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PROFESSOR OF GOVERNMENT W PATRICK HENRY COLLEGE ORAZ RESEARCH FELLOW W HOWARD CENTER FOR FAMILY, RELIGION, AND SOCIETY W INDEPENDENT INSTITUTE. W LATACH 2015-2016 STYPENDYSTA FULBRIGHTA NA UNIwersYTECIE JAGIELLOŃSKIM W KRAKOWIE ORAZ W MOSKWIE. SPRAWOWAŁ TAKŻE FUNKCJĘ WYKŁADOWCY NA PALACKY UNIVERSITY W OŁOMUŃCU (1991-1997), ŁĄCZĄC JĄ Z PREZESEM DEPARTAMENTU STUDIÓW EUROPEJSKICH.

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THE GROWING ROLE OF THE STATE IN THE FAMILY

To elucidate the role of the state in the family (“family policy”) and its consequences, I will start by providing some historical context about the trajectory of this relationship: where it came from. After that, I will describe some current trends in recent family policy in the West. Finally, I will use this as a context to comment on recent family policies adopted and debated in Poland.

History does not appear to be on the side of the family; in this realm at least, it appears to be on the side of the state. And as presented by some historians, an inverse relationship characterizes relations between the family and the state: as one becomes weak, the other becomes strong. Moreover, the trend over modern history has been the growth of the state at the expense of the family.

Today’s family decline originated well before the cultural and sexual revolutions of the 1960s. A sobering perspective may be gained from realizing how blind we have been to the dynamic over decades and even centuries and how today’s awakening – still partial at best – comes at the eleventh hour.

As early as 1933, Christopher Dawson, in “The Patriarchal Family in History,” drew a parallel with the declining stages of Greek and Roman civilization¹. Harvard sociologist Carle Zimmerman elaborated in

¹ Reprinted in *The Dynamics of World History*, ed. John J. Mulloy (Wilmington: Intercollegiate Studies Institute, 2003), <http://www.catholiceducation.org/articles/printarticle.html?id=4223>. 21 Sep. 2017.

Family and Civilization (1947)². With the impending “baby boom” and few disposed to hear Cassandras warning of family crises, Zimmerman saw the long-term reality: The family has been declining since the Renaissance and, even in his day, was nearing the point of no return. Like Dawson, Zimmerman highlighted unmistakable parallels with Greece and Rome.

Dawson and Zimmerman make powerful reading today because they wrote long before the political and sexual radicalism of the 1960s launched a direct ideological attack on the family and placed its survival on the public agenda.

Moreover, popular culture is not the only family solvent. From the start of the modern era, *political* culture has been dominated by a strain of thought that is hostile to the family. “The attack on the family in modern political thought has been sweeping and unremitting,” writes political theorist Philip Abbott. “If the family is to survive as an institution...the major thrust of modern politics must be altered”³. Virtually every political theorist in the modern Western canon has had something to say about the family, often to its detriment: Erasmus, Milton, Hobbes, Locke, Rousseau, Mill, Marx, and Freud. Dissenters, like Louis de Bonald, author of *On Divorce* (1805), have been relegated to obscurity.

From this perspective, the recent attacks on the family represented by the sexual and feminist and homosexual revolutions, simply accelerated the pace of a trend that may be inherent in modernity.

Political theory might seem only to compound the dangers posed by television, rock music, and videos. But the battle of political ideas is one family defenders must engage. By retreating into “culture” and neglecting politics, family advocates invite political paralysis. “If you believe, as I do, in the power of culture,” wrote the late James Q. Wilson of single motherhood, “you will realize that there is very little one can do”⁴. Moreover, this means addressing not only political theory but also concrete public policy.

