, available at <https://www.antena3.ro/actualitate/senatul-a-decis-referendum-pentru-familie-pe-7-octombrie-486089.html>.

of international organizations and non-governmental organizations headed by Amnesty International filed massive *amicus curiae* briefs in the Romanian Constitutional Court demanding that the referendum be blocked. Essentially, these organizations demanded that the citizens of the young Romanian democracy not be allowed to exercise their constitutional rights but be treated as second-class citizens in a European Union where citizens are regularly encouraged and urged to vote in national referenda.⁴

On the pro-referendum side, Romania's Families Alliance was the only non-governmental organization to file an *amicus curiae* in support of the referendum. There were no *amicus curiae* or interventions filed by the government or by political parties or groups. Nevertheless, the second validation by the Constitutional Court, by a vote of 7 to 2, came down on September 17. The Court's ruling only became effective, however, upon its publication on September 18 in the government's official legal publication. Only on September 18 was it entirely clear that the referendum would actually take place, allowing the citizens only 19 days of effective campaigning, not even three full weeks. Citizens scrambled to mobilize the public for the referendum; draw up posters, flyers, and banners; and obtain permits from city halls to place and disseminate campaign materials in public forae.

Another major challenge was the requirement of a voter turnout threshold to validate the amendment, a threshold which required that at least 30% of all of Romania's eligible voters actually vote. This turned out to be an immense challenge because millions of Romanians live abroad, mainly in Western Europe and in the Republic of Moldova, and have limited access to voting precincts. According to Romania's official records, there are nearly 19 million Romanian citizens with the right to vote around the globe, of whom nearly 6 million had to vote to validate the amendment. In contrast, most Western democracies do not impose a turnout threshold, the Irish referendum of 2015 on gay marriage being

4. "Amnesty calls upon Romania to stop the 'traditional family' referendum," *Euractiv*, September 14, 2018, available at <https://www.euractiv.com/section/elections/news/amnesty-calls-upon-romania-to-stop-the-traditional-family-referendum/>.

validated by a vote of only 1.2 million.⁵

The wording of the amendment on the ballot was also confusing. It merely asked citizens to vote “yes” or “no” in response to the question “do you agree with the law adopted by the Parliament for the revision of the Constitution?” It did not state, as one would expect, “do you agree with defining marriage in Article 48 of the Constitution as the union between a man and a woman?” Unlike in the United States, Romania’s laws do not allow citizens to challenge the wording of a ballot initiative. The wording is a template written into law, and cannot be attacked in courts. People were confused and concerned that the amendment was an underhanded scheme of sorts of the ruling socialist government, which to this day remains the most unpopular government in Romania since that of December 1989. For this reason disinformation spread online like wildfire that the referendum was a “socialist scheme” designed to mislead honest and well-intended citizens.

In the end, however, 3,857,308 eligible Romanian citizens voted around the world, of whom 3,531,732 voted in favor of the amendment, or 93.40% of the total.⁶ This turnout equaled 21.1% of all eligible voters. By way of comparison, the highest adoption rate of any marriage amendments in the United States was in Tennessee, with slightly over 81% voting in favor. Had there been no threshold required, the marriage amendment today would be part of Romania’s Constitution backed by an adoption rate unprecedented anywhere in the world. But when one considers the challenges, in retrospect it is in fact extraordinary that even one in five eligible Romanian voters voted. But for the concerted efforts of the European Union, Romania’s political parties, politicians, and the mass media, Romania would have become the 50th state in the Council of Europe to define marriage in its natural sense as the union between a man and a woman in its Constitution.

Europe’s socialists railed against the referendum and, in their

5. WebArchive.org, “Referendum Ireland,” available at <https://web.archive.org/web/20150809115721/http://www.referendum.ie/results.php?ref=10>.

6. Biroul Electoral Central, “Referendumul national pentru revizuirea Constitutiei din 6 si 7 octombrie 2018,” October 10, 2019, available at http://referendum2018.bec.ro/wp-content/uploads/2018/10/prezenta_16.01.pdf.

typically arrogant fashion, lectured Romania's socialist government to do everything it could to ensure the referendum would not pass. Back in late September of 2018, *Euractiv* reported that on September 26 leaders of the socialist group in the European Parliament met with Romania's Prime Minister, whose socialist democratic party is currently in power, asking Romania's socialists to stand up "against the constitutional change to ban same-sex marriage." Discussions were heated and shouts were heard even by those standing outside the chambers where the conversations occurred, as socialist leaders raised their voices at their Romanian counterparts. The shouting apparently had an impact. Before the meeting, Romania's socialists pushed for the referendum but, upon returning home, announced they would no longer campaign in favor of the amendment.⁷

Romania's other political parties fell in line as well, including even those who consider themselves politically on the right. Even more egregiously, during the actual campaign, politicians aligned with conservative parties filed complaints against nongovernmental and civic organizations that put up billboards in support of the amendment, claiming that these organizations violated applicable campaign laws. City halls around Romania moved in earnest to compel the removal of the banners. Curiously, the same city halls had previously approved the display of the same banners and in the same venues. One extreme example involved a church which draped its frontispiece with a huge banner asking people to vote for the amendment. City hall compelled the church to take down the banner, but after sustained public outcry, the mayor's office backed down. No due process or avenues to challenge the *ad hoc* decrees of local officials were available to the public. Banners were ordered removed on a whim upon the filing of a mere citizen's complaint. In the western city of Timisoara, the city hall decreed the halting of dissemination in public of flyers that were deemed offensive to same-sex couples by noting that same-sex marriage would hurt children. These are just some of the many examples that back up the notion of an entirely chaotic campaign.

7. "Angry EU Socialists grill Romanian PM over same-sex marriage referendum," September 26, 2018, *Euractiv*, available at <https://www.euractiv.com/section/justice-home-affairs/news/angry-eu-socialists-grill-romanian-pm-over-same-sex-marriage-referendum/>.

Courts were impotent and seemed unable to discern between campaign laws applicable to routine elections and those applicable to referenda, especially citizens-initiated campaigns. This referendum was the first citizens-initiated referendum in Romania's history.

The psychological war against the referendum was also fueled by a dissenting opinion appended to the September 17, 2018 Constitutional Court ruling wherein the dissenting judge portrayed those Romanian citizens who subscribe to the "traditional view of marriage" as owing their views to a "retrograde vision" which was seemingly in conflict with the rulings of the European Court of Human Rights. The dissent ignored the fact that the European Court of Human Rights has, thus far, ruled on more than one occasion that there is no right to same-sex marriage in the European Convention of Human Rights.

Many of Romania's politicians encouraged the citizens to boycott the referendum. This would be unthinkable for citizens of the American republic, where no politician would dare encourage citizens not to vote. On the contrary, in most democracies citizens are encouraged to vote and in some, like Australia, they are penalized, albeit nominally, if they do not. One notable voice against the referendum was one of Romania's members of the European Parliament and former Minister of Justice, Monica Macovei, who persuaded her colleagues in the European Parliament not to issue a note of support in favor of the referendum as they had initially planned.'

Romania's mass media coverage of the referendum was also a complete failure. The media seldom invited supporters of the referendum to appear on television or radio programs, and it focused on largely irrelevant issues, such as "discrimination against sexual minorities" and the high cost of the referendum, around \$50 million, which, the critics said, could have been put to better use, such as the building of schools or hospitals. Not on a few occasions the only guests to appear on these programs were trolls who delivered diatribes for minutes on end without being interrupted.

The Romanian marriage referendum failed, and it is uncertain that it will ever be put to a vote again. Nevertheless, the positive outcomes were substantial: 3.5 million citizens battled confusion, threats, the politicians' opprobrium, the scorn of Europe's left, and the relentless attacks

of social media trolls, and voted for natural marriage. The referendum was free, no doubt. But it also was not fair. Had all eligible citizens voted, very likely 90% or more would have voted in favor of the amendment. But the 30% threshold, undemocratic by most global standards, doomed the referendum to fail. Nevertheless, despite this failure, one can say that this exercise in democracy was an unofficial plebiscite of sorts, similar to the one held in Australia in 2017, where citizens expressed their view on marriage very clearly. In the 2017 Australian plebiscite, a little over 38% of citizens supported keeping natural marriage as the normative family institution in Australia. In this respect the Romanian outcome was certainly crushing. The votes in favor of the amendment were also unusually high among the Romanians living in Western Europe, where more than 100,000 voted. This favor toward the natural definition of marriage demonstrates that these Romanians were well aware of the consequences of same-sex marriage in the countries where they work, and wanted to ensure that these conditions do not replicate in Romania.

For now, same-sex marriage in Romania remains forbidden by explicit legislation and marriage continues to be defined in the country's Civil Code as the union of a man and a woman. Changing the law will be challenging because it requires a vote of 60% or more of the Parliament. It is doubtful this will happen in the near future or even in midterm. When 3.5 million Romanians tell politicians they want to preserve natural marriage as the norm in their country it would be foolish for those who represent them in the Parliament to legislate otherwise. At least for now.

Peter Costea practices law in Houston, Texas.

Homeschooling is Good for Society

Allan C. Carlson

The following is adapted from a presentation given to the Global Home Education Conference in St. Petersburg & Moscow, Russia, May 15-19, 2018.

HOMESCHOOLING IS IMPORTANT TO A SOCIETY FOR THREE REASONS.

First, it helps to create conditions for a real and sustainable democracy. A great error of both modern libertarianism on the political right and contemporary European socialism on the left has been to leave the isolated individual as the only relevant political and economic actor. The result has been a relentless assault from both ideologies on natural human bonds, including religious groups, local communities, families, and finally even “one flesh” marital unions. Appeals to “rights” and claims of “liberty” become, in practice, parallel channels to what philosophers used to call license, a moral anarchy that undermines the natural foundations of social order and human flourishing.