Without neglecting culture, both Dawson and Zimmerman were much more explicit than today’s family advocates in emphasizing the power wielded by government. “As in the decline of the ancient world, the family is steadily losing its form and its social significance, and the state absorbs more and more of the life of its members,” Dawson wrote. “The functions which were formerly fulfilled by the head of the family are now being taken over by the state, which educates the children and takes the responsibility for their maintenance and health.” Recall this is 1933, which – given the nature of today’s crisis – makes Dawson’s next

2 I have elaborated in a review of Zimmerman in *Society*, Vol. 46, No. 4 (July 2009).

From the start of the modern era, *political* culture has been dominated by a strain of thought that is hostile to the family

3 *The Family on Trial* (London: Pennsylvania State University Press, 1981), pp. 4, 8-9, 201.

4 James Q. Wilson, *Why We Don't Marry*, “City Journal”, Winter 2002, http://www.city-journal.org/html/12_1_why_why.html 21 Sep. 2017.

5 For today's developments in the crisis of fatherhood, see Stephen Baskerville, *Taken Into Custody: The War Against Fathers, Marriage, and the Family*, Nashville 2007.

observation even more startling: "The father no longer holds a vital position in the family," he noted. "He is often a comparative stranger to his children, who know him only as 'that man who comes for weekends'"⁵.

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

Today the situation has deteriorated to the point where some indeed regard 1947 as a golden age for the family. One of Zimmerman's most disturbing observations is that "These changes came about slowly, over centuries, and almost imperceptibly"⁶. The atomization of the family has proceeded so incrementally that each generation becomes acculturated to the changes, contributes more of its own, and passes them on to the succeeding generation.

Each generation thus accepts as normal what would have shocked their grandparents had it happened all at once: sexually explicit attire, premarital sex, cohabitation, illegitimacy, divorce, daycare, convenience food and fast-food, same-sex marriage, transgenderism. Of course, shocking the previous generation is part of the thrill of what, arguably, we see driving this trend: the institutionalization and politicization of filial rebellion.

Confining our view to "culture," warnings about family decline simply sound to each generation of the liberal and the young like "no big deal": the perennial lamentations of the hopelessly old-fashioned – the old and conservative bemoaning the good old days. Norms change, and civilization manages to endure: "Deal with it."

But this is not all that has become accepted as normal. Filial rebellion is closely connected with political rebellion. (Zimmerman describes destructive family policies enacted by governments not only during the French and Russian revolutions, where they were later repealed, but also following the American, where they were not.) What should shock even the liberal and the young – but today barely disturbs the conservative and the old – are the abrogation of constitutional protections and intrusive invasions of personal freedom and family privacy by the government's ever-expanding family machinery.

6 Carle Zimmerman, *Family and Civilization*, Wilmington 2008, p. 146.

Here we see something much more serious – but perhaps also more susceptible to remedy – than what is indicated by Wilson’s cultural despair. Now emerging openly from the cultural evolution is the an increasingly repressive state *apparatus*.

G.K. Chesterton once warned that the family is the most important check on government power. It is hardly surprising that the operatives of the state realize this and are fighting back. The growth of the social work and psychotherapeutic industries, organized feminism, and a heavily politicized judiciary have combined to wage bureaucratic war against the family in general, parents in particular, and fathers above all.

Today we see the extension and acceleration of these trends. Our own times have witnessed a plethora of measures from various governments, including transnational quasi-governments like the European Union and the United Nations, often described as “assistance” to families who may not have requested it.

We need to exercise some scrutiny and skepticism toward these measures and programs. The state is never a wholly disinterested party after all. Consistent with the conflictual relationship between the family and the state that we saw from our historical perspective, what is invariably advertised as “helping” families almost always includes provisions that allow government officials to increase their control over what had previously been considered private family life.

Indeed, what we call “family policy” can easily become a matter of government increasing its reach and power by creating problems for itself to solve. Each new government policy and bureaucracy creates its own set of problems, whose solution is then said to be the creation of new policies and additional bureaucracies.

One wedge that allows the state to assume the roles of parents is various claims of parental insufficiency. The more the state assumes the parental functions, the greater the incentive for the state to impugn, weaken, marginalize, and remove the real parents altogether.

Moreover, claims of parental deficiency can easily become allegations of parental criminality, invoked to rationalize removing or marginalizing parents, especially fathers, from their children: accusations of “child abuse,” “educational neglect,” “domestic violence,” nonpayment of “child support.” Though in fact none of these matters are really crimes – or at least none are adjudicated as real crimes, with the protections of due process of law – all are invoked to rationalize inserting the state as a barrier between the child and the parent. Proof is seldom required for these accusations, which seldom involve formal charges, but which rationalize summary seizure of children and even summary incarceration of parents. In some cases, foremost no-fault divorce, parents lose their children without even an allegation of wrongdoing and through literally “no fault” of their own. These confiscations and incarcerations

are enforced by various squads of bureaucratic police: “child protective services,” specialized “family” or “domestic relations” or “domestic violence” courts, public school officials, child support enforcement agents⁷.

The recent Bodnariu case involving Romanian parents in Norway is perhaps the most sensational international illustration, but many similar examples could be cited from the practices of other Western countries⁸.

The government appropriation of children and the criminalization of their parents is the most dangerous trend in the Western democracies. It is by far the most direct threat not only to the integrity of the family but also to the privacy, civil liberties, and constitutional government enjoyed by all citizens. Yet it has provoked very little scrutiny from the media and almost no resistance from either civil libertarians or “family values” conservatives. This is why the recent attention to parental rights from the Polish government is so important.

These abuses all originate in the welfare system, and it is not called the welfare “state” for nothing. Unnoticed even by critics, and more serious than the ever-mounting economic costs, have been political changes that do not register on the media and academic radar screens: the quiet metamorphosis of the welfare machinery from a system of public assistance or public insurance into nothing less than a miniature penal apparatus, replete with its own tribunals, prosecutors, police, and jails: juvenile and “family” courts (and more recently “domestic violence courts”), “matrimonial” lawyers, child protective services, domestic violence officers, anti-bullying officers, child support enforcement agents, and more. Created to address ills endemic mostly to communities comprised of low-income single-parent homes on public assistance, this machinery is increasingly extending its control over the private lives of middle-class families.⁹

Despite sensational cases in the Nordic and other European countries, this trend is most advanced in Anglophone countries like Britain, Australia, New Zealand, and especially Canada and the United States.

At the inception of American democracy in the 1830s, Alexis de Tocqueville warned about the coming bureaucratic tyranny. “There is no country in Europe where public administration has not become not only more centralized, but more inquisitive and detailed,” he wrote. “Everywhere it *penetrates further into private affairs* than formerly; in its manner it regulates more actions, and smaller actions, and it establishes itself more every day beside, around, and above each individual to *assist him, counsel him, and constrain him*”¹⁰. These phrases could have been written with current family policy in mind.

More recently, the dissidents of Communist Europe warned that what Petr Uhl and others termed “bureaucratic dictatorship” was not limited to the Soviet bloc. “Do we not serve as a kind of warning to the West,” asked Vaclav Havel, “revealing to it its own latent tendencies.” In *The Power of the Powerless*, Havel insisted that the “*avant-garde* of

⁷ These operations are detailed in Baskerville, *Taken Into Custody*, chs. 3-4.

⁸ Peter Costea, *A Norway Gone Berserk*, “law office of Peter Costea”, February 2016, <http://costea-parlamentuleuropean.ro/content/a%20norway%20gone%20berserk.pdf>. 21 Sep. 2017.

⁹ Baskerville, *Taken Into Custody*, chs. 3-4.

¹⁰ Harvey Mansfield (ed.), *Democracy in America*, Chicago 2002), p. 653.

a global crisis of this civilization” could be seen in “the irrational momentum of anonymous, impersonal, and inhuman power”: “total rule of a bloated, anonymously bureaucratic power...grounded in an omnipresent ideological fiction which can rationalize anything without ever having to come in contact with the truth...power which makes thought, morality, and privacy a state monopoly”¹¹.