Where moral license reigns, natural family life is progressively shredded. In the end, these versions of democracy become parodies of healthy political life, characterized by demagoguery, the cultivation of lies, and the suppression of truth. Supposedly free individuals find themselves quite alone and defenseless before an ever more powerful state. It is the self-righteous “liberal democracies” of Germany, Sweden, and Norway that ruthlessly suppress home education today, jailing parents and seizing their children.

By restoring the task of education to the family, homeschooling helps recover an ancient truth: The family, not the isolated individual, is the

natural cell of society—and, as such, the proper and primary political unit. As implied by the word “recover,” this is no fresh discovery: The ancient Greeks rested their democracies on function-rich, autonomous households. So did the founders of the original American Republic of the late 18th century. As historian Barry Shain summarizes in his fine book *The Myth of American Individualism*: “The vast majority of Americans [of that era] lived in morally demanding agricultural communities shaped by reformed-Protestant [Christian] social and moral norms” and grounded in strong kinship bonds.¹ In educational terms, they were homeschoolers. These were the real American men and women who fought and won the Revolution of 1776.

Under modern conditions, homeschoolers are rebuilding households as places of meaningful activity and first loyalty. In doing so, they are also recovering a much sounder understanding of liberty: not “do whatever you choose” (the libertarian understanding) nor “freedom through the state” (the socialist). Rather, homeschoolers look to the freedom to do “everything that is right,” or Christian liberty; and they look to the freedom that comes from a healthy level of autonomy and self-sufficiency, or familial liberty.

The advocates of mass state education argue that their style of uniform teaching is critical to democracy. In truth, it is home schools that help to build democracies where the people actually rule and justice might be advanced.

Second, homeschooling is important to society as a source for creative young citizens who can build a better future. Mass state schooling favors uniform inputs and uniform human outputs. It rewards those who submit to mind-numbing conventions and who learn how to play the game. It crushes new ideas or fresh approaches to human problems. Despite claims to the contrary, it insists on submission to the way things are done, and in practice ignores what might be.

Homeschooling, in contrast, is wonderfully and creatively anarchic. It is richly diverse. Only here might a true “thousand flowers bloom.” The record in the United States already shows that homeschooled youth

1. Barry Alan Shain, *The Myth of American Individualism: The Protestant Origins of American Political Thought* (Princeton, NJ: Princeton University Press, 1994): xvi.

are more likely to challenge “the way things are now done,” be it in the engineering of a new machine or in the crafting of a powerful poem or in the building of a robust home. These are a society’s future innovators—happy, healthy, and wealthy will be those societies that welcome them in large numbers.

Third, homeschooling is one of the few proven antidotes to the birth dearth, the collapse of birth rates occurring in every developed land. This can be seen on both sides of the problem. The role of mass state education in undermining natural human fertility is well established. As demographer Norman Ryder summarized in the United Nations Bulletin on Population:

[State] education of the junior generation is a subversive influence. . . . The reinforcement of the [family] control structure is undermined when the young are trained outside the family for specialized roles in which the father has no competence. . . . Political organizations, like economic organizations, demand loyalty and attempt to neutralize family particularism. There is a struggle between the family and state for the minds of the young.²

In this contest, the mass state school communicates a “state morality” that replaces those of the family and religious faith.

The American poet-philosopher Wendell Berry explains a related point: “According to the new [educational] norm, the child’s destiny is not to succeed the parents, but to outmode them. . . . [H]e or she is educated to leave home. . . . The local schools no longer serve the local community; they serve the government’s economy and the economy’s government.”³ The bonds of the generations become meaningless; so does the presence of children. Indeed, numerous investigations have shown a direct and causal tie between the spread of mass state education and fertility decline.

In contrast, homeschooling families are both more stable and more fruitful. According to one American survey, 97% of homeschool children had parents who were married, compared to 70% nationwide. Sixty-two

2. Norman Ryder, “Fertility and Family Structure,” *Population Bulletin of the United Nations* 15 [1983]: 18-32

3. Wendell Berry, “The Work of Local Culture,” in *What Are People For?* (Berkeley: Counterpoint, 1990, 2010): 153-69, at 162.

percent of homeschooling families had three or more children, compared to only 20% of the nationwide sample. And over a third of homeschooling families actually had four or more children, compared to a mere six percent nationwide. Comparatively speaking, homeschool families are “rich” in children.

Over 200 years ago, Adam Smith, the philosopher of liberty, wrote: “Domestic [or home] education is the institution of nature—public education is the contrivance of man. It is surely unnecessary to say which is likely to be wisest.”⁴ Closer to our time, my mentor and friend—the sociologist Robert Nisbet—wrote:

We can use the family as an infallible touchstone of the material and cultural prosperity of a people. When it is strong, closely linked with private property, treated as the essential context of education in society, and its sanctity recognized by law and custom, the probability is extremely high that we shall find the rest of the social order characterized by that subtle but [powerful] fusion of stability and individual mobility which is the hallmark of great ages.⁵

Let us work together to build a new Great Age!

Allan C. Carlson is Editor of The Natural Family.

4. Adam Smith, *The Theory of Moral Sentiments* (VI.ii.1.10), 1759.

5. Robert Nisbet, *Twilight of Authority* (New York: Oxford University Press, 1975), 254.

REVIEWS

Giving “Evolution” A Push

William C. Duncan

From Tolerance to Equality: How Elites Brought America to Same-Sex Marriage

by Darel E. Paul

Baylor University Press, 2018; 256 pages, \$39.95

LATE LAST YEAR, ROMANIAN VOTERS considered a constitutional amendment to confirm the nation’s definition of marriage as the union of a husband and wife (voter turnout did not meet the required threshold for the legal change to take place). European nations are divided on the legal definition of marriage, but a strong majority of those nations still retain the historically universal understanding of marriage in their laws. That is true of most of the world’s nations.

The United States, like many Western nations, is different. There, a national Supreme Court decision in 2015 redefined legal marriage for the entire nation even though states are usually responsible for regulating family laws. At the time of the decision, 31 states had defined marriage as the union of husband and wife in their state constitutions (which required voter approval), but the decision was accepted with little uproar.

What happened in the United States to cause this drastic change? The answer to that question may have important implications for other nations where the debate over marriage is still ongoing.

Darel Paul, professor of political science at Williams College, has

written a very careful and compelling account of this change which convincingly explains the shift.

The preferred account, created by advocates for same-sex marriage, “emphasize[s] the role of activists and the process of moral growth” (like President Barack Obama’s famous “evolution” from personal and religious opposition to dogmatic support) towards acceptance of same-sex marriage. This, however, obscures “the contributions of Corporate America, normalization’s most powerful ally.” Dr. Paul explains how same-sex marriage “became the cause célèbre of the country’s rich and powerful” and how “corporate support came well before public support” for the dramatic legal change.

Primarily, as he shows, America’s seeming change of heart is a matter of the ascendancy of “class values” embraced by American elites. These elites are professionals and managers in the top 20-25% of households who have “most separated themselves from the rest of the country in terms of educational attainment, family structure, residence, lifestyle, and cultural values.” They drive “Corporate America,” which has, in the words of the nation’s most prominent sexual rights lobby, “‘transformed itself into a beacon of progress when it comes to LGBT equality’ and ‘become legislative and social change agents.’”

Dr. Paul explains how long before political and public opinion “evolved” to abandon allegiance to a complementary understanding of marriage, social elites had embraced that position. The higher professionals and managers making up the elite social class, particularly in New England, the Middle Atlantic, and the West Coast (where the elites are concentrated) of the United States, had embraced the view that same-sex sexuality was normative. Paul notes that many say “elites support normalization [of same-sex relations] and same-sex marriage because they are liberal” but points out that the data “suggest it is more accurate to say that liberals support normalization and same-sex marriage because they are elites.” These groups share more than support for toleration. They want to move past toleration towards normalization and to disapproval of those who have not “evolved.”

A critical insight of Dr. Paul’s analysis is that the normalization project was “socially constructed over time, enabled by the collapse of a culture that gave intelligibility to strictly opposite-sex marriage.” Rising

divorce, cohabitation, and unwed childbearing, combined with falling marriage rates, contributed to this collapse, but affected the social classes differently. Behavioral changes fueled changes in opinion. The "normative separation of children from marriage" was exemplified by an 11% drop in the period 1982 to 2007 in the percentage of Americans endorsing the idea that children were an important element of a "successful marriage."

As the redefinition of marriage to include same-sex couples "removes sexual difference from the fundamental premises of marriage," procreation had "largely been removed from elite cultural understandings." Dr. Paul shows how fertility is "the fulcrum around which family models turn" and that attitudes toward same-sex marriage are correlated with fertility such that groups "with the highest levels of support for normalization . . . are also the groups with the lowest fertility." As father absence had been normalized in an earlier family model, "same-sex marriage normalizes his absolute nullity." Indeed, the rise in America's fertility rate halted in 2008 and in 2015 actually dropped to its lowest level in 30 years. Dr. Paul notes: "All of this portends fewer children and smaller families in the United States into the future, as well as an increasing paucity of patriarchs. That being the case, it also indicates a bright future for the progress of homosexuality's normalization."

A very perceptive chapter explains the ideological underpinning of elite support for same-sex marriage. This support is based on diversity, "the reigning social and political ideal of our age." This ideal was adopted in professional and business circles before it could plausibly be claimed to have any real value to business. So, when the "gay rights movement quite literally wrapped itself in the flag of diversity," although race remained "the 'modal category' of diversity practices and thought," homosexuality came to represent "its ideal." Support for gay rights became a hallmark, perhaps *the* hallmark, of diversity-signaling by businesses in advertising as homosexuality represented "a powerful symbolic brew of authenticity and prestige." Since "diversity is all about elites" it is no surprise that the preeminent symbol of corporate commitment to diversity is support for gays and lesbians. "Unlike the polygamous, the disabled, the obese, or the unattractive, gays and lesbians symbolize success." They have higher levels of education and are "overrepresented at the highest levels of the

managerial and professional class fractions.” So, this diversity “is an amazingly self-referential version.”

As Dr. Paul summarizes:

Homosexuality was first accepted and later embraced because of its symbolic expression of elite values and lived experiences in marriage, parenthood, gender equality, family planning, education, financial success, urbanity and cosmopolitanism, as well as authenticity. Homosexuality—or the form of homosexuality eventually accepted as normal—synchronized with elite values and the professional-managerial class lifestyle. It endorsed elite authority.

Dr. Paul marshals a large amount of empirical data, accompanied by telling illustrations (like the fates of Brandon Eich, a tech executive who made a modest donation to a campaign for natural marriage in California, or Mark Regnerus, the University of Texas sociologist, whose research disclosed suboptimal outcomes for children raised by homosexual parents) to make his case. He takes no position on same-sex marriage but provides an invaluable account of its acceptance and then promotion to normativity.

The final chapter of the book introduces a new and tentative theme occasioned by the election of Donald Trump as President of the United States. That election may represent something of a new willingness to question the elite rule described in the book. Might this questioning also signal a change in family policy? It’s not yet entirely clear.

As Dr. Paul noticed, the elite success in redefining marriage was facilitated by, and in turn facilitates, changes in family formation and attitudes about marriage and family. Unfortunately, these may prove enduring.

William C. Duncan is the Director of the Marriage Law Foundation.

Holding the Elites Accountable

Nicole M. King

The Sexual State: How Elite Ideologies are Destroying Lives and Why the Church Was Right All Along

by Jennifer Roback Morse

TAN Books, 2018; 420 pages, \$27.95

HOW DID THE WORLD GO CRAZY, SO QUICKLY? How did America transform seemingly overnight from a country with an impressively strong marriage and family culture and a robust fertility rate to a nation wherein marriage continues on its steep decline, family forms are considered fluid and changeable, and fertility has tumbled to record lows?

The advocates of the sexual revolution would have us believe that changes in attitudes towards sex, marriage, childbearing, and the relationship between all three were simply a “natural progression.” That is, these changes just happened—they were part of man’s development into a higher being, one with a more fluid notion of morality and what constitutes healthy behavior. In contrast, Dr. Jennifer Morse, Founder of the Ruth Institute and a Ph.D. in economics, contends that this “march of history” narrative is false. The sexual revolution did not “just happen.” Rather, this revolution was deliberately created by American elites—and then enforced, sustained, and upheld by the state.

To bring about this revolution, the elite class—between whom and the “ordinary American” there is an ever-widening gulf in wealth, education, and moral beliefs—has had to actively promote three “ideologies,” all of which are false: the Contraceptive Ideology, the Divorce Ideology, and the Gender Ideology. The Contraceptive Ideology holds that sex does

not make babies: Science has solved that problem. The Divorce Ideology teaches that marriage does not need to be permanent, and that no harm ensues when two consenting adults (or even just one) decide to end a marriage to pursue greater happiness and fulfillment elsewhere. The children, these proponents say, are resilient, and they will be just fine. The Gender Ideology—most recent and in some ways most radical of the three—asserts that biology does not determine maleness or femaleness. Gender is fluid, but also, and more importantly, the differences between men and women don't really matter. This is the ideology that has allowed, for example, two men to assert that their donor-conceived baby doesn't actually need a mother. They can handle the tasks of both sexes just fine.

These are all lies, Morse contends, such obvious lies that they need legal power to be enforced. “The Sexual Revolution needs the State for one major reason,” she writes. “[T]he premises of the Sexual Revolution are false. Sex does make babies. Children do need their parents, and therefore marriage is the proper and just context for both sex and child-rearing. Men and women are different. The true sexual revolutionaries resent these facts.” The title of the book is explained here. The sexual revolution needs the state because the state makes all of these aberrations from the natural possible. The state legally permits them, even enforces them. It mandates the new rules surrounding this new morality.

Morse exercises some fine historical scholarship to demonstrate when, where, and how the state first got into the business of moral behavior. She takes as an example *Griswold v. Connecticut*, the Supreme Court case that determined that Connecticut could not regulate the use of contraceptives for married couples because of a newfound “right to privacy,” thus opening the floodgates to mass national acceptance and use of birth control. Contary to what the case would suggest, Morse argues, birth control was in fact already widely available in Connecticut already. The problem, however, was that although the elite could manage to prevent births somehow, no clinics existed for the poor (nor could they legally exist), so Connecticut needed to abolish the law. Births weren't the problem; the fertility of poor women in an ever-expanding welfare state was. Here, Morse quotes Allan Carlson: “As all architects of modern welfare systems discover, birth control becomes essential. Whether in wealthy Sweden or in urban American ghettos, government programs

of family assistance by their very nature generate an ‘illegitimacy problem.’” Welfare programs disincentivize work and penalize marriage and married childbearing. When an extra mouth to feed also means extra dollars to support, the government has a crucial interest in regulating the fertility decisions of the poor.

Such government intrusion into matters formerly considered deeply private is now par for the course in such decisions as the dissolution of a marriage. In such negotiations as visitation rights to children or fiscal arrangements between ex-spouses, Morse argues, “This level of involvement of an agency of the state [the family court] was unheard of prior to the era of rapid family breakdown.” But when family dissolves, the cost to the state is large, and the state has an interest in stepping in to mediate and provide basic care functions. “Fiscal freedom has been reduced as well,” Morse continues, “as taxes have increased. Fewer constraints on sexual behavior mean more children without permanent relationships with both parents. These children are disadvantaged in many ways that have consequences for the tax burden on the public.” The social ills consequent to family breakdown all carry a great public financial burden (incarceration, public schooling, poverty, *etc.*). This is all good for corporations, bureaucracy, media, and mass entertainment,—*i.e.*, the elite—because Americans are left more vulnerable, lonely, and easily persuaded to buy things or do things that others want them to do. (If one wishes to carry the argument further, it is easily done. Two households instead of one means quite literally two houses to furnish and maintain, two grocery bills, more cars, and the list goes on. Almost every consumer-good market benefits from divorce.)

The Contraceptive Ideology and Divorce Ideology have led naturally to the Gender Ideology, which maintains that the two sexes aren’t really different, and children don’t need a mother and a father after all. Here, Morse points to all of the logical inconsistencies, but perhaps most tellingly, to the tragic real-life voices of the children of gay parents, the donor-conceived, and all of those who have bought into the myth that gender is fluid, and that biology doesn’t matter.

The most heartbreaking component of the sexual revolution, of course, are its victims: the child of divorce, the woman left to believe she shouldn’t really want to marry and bear children, the man whose

wife leaves him for “fulfillment” elsewhere. The greatest tragedy of our age, Morse says, is loneliness, and the lack of permanence that causes it: “People can’t count on permanence in even the most basic biological and sexual relationships.” The results have been disastrous. Loneliness is now considered by many experts to be a huge social problem in the U.S. and many developed nations around the world, and so-called deaths of despair (suicide and drug overdose) are at literally epidemic levels. Who benefits from the sexual revolution, then? Morse is doubtful here, but suggests that the only ones who seem to be wealthy men in positions of power, who profit for all of the reasons mentioned, and whose sexual libertinism can now be justified and the consequences pushed aside.

Throughout *The Sexual State*, Morse contrasts what the world says, what the elite say, with what the Catholic Church now teaches and has historically maintained in issues of sexuality, marriage, and family. The Church, she argues, has held constant, even as the forces about it have raged. And although the critic might point out that the Catholic Church certainly has its own problems in these areas—priestly abuse, the seeming nonconformity of its members to its official teaching in matters of sex—no one can deny that the Church itself has in all of its official teachings and documents certainly held firm to natural morality. Morse prays for a return to Catholicism, and indeed a revival of traditional Christian faith seems to be the only solution to a world gone mad.

Nicole M. King is Managing Editor of The Natural Family.

RESEARCH HIGHLIGHT

The Open Secret

Nicole M. King

THE CATHOLIC CHURCH—INCLUDING NOT JUST the hierarchy but also the laity—have long hoped that the sexual abuse scandal that so rocked the Church in 2002 had passed. Measures were taken, guidelines were instituted, and the Church, at least in many places, claimed that the problem had been resolved, that it was historic, in the past, and would not happen again.

Then came 2018, and the Cardinal Theodore McCarrick sexual abuse scandal. But with the McCarrick scandal came something a bit different. McCarrick was guilty not only of the sexual abuse of minors, but also of predatory, luridly described homosexual misconduct with adults as well both in the seminaries and throughout his career as a Church official. This scandal, and a number of other reports, have drawn attention to the question: To what extent, if any, is there a correlation between homosexual tendencies in the Catholic clergy and the priestly sex abuse crisis?

Few have wished to delve into this question, owing in large part to a public fear of linking homosexuality with pedophilic activities. One notable exception to this is the Rev. D. Paul Sullins, Ph.D., a now-retired sociologist from the Catholic University of America and an Anglican convert to the Catholic priesthood. His most recent scholarship is titled “Is Catholic Clergy Sex Abuse Related to Homosexual Priests?” and was conducted for The Ruth Institute, the California-based think tank for

which he is now a senior researcher.

Sullins prefaces his study with the comment that, “Although over 8 in 10 of victims have been boys, the idea that the abuse is related to homosexual men in the priesthood has not been widely accepted by Church leaders.”¹ The Church’s official statements have denied a link between homosexuality and clerical abuse. To support this claim, Church officials have referred to two reports by the John Jay College of Criminal Justice. The first, from 2004, studied the “nature and scope” of the abuse crisis, and “reassuringly concluded that the abuse was a transient phenomenon peaking in the 1970s that now had largely passed.” The second report, from 2011, attempted to explain why the abuse was occurring, and “notably concluded that, despite the fact that over three-fourths of the child victims were male, the abuse had no relation to clergy homosexuality.” In other places² Sullins has praised these reports and given due credit to the valuable insights they offer, but he does take issue with some of their conclusions, especially given that the Church uses these reports so heavily in claiming the problem is past, and clerical homosexuality is not the cause.

To examine the question independently, Sullins draws from four primary data sources: 1) the John Jay Reports from both 2004 and 2011, which include “a comprehensive census of sex abuse allegations involving minors against Catholic clergy since 1950” and were commissioned by the United States Conference of Catholic Bishops (USCCB); 2) USCCB-commissioned annual audit reports, which have followed up on any further allegations of abuse since 2004; 3) a Pennsylvania grand jury report on clerical sex abuse allegations in six dioceses in that state; and 4) a *Los Angeles Times* survey from 2002 which asked 1,854 Catholic priests a series of pertinent questions, the most important of which were whether they themselves were homosexual in orientation, and whether they believed there was a homosexual subculture present at their seminary.

This last source, the *LA Times* survey, is particularly remarkable.

-
1. This and all quotations, unless otherwise indicated, taken from D. Paul Sullins, “Is Catholic Clergy Sex Abuse Related to Homosexual Priests?” The Ruth Institute, 2018, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3276082.
 2. Matthew E. Bunson, “Is Catholic Clergy Sex Abuse Related to Homosexual Priests?” *National Catholic Register*, November 2, 2018, available at <http://www.ncregister.com/daily-news/is-catholic-clergy-sex-abuse-related-to-homosexual-priests>.

How, one might think, could you ever get information as to priestly self-reported same-sex attraction? Apparently, it's been done. The crucial survey question reads: "Some people think of themselves as heterosexual in orientation, while others think of themselves as homosexual in orientation and still others feel their sexual orientation lies somewhere in between. How about you?" Possible responses fell along a Kinsey scale of five points, ranging from "Heterosexual orientation," "Somewhere in between, but more on the heterosexual side," "Completely in the middle," "Somewhere in between, but more on the homosexual side," and "Homosexual orientation." Those who indicated the last two answers were considered "homosexual." In this survey, 15.2% of respondents reported themselves as homosexual. This is a rate approximately ten times greater than that found in the population at large. Sullins also notes that only 5% of those who answered the survey refused to answer this question, "suggesting concealment was low." The *LA Times* survey also asked, "In the seminary you attended, was there a homosexual subculture at the time?" Answers ranged from "Definitely," to "Definitely not." Reports Sullins, "A quarter (26.6%) of the priests overall responded yes, rising to 53% of priests more recently ordained (in the past 20 years)."

Sullins is not the only one to observe a disproportionate number of homosexual men in the priesthood. The *Wall Street Journal* only recently ran an essay titled "The Tense Debate Over Gay Priests," which contained this paragraph:

One point that all sides in the debate seem to agree on is that the priesthood today is a disproportionately gay vocation. Of the 37,000 priests in the U.S., Father Martin [author of *Building a Bridge*] estimates that gay men make up anywhere between 25% and 40%. Janet Smith, a professor of moral theology at a seminary in Detroit who has called for "eradicating . . . homosexual networks" in the clergy, believes the proportion of "active homosexuals" varies widely but constitutes as much as 50% of the priests in some U.S. dioceses.³

Dr. Sullins's estimate of 15.2% seems not so startling in comparison.

3. Francis X. Rocca, "The Tense Debate Over Gay Priests," *Wall Street Journal*, January 17, 2019, available at <https://www.wsj.com/articles/the-tense-debate-over-gay-priests-11547743698>.

The first question Sullins attempts to answer using all of this data is whether priestly sexual abuse is, as the Church and others have claimed, a problem of the past and extremely rare today. To this question, unfortunately, the answer is a resounding “no.” Although instances of sexual abuse are much lower by any measure today than they were during the mid-1970s, they have actually risen since 2000 (right before the priestly abuse scandal broke). Sullins also points out a huge problem with studying reported incidences of abuse:

To conclude that the sharp decline in reported incidents from these sources signals an equivalent drop in current abuse, however, would be highly misleading. A large majority of cases are not reported until well after the fact. Ninety-one percent of the incidents in the JJR [John Jay Report] data and 79% in the GJR [Grand Jury Report] data are retrospective, reporting events that happened in the past, usually by a factor of decades. . . . When the large majority of abuse reports do not surface for close to three decades, at any point in time the present will look relatively abuse free compared to several decades earlier. By these retrospective measures, we cannot know how much abuse is happening now until 30 years from now, or more, by which time the reports of a decline may not be borne out.

In other words, because so much of this data surfaces, on average, 30 years after the incidents occurred, there is very little way to tell how accurate our current measures of priestly abuse really are. The second of the John Jay Reports (JJR2) suggests that “the rise in clergy minor sex abuse in the 1960s and 1970s was consistent with a general rise in other types of crime and abuse in American society,” and that the drop since the 1980s is also consistent with the general drop in other crime and specifically in child abuse in the American population at large. Sullins argues, “There is no corresponding decline in crime comparable to the dramatic drop to almost nothing suggested by the retrospective allegations, however there is multiple evidence of a more moderate general decline in child sex abuse that is similar, in both time and scope, to the decline trend shown by the current allegations.” All four data sets show a similar trend: “the incidence of minor sex abuse by Catholic clergy peaked in the 1980s, dropped by about 75% through the 1990s to a low point in the first decade

of the 2000s, and has subsequently begun to rise again.” Sullins suggests a tone of “complacency” amongst the ecclesiastical ranks might bear part of the blame for the current rising trend.

The second question Sullins asks is whether clergy sexual abuse is related to homosexual priests. Again, he finds that the data give a resounding “yes.” “What is notable,” Sullins reports, “is that the large majority of victims are male. In most settings the victims of male sexual assault are generally female, but in U.S. Catholic parishes and schools over the past 70 years, the victims of sexual assault by male Catholic priests are overwhelmingly male.” This fact alone suggests something startling and different about the makeup and/or culture of the priesthood. In most of the Church’s statements that the sexual abuse problem is not linked to a homosexual “problem,” the Church has relied on the JJR data, which found no relationship between the two. That data, however, relies not on priestly self-report but on “public reports of increased homosexual activity in Catholic seminaries,” which Sullins discounts as not credible. And also, he writes, looking at the seminaries alone does not give an adequate picture of the priesthood as a whole, for the overwhelming majority of priests in any given year are those already in the parishes, not those coming out of the seminaries. Instead, using the *LA Times* data, Sullins reports:

From 1965 to 1995 an average of at least 1 in 5 priests ordained annually reported a homosexual orientation, a concentration which drove the overall proportion of homosexual men in the priesthood up to 16%, or one in six priests, by the late 1990s. At this concentration, the proportion of Catholic priests who were homosexual was about ten times that of the general male population.

Even more remarkably, Sullins’s “findings showed that the increase or decrease in the percent of male victims correlated almost perfectly (.98) with the increase or decrease of homosexual men in the priesthood.” There is another near-perfect correlation of .96 between the trends of abuse incidence and homosexual subcultures in the seminaries. (Correlations this high are almost never seen in statistical analyses.) Sullins concludes that these “strikingly strong correlations . . . provide strong and direct evidence, by the logic set forth in JJR2, that the abuse of

children by Catholic priests is strongly associated both with the proportion of homosexual men in the priesthood and with the prevalence of homosexual subcultures in Catholic seminaries.”

Furthermore, although the JJR claims that abuse of boys specifically seems to have been more related to opportunity than preference (males served as altar boys, *etc.*), Sullins finds the opposite. The worst of the multiple offenders abused a higher proportion of males than did one-time offenders, suggesting that the “serial predators” seemed “to have used their skills to obtain access to more boys, not fewer.” Sullins suggests that easier access to male than female victims may have accounted for up to 20% of male preference among perpetrators, but at least 80% was due to a marked preference for boys. This conclusion is also borne out in the rising tendency to prefer older males, above age 15, at a certain point. As the worst of the crisis hit during the 1970s and 1980s, and when the reports of a lurid homosexual subculture at the seminaries were at their worst, the abuse victims were overwhelmingly male. Then, in the 1990s, when more girls were becoming altar servers, the numbers of female victims began to rise. This, the JJR claims, is evidence that male victimization was a matter of access more than preference. But this conclusion neglects a “sea change” in the age of victims:

In the 1980s a little more than a third (36%) of male victims were over age 15, but by the 1990s, over half (55%) were this old. This is consistent with an effect of decreased access to younger males, as more girls became altar servers, but it also suggests that the abusers of boys responded to the presence of fewer younger boys primarily by turning to older boys, not to female victims.

Sullins finds that had levels of homosexual priests and homosexual subcultures remained at the low level occurring in the 1950s, an estimated 12,594 children would have been saved, and at least 14,817 incidents would have been avoided. He also finds that the influence of the subcultures was great. Although the numbers of homosexual priests rose starkly in the 1960s-1980s, and disproportionately compared to the general population, “Without the influence of the subcultures, a concentration of homosexual men in the priesthood would not have led to as large an increase in minor sex abuse as proved to be the case.” Something

about an existing network of homosexual behavior, hushed up and even encouraged and pursued within the seminaries themselves, seems to have emboldened those who otherwise may have been able to subdue such tendencies. Furthermore, something about ecclesiastical permissiveness of these subcultures, which cannot have been unknown, is responsible for these staggering numbers of victims.

In his conclusion, Sullins asks if there might still be grounds for concern. Yes, he says, very much so. In spite of the publicity that rocked the Church in 2002 and the ensuing measures taken to correct the problem, today reports of abuse “are growing amid signs of complacency about ongoing Charter implementation.” But solutions to the problem are “elusive and difficult.” In an interview for the *National Catholic Register*, Sullins gives a more complete picture of why this might be so. First, when the USCCB gave the John John College its incident reports, the dioceses were de-identified. Sullins explains:

Typically, you will de-identify individuals because you don't want to impugn the reputation of individuals. That makes a lot of sense. But if you have an institution where you have a widespread problem, whether it's abuse or embezzlement or theft or whatever, you'd like to know in what sectors of that institution that occurred more frequently. Typically, you would like to say, “Well, over here in this division, they had a great record. Let's try to see what we can do to make the whole institution more like this division, so as to reduce this unwanted behavior.” That did not occur here. Could it be that the bishops, some bishops, did not want to know, did not want to have people know what dioceses were better and what dioceses were worse? I don't know.⁴

And what about the accusation that attempts to tie together homosexual Catholic clergy with instances of sexual abuse are examples of “scapegoating,” or, even worse, “homophobia”? Sullins responds, “I don't think that these results in any way imply that homosexual persons are natively inclined or internally inclined to commit abuse at a greater rate than heterosexual priests. . . . In fact, we know that that's not the case. Most child abuse that happens in most settings is perpetrated by

4. Bunson, “Is Catholic Clergy Sex Abuse Related to Homosexual Priests?”

homosexual males.”

The way forward, Sullins says, is to first recognize that there is a problem; admit that there is a verified link between a rise in homosexuality in the priesthood, and a rise in priestly abuse of boys. Such an admission, however, angers the public, the elite, the media, who see it as an example of “homosexual scapegoating.” Sullins believes that “something was going on beyond just mere sexual orientation to encourage this horrible immoral activity that has wrought such harm to so many victims.”

But, he concludes the interview, “My experience in studying homosexuals has been this: that to people who hate the truth, the truth looks like hate.”

Nicole M. King is Managing Editor of The Natural Family.

NEW RESEARCH

Bryce J. Christensen and Nicole M. King

Families Atrophy, Bureaucracies Grow, Academics Exploit

When progressive activists launched their crusade to dismantle the natural family, few social scientists voiced concerns. Instead, most joined the choirs singing paeons to the gods of radical individualism, luminous deities promising endless happiness and autonomy to men and women who shed the oppressive restraints of marriage and family life. Savvy social scientists were even, *sotto voce*, sizing up the likely dependency of deracinated individuals on the bureaucracies of the Leviathan State. As the consequences of the progressive war against wedlock and family life become increasingly obvious, canny social scientists make great show of ritualized hand-wringing as they report the distress of the unmarried and family-less casualties of that war. But no one should be surprised when these social scientists turn from wringing their hands over the plight of those hurt by family decay not to soberly calling for a renewal of marriage and family but instead to advocating more statist replacements for wedlock and family.

To see just how social scientists implement their strategy for converting evidence of the suffering consequent to family decay into justification for once again expanding the state, readers need only turn to two recent studies—one from the United States, one from Australia. These two studies document the vulnerability of a growing number of aging Americans and aging Australians, who can no longer find the home-based care often available to earlier generations through intact marriages and large families. But in both studies, the authors somehow

manage to interpret their findings not as symptoms of the deterioration of the family but rather as opportunities for enlarging the state.

Affiliated with Virginia Tech and Purdue University, the authors of the American study parse data collected from a nationally representative sample of 1,352 men and women ages 65 and up, all of whom anticipated needing long-term care. About half (48%) of these individuals had expected to receive care from an adult child or adult child-in-law; a little over one-third (35%) had expected to receive care from a spouse. Smaller percentages of older Americans had expected to receive care from friends or professional care-givers. Sadly, however, the study data reveal that almost one-third (32%) of those in the study failed to receive the care they had expected. Among those who did not receive the care they expected, the researchers found that slightly more than one third (37%) were receiving care from professional care-givers, one third (33%) were receiving informal care from someone they had not expected to receive such care from, and slightly less than one third (30%) were simply doing without care. The plight of this last group prompts the researchers to remark, "When needed care is not delivered, an individual is at significantly increased risk for emergency-department utilisation for falls and injuries, hospitalisation, early mortality, poor quality of life and general health decline."

The Purdue and Virginia Tech researchers recognize that marital status powerfully affects the likelihood that older Americans will find themselves without the care they had expected. "Unmet expectations [for care in this study] were associated with being unmarried," the researchers report, calculating that, compared to married peers, unmarried older Americans were more than three times as likely to find themselves without the care they had expected (Odds Ratio of 3.077; $p < 0.0001$). Further analysis reveals that "change in marital status from married to unmarried (divorce or death of spouse) . . . [was] associated with an increased likelihood of unmet expectations [for care]."

The sad circumstance of widowhood created care-giving challenges even when family life was stronger. In the past the natural family typically could meet these challenges, thanks to a large number of children and robust ties to extended family. But older men and women have grown more vulnerable, as this new study shows, in a social climate created by

depressed marriage and fertility rates and elevated divorce rates, developments that reflect not the inevitability of mortality but the radically individualistic choices of a permissive era.

But the American researchers evince no interest in confronting these adverse trends in family life, trends that progressive professors have themselves helped foster. Instead, these researchers scold individual older Americans for their unrealistic “overexpectation of care from friends and family members,” which has prevented them from investing in long-term care insurance. Even more telling, however, is the way these researchers indict government leaders for failing to formulate “a comprehensive plan to address the LTC [Long Term Care] needs of the ageing population.” That researchers advocate such statist planning even at a time when “access to . . . public financial resources is diminishing” says a great deal about the ideology regnant among American academics contemplating family decay.

The effect of that statist ideology in the Southern Hemisphere shows up in a recent study on the difficulty of providing home-based care to aging Australians. Conducted by scholars at the University of Melbourne, this new study focuses on data collected between 2010 and 2013 through 280,000 Aged Care Assessment Program evaluations, evaluations that determine whether Australians ages 65 and over who need care can continue to live in their own homes or must receive institutional care. These data clearly reveal the importance of marital and parental status in determining whether an aging Australian can continue to live at home.

The Melbourne scholars conclude that, “for both males and females, living with a coresident partner is strongly associated with a recommendation to remain living in the community [in their own homes],” compared to living with no care-giver in the home, a living circumstances that sharply elevates the likelihood of a recommendation of placement in institutional care. The researchers calculate that “males with a coresident partner are about 63% less likely and females about 42% less likely to have a residential-care [*i.e.*, an institutional-care] recommendation, compared with those with no carer.” Though the researchers find “the effect of a coresident partner . . . to be more protective for men than women ($p < 0.001$),” they still characterize “the effect for women . . . [as] very strong.”

Through a parallel analysis, the Australian researchers establish that

living with a child protects aging Australians from being moved into institutional care: They calculate that aging males living with a child are 53% less likely to be recommended for institutional care compared to peers living with no care-giver, while aging females are 32% less likely to be recommended for such care against the same standard of comparison.

In using the morally antiseptic term “co-resident partner” rather than the marital terms “spouse,” “husband,” and “wife,” the Australian researchers signal their compliance with the political orthodoxy shielding progressivism from critique, despite its family-destroying effects, while also sustaining its Leviathan-building projects. It is hardly surprising, then, that in highlighting statistical predictions of “a significant increase in the number of men living alone,” the researchers stress increases in male longevity but say not one word about the effects of depressed marriage rates and elevated divorce rates—a suspicious omission given that Australian women still live significantly longer lives than do Australian men.

To be sure, the Australian researchers do at least glancingly note two ways the retreat from family life has made it more difficult for the old to find care, both ignored by their American counterparts. First, the Australian scholars acknowledge that because of “the long term trend of fertility decline in Australia, average number of children ever born by future cohorts of older persons will be lower,” making it ever harder for aging men and women to rely on children for care. Second, the researchers note that “the trend for increased workforce participation amongst women” in care-giving ages has made it more difficult for the aging Australians to rely on daughters—or wives—for care.

However, the Australian scholars identify no measures for reversing either of these trends when they lay out the policy recommendations they consider an apt response to the findings of their study. Even though their study shows how vulnerable old people become when they live without a “co-resident partner” and without a child, the researchers suggest no measures for fostering wedlock or increasing fertility.

To their credit, the researchers recognize “the long-standing policy preference for aged care to be delivered in the home rather than residential care settings,” and laudibly endorse that preference. But they apparently are not looking to alleviate the shortage of care-givers for the old

by reinforcing enduring wedlock or by encouraging women to be homemakers. Rather, the researchers betray statist instincts recognizably similar to—perhaps even more pronounced than—those of their American colleagues. Indeed, the Australian researchers believe their findings mean “the Australian government should consider how coresident carers can be given additional support” through measures such as “rental relief” and “in-home respite care to enable them to participate in the workforce.”

The architects of Leviathan have always tried to move women out of the home. Given that those who care for the old in their homes are overwhelmingly women, these architects would endorse policies that replace these care-givers with state surrogates so they can seek out-of-home employment. The fact that rising employment rates among women have helped create the very problem that they are examining does not appear to disturb the authors of the new Australian study at all. After all, any study concluding with recommendations for enlarging the state at the expense of the family will attract support among politically correct professors.

But for social scientists genuinely concerned about the increasing difficulty in caring for the old in their own homes—in Seattle and in Sydney—perhaps it is finally time to stop interpreting studies documenting the high cost of family disintegration as justification for new statist projects and to start viewing them as compelling reason for renewing wedlock and family life.

(Kathleen Abrahamson, Zachary Hass, and Laura Sands, “Likelihood That Expectations of Informal Care Will be Met at Outset of Caregiving in the USA,” BMJ Open 7.12 [2017]: e017791, Web; Jeromey B. Temple, Marijan Dukic, and Briony Dow, “Informal Care Relationships and Residential Aged Care Recommendations: Evidence from Administrative Data,” BMC Geriatrics 17 [2017]: 289, Web.)

Weathering the Great Recession: The Family Difference

Few indeed were the Americans not keenly aware of the financial distress consequent to the Great Recession beginning in late 2007 and lasting until mid-2009. Almost all American households suffered some loss as

a result of this economic typhoon. However, in a newly completed study, researchers at Columbia and the University of Michigan convincingly establish that the nation's married-couple households fared decisively better during this time of financial stress than did its cohabiting-couple households and its single-mother households. Indeed, this new study concludes that the Great Recession actually widened the already rather sizable economic gaps separating these three types of households, with sobering long-term consequences for children growing up outside of married-couple households.

To assess the impact of the Great Recession on differing family structures, the Columbia and Michigan scholars scrutinize data collected from a nationally representative sample of household data for 4,898 children born between 1998 and 2001 in 20 American cities of 200,000 or more. These data reveal that even before the Great Recession, children living with married-couple families were in better economic circumstances than were children living with cohabiting parents or a single mother.

More specifically, the data show that "home and car ownership varied enormously by relationship status": Among married-couple households, the researchers found that more than half (55%) owned their home, compared to just 17% of cohabiting-couple households and 10% of single-parent households.

The data further show that the economic advantage married-couple households enjoyed over cohabiting-couple households and single-mother households grew significantly during the Great Recession. Cohabiting-couple households and single-mother households are statistically overrepresented among those who were "the most vulnerable in the Great Recession." The researchers report that, during the course of this recession, "cohabiting mothers . . . were more likely to experience a decline in the probability of home ownership as a result of the Great Recession; whereas . . . single mothers were more likely to no longer own a car." The recession apparently did not hurt married-couple households in the same way: The researchers report that "married households . . . did not experience a change in these assets [*i.e.*, home and auto ownership] during the Great Recession." As a consequence, "the Great Recession likely exacerbated economic differences between these groups, rather than closing the gaps."

Commenting at greater length on the pattern they see in their data, the researchers assert that “the rise in the unemployment rate during the Great Recession may have increased household asset inequality across family structures . . . limiting economic mobility, and exacerbating the cycle of poverty.”

What the researchers see in their data reflects not only the economic distress of cohabiting-couple and single-mother households during the late 1990s; unfortunately, these data portend a dark future for the children who experienced the Great Recession without married parents. “The Great Recession,” the researchers suggest, “exacerbated differences for children who were born to single and cohabiting parents and compared to married parents—perhaps worsening their ‘diverging destinies’” in a way that will be manifest in “future inequality.”

Given how loudly progressives proclaim their commitment to reducing economic inequality in society, readers of this study may wonder why these same progressives never say a word against nonmarital cohabitation, easy divorce, or out-of-wedlock child-bearing.

(Valentina Duque, Natasha V. Pilkauskas, and Irwin Garfinkel, “Assets among Low-Income Families in the Great Recession,” PLoS ONE 13.2: e0192370, Web.)

Starting Daycare, Needing Antibiotics

Few issues worry public-health officials more than the emergence of ever more pathogens resistant to antibiotics. Not surprisingly, epidemiologists have identified overuse of antibiotics as a cause of the problem. But physicians are especially likely to rely on antibiotics in what circumstances? Study after study has identified children who have contracted an illness while in daycare centers as a population significantly overrepresented among antibiotic recipients. Of course, because the daycare center has become an essential support for maternal employment, feminists are desperate for a *de minimis* interpretation of this issue. Even though it manifests the authors’ awareness of how politically sensitive their findings are, a study recently completed at Finland’s Turku University unmistakably indicates that putting young children into daycare centers can

only compound the problem of antibiotic resistant microbes.

In data collected for 1,827 children 24 months old and younger, the Turku scholars look for answers to two questions of acute interest to public-health officials: 1) how much does taking young children out of the home and putting them in daycare centers drive up the incidence of the respiratory illness among these children? 2) how much does placing children in daycare centers increase use of antibiotics?

In addressing these questions, the researchers are aware that “daycare has been known to be a major risk factor for respiratory tract infections (RTIs) in children for over 30 years.” But they are also aware that “a considerable proportion of children in modern society attend daycare from the age of less than 2 years,” making it entirely predictable that “RTIs in this age group constitute an important health problem,” in part because of the elevated rates of antimicrobial medication use among such children “with subsequent impact on resistance patterns.”

The researchers limn a “rapid increase in respiratory infections after start of daycare”: Sick days among children placed in daycare centers averaged just 3.79 days per month before daycare but soared to 10.57 sick days per month two months after entering daycare. But this spike in RTI-related sick days does not persist. Within nine months, the number of sick days reported for children in daycare centers (who have probably developed some natural immunity by this time) no longer runs significantly higher than the number of such days among children cared for at home.

The researchers are eager to tell “families, daycare providers and paediatricians [that they] may be reassured of the transient nature of increased RTIs after the start of daycare.”

This curious reassurance perhaps suggests more concern for deflecting feminist criticism than commitment to protecting the health of children. After all, a serious bout with respiratory illness can leave lasting effects (such as loss of hearing when such illness affects the middle or inner ear). Why is the prime concern that of reassuring those who want to use daycare centers and not that of fostering optimal health for young children?

In any case, the assurance that the Turku scholars offer looks especially suspect given that their data show that while the number of sick

days declined markedly among the daycare children in their study, “for antibiotic use there was . . . a less pronounced decline,” with such use remaining well above that seen among children cared for at home. Given the gravity of the problem physicians are facing with antibiotic-resistant germs, this persistently elevated level of antibiotic use among daycare-center children ought to give them pause before they hastily reassure those putting young children in such centers that they are creating no long-term problems by doing so.

If physicians and public-health officials are serious about combating the problem of antibiotic-resistant supergerms, perhaps it is time for them to frankly acknowledge that daycare centers are bad for young children, and bad for society at large.

(Linnea Schuez-Havupalo et al., “Daycare Attendance and Respiratory Tract Infections: A Prospective Birth-Cohort Study,” BMJ Open 7.9 [2017]: e014635, Web.)

Growing Old, Going to Church, Avoiding Divorce

As the overall divorce rate in the U.S. has somewhat leveled or even declined in recent years, that rate for one particular group of Americans—the middle-aged and older—has continued to climb. Indeed, the authors of a new study on the impact of religious service attendance on divorce and remarriage remark that this particular divorce rate has actually doubled from 1990-2010. Given that most Americans profess some kind of religious faith, and that religious faith oftentimes has a strengthening impact on marriage, the authors—who hail from Boston and Harvard Universities—seek to assess how church attendance might impact rates of divorce and remarriage for Americans in mid to late life.

The researchers open by explaining why their study is particularly useful. “Prior research has mainly focused on early-life divorces,” they write. “There is limited evidence on subsequent re-marriage among the increasingly growing group of late life divorcees. . . . With late-life divorce rate doubling in recent years, there is a need to better understand divorce and remarriage for mid- and late-life women.” Religious service attendance, they speculate, may operate in one of two ways to keep marriages

together: first, by “promoting strong marital bonds, happiness, and stability”; and second, by “operat[ing] as a barrier to divorce.” “Despite many qualitative studies that have examined religious participation, affiliation and marriage,” the authors continue, “the quantitative assessment of the joint effects of religious service attendance and religious affiliation on marriage is currently unclear.” Hence, the researchers undertake to examine this question among two groups, Protestants and Catholics. They have two hypotheses: 1) “frequent religious service attendance is associated with lower subsequent odds of divorce or separation; and 2) frequent religious service attendance is associated with higher likelihood of remarriage.”

To conduct their study, the researchers use data from the Nurses’ Health Study, which collected relevant information from nurses ages 30-55, first in 1976, and with follow-ups every two years. The survey began asking questions on religious service attendance in 1992, with follow-up data on that particular question available every four years until 2010. The participants were asked how often they attended religious services or meetings, with answers including, “more than once a week, once a week, 1-3 times per month, less than once per month, never or almost never.” The researchers used only those women who identified themselves as being either Protestant or Catholic, weeding out a small number of other religious affiliations. They also measured self-reported divorce, separation, widowhood, and remarriage during the period 1996-2010, and controlled for a number of health factors which may also have had an impact on both church attendance and marital quality. They were left with a dataset of 66,444 women.

The findings should give encouragement to any already attending church on a regular basis. “Compared to women who never attended religious service,” the researchers report, “those who attended services more than once per week were 42% less likely to get divorced, or 47% less likely to get either divorced or separated.” These women were also less likely to be depressed, to be childless, and to smoke, and they drank less than those who never attended religious services. The effect of regular attendance on risk for divorce was higher for Catholics than it was for Protestants.

When examining the data for remarriage, the researchers discovered

that their second thesis was not entirely borne up. “Women who attended religious services once per week or more, and who were widows in 1996, had significantly higher likelihood of remarriage . . . but those who were divorced or separated did not.” There was, furthermore, “perhaps some indication that Catholics regularly attending religious services were less likely to remarry than Protestants when results were aggregated over divorced, widowed, and separated women.” In their discussion, the researchers summarize their rather robust findings:

[N]urses who attended religious service more than once per week had a 50% lower likelihood of subsequent divorce or separation, compared to those who never attend. Among widowed nurses, those who attended services more than once per week had a 49% higher likelihood of remarriage, compared to those who never attended services. However, for divorced or separated nurses, religious service attendance was not significantly associated with the likelihood of remarriage.

These effects were all greater for Catholics than for Protestants.

In speculating why these findings might be true, the researchers point to higher marital satisfaction and stability amongst frequent church-goers, combined with a reduced likelihood of marital infidelity and a strong teaching against divorce. The researchers point to a number of possible limitations of their study, not least of which is that their data set is primarily Caucasian and of a higher socioeconomic status, but also reaffirm that the cohesiveness of their data should mean that although their results are not generalizable to a broad public, they are particularly valid for their group.

What these findings might suggest is the importance of religious faith to marital stability, and the necessity of getting Americans back to church to bolster that stability and bring the divorce rate back down in mid- to late-life Americans.

(Shanshan Li, Laura D. Kubzansky, and Tyler J. VanderWeele, “Religious service attendance, divorce, and remarriage among U.S. nurses in mid and late life,” PLoS ONE 13.12 [December 3, 2018]: e0207778, Web.)

Pre-Term French Children Particularly Vulnerable When Parents Split

It has long been known that parental separation and divorce have a negative impact on children's development. The findings, however, have been almost as varied as the studies themselves: While some studies have indicated a stronger negative effect on elementary-school-age children, others have suggested that the damage is worse for adolescents.

To take this question further, a group of French medical researchers seek to assess the impact of parental separation on pre-term children—*i.e.*, those delivered before 35 weeks gestation—whom they suspect might be a population even more vulnerable than their term peers.

To conduct their study, the researchers glean data from pre-term infants enrolled in the LIFT program (Loire Infant Follow-up Team), born between January 2003 and December 2010. The LIFT program includes information from 24 maternity clinics in the Pays-de-la-Loire administrative region of France. The sample was further restricted to those infants deemed neurodevelopmentally “optimal” at age two. Follow-up visits were routinely conducted by trained physicians. At age five, instead of a physician visit, the evaluation was based on a questionnaire filled out by the child's teachers. This “GSA” score (Global School Adaptation) has been widely used by the French Ministry of Education to assess how children in their school systems are doing.

For parental separation, the LIFT cohort offered information only on whether parents were living together or separately, not on their marital status. The researchers chose to focus on very early parental separations, and thus divided their group of infants into three categories: infants whose parents were together, infants whose parents had separated prior to two years of age, and infants whose parents had separated between the ages of three and five.

The effects were unequivocal: “Our results indicated that, for preterm infants that had an optimal neurodevelopment at two years, parental separation was associated with a decrease in school performance at five years of age that was independent of their socioeconomic background.” The researchers also find that this association only seemed to exist for children whose parents had separated when the children were between ages three and five, and not for those in the under-two group. “Furthermore,” the researchers continue, “parental separations were associated with a

decrease in the child's motivation, engagement, autonomy, and manual dexterity." The researchers also found that GSA scores for preterm children whose parents had separated were notably lower than for term children whose parents had separated, suggesting that "Preterm infants could indeed be more sensitive to stressful situations such as parental separation."

The researchers suggest that for a follow-up study, "it would be of considerable interest to investigate long-term effects of parental separation," as other studies "have reported that there may be more of an impact on long-term consequences in regard to achievements and quality of life as adults than on the short-term emotional effects in children."

This is a troubling warning indeed, as it indicates that as severe as the consequences are for young preterm children, they may be even worse later on in life. The researchers close by suggesting that "specific support" might be offered to preterm children whose parents had separated. A better recommendation would be to encourage parents to stay together.

(S. Nusinovici, B. Olliac, C. Flamant, et. al, "Impact of parental separation or divorce on school performance in preterm children: A population-based study," PLoS ONE 13.9 [September 2018]: e0202080, Web.)

Teenage Girls, Depressed on the Pill

For years, unsuspecting girls and women swallowed their daily birth-control pill without much thought as to why their moods were suddenly so erratic or why they seemed to constantly feel depressed. Now, new research is shedding light on the link between hormonal balance and female mental well-being. And the hormonal contraceptive, it is becoming clear, may be a contributing factor to destabilizing that well-being.

Seeking to address this question, a group of Swedish researchers undertook to examine the impact of hormonal contraception on psychotropic drug use in Swedish women, focusing in on one specific group: adolescent girls. "The burden of depression and anxiety disorders is greater in women," they open by way of background, "and female sex hormones have been shown to affect mood." Furthermore, it is well-known now that hormonal contraception can cause psychological side

effects, which are in fact one of the most cited reasons women give for discontinuing them. Visits to mental-health practitioners have been increasing among Swedish women recently, and so the researchers seek to better understand the link between hormonal contraceptive use and mental health. The researchers hypothesize that the incidence of negative mental health outcomes will be higher in adolescent girls in comparison with adult women, due to something they call “selective discontinuation bias.” In other words, girls and women who experience negative mental health side effects from their birth control are more likely to discontinue use of hormonal contraception (HC), so that cohorts of adult women using HC will have a natural selection bias toward fewer mental health problems.

The researchers use a large nationwide cohort of 815,662 women during the years 2010-2011 to examine these questions. From their first HC prescription, all women were followed for one year, and the previous four years were also recorded. Non-users were defined as those who did not fill a prescription for HC in this time period. Emergency contraception, because it can be obtained over the counter in Sweden and thus can't be tracked, was excluded. “The outcome of our study,” the researchers report, “was use of psychotropic medication defined as filling at least one prescription with anxiolytics, hypnotics and sedatives or antidepressants . . . during the one-year follow-up, from the first dispensation of HC or 31 December 2010, if the individual did not use HC at baseline.” The use of such medications was considered a “proxy” for mental-health problems. The researchers also controlled for a range of variables, including socio-economic status and a number of health conditions correlated with the use of HC that they felt may also impact mental health. They separated the women into age categories, ranging from 12-30 years old.

The results supported the researchers' hypothesis. In their sample, roughly half of the women were users of HC. “Among HC users the incidence of psychotropic drug use was 3.7%, while this figure was 2.5% for non-users.” Furthermore, “Patterns of HC use varied with age.” The researchers observed a “strong association” between the use of HC and the use of psychotropic drugs “in adolescent girls, which decreased with age to disappear after adolescence.” They observed this pattern for all types of HC, but the strongest association was for adolescent girls aged

12-14 who used a “non-oral progesterone-only method such as a skin patch or intravaginal ring.” And although the association between HC use and psychotropic drug use was insignificant for adult users, for these non-oral forms of HC, some association did linger for both adolescents and adult women. The DMPA injection had the strongest association with negative mental health outcomes in adult women, while for adolescent girls, the levonorgestrel-containing IUD was the strongest.

The researchers conclude, “Our findings show strong associations between the majority of hormonal contraceptives and subsequent use of psychotropic drugs in adolescent girls without previous psychiatric morbidity.” “Our results could be explained,” the researchers posit, “by a selective continuation bias.” That is, those women who find themselves especially sensitive to HC may have discontinued use before becoming adults. The researchers also speculate that adolescent girls may be more sensitive to the hormones in contraceptives, or that HC use may be an indicator of earlier sex initiation, which is a known factor in poor mental health outcomes.

In delineating limitations to their study, the researchers list one which should be especially noted: “Another aspect to consider is that not all women with adverse mental health effects of HC would have symptoms severe enough to get a prescription for a psychotropic drug, leading to many missed cases. This limitation would therefore suggest that our results are an *underestimation* of the problem at hand.”

They conclude by highlighting adolescent girls as a population particularly vulnerable to hormonal contraception use, and call for further study. One might suggest, instead, more caution in prescribing powerful hormones to young girls who are still very much in a state of hormonal flux and physical maturation.

(Sofia Zettermark, Raquel Perez Vicente, and Juan Merlo, “Hormonal contraception increases the risk of psychotropic drug use in adolescent girls but not in adults: A pharmacoepidemiological study on 800,000 Swedish Women,” PLoS ONE 13.3 [March 2018]: e0194773, Web. Emphasis added.)

Religiosity and Higher Fertility Amongst Muslims

Many commentators and researchers have long noted an association between religious adherence and a seeming preference for large families, but most of these studies have focused on Jewish and Christian populations. Now, researchers out of Israel seek to assess how religious adherence effects the fertility of Muslim women.

The researchers begin their study by acknowledging that in the state of Israel, Muslims made up 16.7% of the population in 2007, and were thus an important segment of the population to study. Furthermore, in 1960-69, Muslims in Israel had a fertility rate of 9.2, one of the highest in the world. (It has since dropped to 3.3—still higher than many parts of the world.)

To investigate the question of religious adherence and its relationship to fertility, the researchers use data from Tamra, a town in western Galilee, which in 2008 had a total population of 28,100. Almost all of Tamra's inhabitants are Muslim. After some adjustments, the researchers were left with a data set of 830 Muslim women.

To assess religiosity, the researchers asked the women surveyed “about the extent to which they adhere to the Five Pillars of Islam or duties incumbent on every Muslim: the confession of faith, praying five times a day, alms-giving, fasting during the month of Ramadan, and making a pilgrimage to Mecca.” In using answers to these questions, the researchers seek to distinguish between the concepts of religious *identity* and religious *practice*, as they suspect the latter will more closely impact fertility. The researchers measured the women's age, marital duration, and parity. They also took into account education, which has been known to affect fertility behavior in other populations, and also labor-force participation (which is insignificant in this case because almost no married women worked outside the home). The researchers used multilevel binomial regression “to assess the effects of religiosity and other covariates on the probability of giving birth in a specific year.”

The results indicate that, like many other religions, Islam seems to be correlated with higher fertility levels. In their results section, the researchers explain, “A trained religious teacher in Israel explained that the belief Islam forbids contraception ‘is actually a very common misconception.’ . . . Evidence for this ‘misconception’ can also be found

in Tamra: A third of the respondents think that Islam opposes family limitation.”

In Tamra, the completed fertility of women born in the 1950s and who answered that they adhere to all Five Pillars of Islam is 5.9 births, compared to 5.0 births among women who acknowledge themselves to be less religious. The researchers find that some of this difference relates to marital duration, as the very religious women married an average of two years earlier than did the not-as-religious women. “However,” they continue, “differences remain after controlling for age at marriage.” For all women, they conclude, “Religiosity has a very significant positive effect on the odds of giving birth. The first model shows that the odds of a religious woman giving birth are more than a third higher than the odds of other women.” This is true even after controlling for marital duration and levels of education.

This study is a valuable contribution to the literature on religion and fertility. It demonstrates that just like Christianity and Judaism, Islam also seems to inspire a greater openness to children than is seen in the secular world.

(Jona Schellekens and Aas Atrash, “Religiosity and marital fertility among Muslims in Israel,” Demographic Research 39.34 [October 2018]: 10.4054/DemRes.2018.39.34, Web.)

Blame Mom for Union Instability

“Stable romantic unions, including marriage and cohabitation,” open a team of American researchers, “are linked to better mental and physical health for both adults and children.” But today more than ever before, maintaining such stable unions seems near-impossible: Half of first cohabiting unions break up within three years, and half of first marriages within twenty years. Given the negative impact of such union dissolution, the researchers seek to better understand why such break-ups occur. Specifically, they ask, is union instability intergenerational? Do kids “pick it up” from parents?

Given the well-established fact that children of divorce tend to divorce at greater rates themselves, the researchers suspect that children

of union instability tend to experience a greater number of partners over the life course than do children of stable unions. This transmission may occur through a number of mechanisms, and the team of researchers highlight three “perspectives” that may shed light on the question. First is the “economic hardship perspective,” which “argues that the family financial difficulties experienced by young adults who experienced their mothers’ repartnering is primarily responsible for the negative outcomes that these young adults experience, namely their own proclivity to partner multiple times.” A second perspective is the “intergenerational transmission of marriageable characteristics and relationship skills”—some people are better suited for the task of union stability than others, and may pass those characteristics down to their children. Third is the “intergenerational transmission of commitment,” which posits that children who see their parents break up learn that breaking a commitment and repartnering is an acceptable decision.

The researchers glean their data from the National Longitudinal Survey of Youth 1979 (NLSY79) and the National Longitudinal Survey of Youth 1979 Child and Young Adult (NLSY79 CYA), both longitudinal and broad in scope. Maternal total partners and offspring total partners were both measured, with a number of controls (maternal race/ethnicity, employment, education, *etc.*).

The researchers found that, without a doubt, “mothers who had more partners had offspring with significantly more partners. . . . After controlling for socioeconomic factors, each additional maternal partner predicted a 5% incident rate increase in offspring partners.” Regarding the mechanism through which this occurred, the researchers note that the “economic hardship perspective” did bear some weight, as “[o]ffspring who had more exposure to poverty reported significantly more partners whereas offspring who had mothers with more education reported fewer.” “Interestingly,” the researchers note, “offspring whose mothers worked full-time actually reported more partners than those whose mothers did not work.” (They speculate that this is due to a “lack of policy supports” for working mothers in the U.S., thus potentially increasing the likelihood of marital conflict and union break-up.)

The strongest support, however, went to the “intergenerational transmission of marriageable characteristics and relationships skills

perspective” as a mechanism for explaining the intergenerational nature of union instability. “This perspective suggests that mothers have certain characteristics that make them more or less desirable on the marriage market and better or worse at relationships, and children inherit and learn these skills and behaviors which they then take with them into their own intimate relationships.”

In closing, the researchers list a number of limitations, perhaps most interesting of which is that their data set, by way of its structure, actually undercounts union transitions. So the effect of union instability may be even greater than this study understands. The researchers suggest that in a period wherein intimate relationships are held to an ever-higher standard as a means of obtaining lasting happiness, “strategies to improve relationship skills may be of greater importance now than ever before because relationship expectations are so hard to meet.”

Perhaps the high standards placed upon intimate relationships might be part of the problem. In the age of companionate marriage, when individuals marry primarily because they expect lifelong romantic bliss from a person (instead of economic, religious, or other reasons, such as a desire to raise a family together), they perhaps find that no relationship can live up to their unrealistic standards.

(Claire M. Kemp Dush, Rachel Arocho, Sara Mernitz, and Kyle Bartholomew, “The intergenerational transmission of partnering,” PLoS ONE 13.11 [November 2018]: e0205732, Web.)

The Role of Forgiveness in Chinese Marriages

Researchers have long established that stable marriages benefit everyone—the couples themselves, their children, extended networks, and even society as a whole. So it is to the benefit of all of us to study what precisely makes for such stable marriages, which seem ever-more elusive. Toward this goal, a group of Chinese researchers sought recently to examine the role of forgiveness in the relationships of Chinese newlywed couples.

By way of background, the researchers open with reasons why their focus is so important. “Although there is substantial literature on the

interpersonal predictors for divorce and relationship stability. . . . previous research has focused extensively on the impact of negative factors, and has not paid sufficient attention to the role of positive interpersonal processes in marriage dissolution, such as forgiveness, commitment, and sacrifice.” This is particularly true for forgiveness, which previous research has identified as the “cornerstone” of a stable marriage. In addition, most research in this field has focused on “Western couples from individualistic cultures,” and the researchers believe that the dynamic may be different for Chinese couples, who are more collectively oriented.

For their purposes, the researchers define two different types of forgiveness: 1) “decisional forgiveness,” or the act of “reducing unforgiveness (e.g., a cognitive decision to forgive)”; and 2) “emotional forgiveness,” which refers to “increasing positive emotion.” For previous generations of Chinese couples, “decisional forgiveness” may have been more important, because marriage existed not primarily to make the couples themselves happy but as “a means of promoting the goals of familism and group harmony.” For current generations of Chinese young people, however, emotional forgiveness may be more important, as most newlywed Chinese were born after the 1979 “One-Child Policy,” and thus their “maturing experiences are often characterized by parental indulgence, which may contribute to their emphasis on expression of emotion and self-interest within interpersonal relationships.” While the divorce rate in China is still quite low, it has been rising lately—from 0.18% per 1,000 couples in 1978, to 2.8% in 2015.

For their purposes, the researchers glean data from the Chinese Newlyweds Longitudinal Study, “a 3-year longitudinal study examining factors affecting the marital quality and stability of couples in China.” “Newlyweds” are defined as those couples married for less than four years, who have not yet had children. The final sample was 203 couples, who answered survey questions concerning marital stability and marital quality, as well as questions regarding the forgiveness (both decisional and emotional) of a specific offense.

The researchers found “that emotional forgiveness, rather than decisional forgiveness, is one of the most important contributing factors of long-term marital stability.” They continued, “When the impact of marital quality was accounted for, the direct effects of decisional forgiveness

on the concurrent level of marital stability was only significant for husbands.” They suspect that this difference between husbands and wives may “reflect differences in how men and women manage forgiveness experiences and responses to transgression in their romantic relationships.” Because women are “socialized” in marriage to do more emotional work—*i.e.* express more emotion, discuss emotion, *etc.*—they may be less concerned with decisional than emotional forgiveness. Furthermore, “it appears that the partner results were mixed. For wives, their marital quality mediated the association between their emotional forgiveness and husbands’ marital stability.” In other words, “wives’ emotional forgiveness was indirectly associated with the husbands’ marital stability through wives’ marital quality.” The researchers speculate that this may be because wives’ emotional well-being is often seen as the “barometer” for how well a relationship is functioning.

This study has its limitations. (The couples were of a higher income and education level, for one.) Nonetheless, it provides some interesting commentary on the glue that keeps a marriage together.

(Qiong He et al., “Forgiveness, Marital Quality, and Marital Stability in the Early Years of Chinese Marriage: An Actor-Partner Interdependence Mediation Model,” *Frontiers in Psychology* 9.1520 [September 2018]: 10.3389/fpsyg.2018.01520, Web.)

Gender Equality Not What It’s Cracked Up To Be For Fertility

In recent years, much ink has been spilled on the problems of both gender inequality and low fertility, especially in so-called developed nations. If only gender equality were greater, these writers suggest, if only women had truly equal opportunity in the workplace and men truly supported them at home, they would be more willing to have children.

Indeed, writes researcher Martin Kolk of Stockholm University, “Several recent theories in demography suggest that while initially societies that have more gender equality also have falling fertility levels, but that at higher levels of fertility this relationship reverses.” Theorists call this supposed correspondence a “U-shaped” pattern. In this pattern, when gender inequality is high, fertility is also high, and when gender equality

is high, fertility is again high. It is only in the transitional period—the “trough” of the U, when gender equality is still progressing—that fertility sinks. Supporting this theory, Kolk writes, “The lowest fertility is found in societies with some public sphere gender equality, where women are increasingly equal in the labor market but where equality within the household is low with most responsibility falling on women.” Findings on the concept of gender equality as it relates to fertility levels, however, have been mixed, even though “most developed countries with high gender equality have had higher fertility than slightly less affluent societies.” Kolk seeks to address this gap in the research, across a wide range of countries and many decades, seeking to examine if the popular U-shaped pattern is real or a myth.

Kolk gleans his data from two primary sources: The Human Fertility Database, measuring birth rates, and the Varieties of Democracy data set. In addition to the 29 countries already represented in the Human Fertility Database, data from Australia, Belgium, Denmark, Ireland, New Zealand, and South Korea were also used; most countries had yearly data for 1960-2015. “Women’s equality” is gauged by the Women’s Political Empowerment Index (WPEI), “a multifaceted measure on women’s civil liberties, civil society participation, and political participation across the world.” These are both huge longitudinal data sets covering a broad range of countries.

Kolk’s results put to question the beloved U-shaped pattern of gender-equality theorists. “[M]ost countries,” writes Kolk, “do not show a pattern of increasing fertility together with increasing equality.” Notably, the countries where gender equality is actually highest—those in Northwest Europe as well as New Zealand and the Czech Republic—do not show such a pattern. Kolk summarizes, “Only four countries in the data set (Belgium, Denmark, France, and the Netherlands) show for some periods an (ambiguous) U-shaped pattern of increasing fertility together with increasing gender equality.” He continues, “When controlling for a general decline in fertility over time . . . there is some evidence of slightly higher fertility at the very highest levels of WPEI, though the effect is small and nonsignificant.”

Kolk spends a great deal of time discussing the Nordic countries, where gender equality is high and specific policies for family support

(state-subsidized daycare, generous family leave policies, *etc.*) have been implemented. “Even though fertility-equality reversal theories are modeled on experiences in Nordic countries,” observes Kolk, “these countries have not had an experience that fits the causal model suggested in fertility-equality reversal theories.” Such fertility rises have been sporadic, and Kolk also speculates that in some of these countries, fertility was somewhat higher to begin with. “So far,” he concludes, “we have not seen any substantial increase of fertility in these societies, despite increasing gender equality over the last few decades.”

Kolk warns that his measure for female equality may not be sufficient, as, for example, division of household labor is not considered, and this is a factor that has been shown to have an effect on fertility. Nonetheless, he warns, long-term, cross-sectional data do not back up the U-shaped pattern.

Policymakers should consider this study before leaping to the conclusion that more subsidized daycare, more paid parental leave, or other such supports will solve our fertility crisis.

(Martin Kolk, “Weak support for a U-shaped pattern between societal gender equality and fertility when comparing societies across time,” Demographic Research 40.2 [January 2019]: 27-48, 10.4054/DemRes.2019.40.2, Web.)