Significantly, the Communist regimes employed techniques similar to those being adopted by today’s social work *apparat*. In *The Haunted Land*, Tina Rosenberg describes how the secret police manipulated family matters and especially children for political purposes. “Practically no information in the Stasi files discussed East Germans’ political ideas,” she recounts. Instead, officials were obsessed with family life. “The biggest surprise was the banality of the files,” she quotes one dissident. “A lot of information about family, personal problems.” Then as now, children served as tools for controlling adults. “The Stasi recruited children as young as six,” recounts another dissident. “They would find a child in an unstable family and fill in the gaps in his relationships.” Time and again family problems and especially children created the opening for the state to enter private life: “One informer...was pregnant and her marriage was disintegrating, and her Stasi handlers served as ‘substitute fathers’ for the child.” Others spoke of Stasi agents as “father figures.” One mother discovered that her Stasi handler “wrote it was obvious I loved my son, and as a result the Stasi developed a package of measures to take him away, trying to prove I was neglecting him”¹².

It is no accident that the Western welfare state is now adopting methods pioneered by its Soviet predecessors. Divorce-on-demand (“no fault,” or what some describe as “the abolition of marriage”),¹³ today’s principal rationalization for government control over children, was first enacted by both the Jacobin and Bolshevik regimes. No-fault divorce legislation was created and enacted by feminist attorneys, who now dominate family policy, and feminism has become the successor ideology to Marxism since its European collapse in 1989. “Women’s liberation...the most influential neo-Marxist movement in America, has done to the American home what communism did to the Russian economy,” writes Ruth Wisse of Harvard University “and most of the ruin is irreversible”¹⁴.

The politicization of families accelerated dramatically during the 1990s, foremost in the United States under the banner of Hillary Clinton’s aphorism, “There’s no such thing as other people’s children.” Family policy (ostensibly the preserve of state governments in the US and other federal systems) was centralized by federal programs initiated or expanded under Donna Shalala at the Department of Health and Human Services and, even more (and significantly), by Janet Reno at the Justice Department (a law enforcement bureau). Federal funds for education, child abuse, domestic violence, and child support enforcement

11 Vaclav Havel, *The Power of the Powerless* (1984), online at https://chnm.gmu.edu/1989/archive/files/havel-power-of-the-powerless_be62e5917d.pdf, and “Politics and Conscience,” in: *Open Letters: Selected Writings, 1965-1990*, ed. Paul Wilson, New York 1992, p. 260. 21 Sep. 2017

12 *The Haunted Land* New York 1995, pp. 299-304, 28.

13 Maggie Gallagher, *The Abolition of Marriage*, Washington 1996.

14 Quoted in Stephen Baskerville, *The New Politics of Sex: The Sexual Revolution, Civil Liberties, and the Growth of Governmental Power*, Kettering, Ohio 2017, p. 19.

continue even now to incentivize officials to extend their control over children, to seize them under various questionable pretexts, and to criminalize their parents.

No evidence suggests that this machinery arose in response to spontaneous problems. While examples can always be found of anything, it can be demonstrated very clearly that all these ills were and are driven directly by government policies and bureaucracies themselves¹⁵. When it comes to family policy, government quite clearly creates problems for itself to solve.

How? A veritable smorgasbord of mechanisms is available to choose from, but if there is one measure that almost invariably initiates the state's appropriation of the family it is the removal of the father, again most often through "no-fault" divorce. (Mothers too are forcibly removed, but the father's removal usually initiates the family dissolution process.) Moreover, this not only begins the process of the state taking over the family; it also creates the very social pathologies that rationalize that takeover. The setting that encourages almost all social ills – both internally within the family itself and externally throughout the larger society – is the single-mother or fatherless household. It is the setting for child abuse and domestic violence, and for family poverty itself. It is also the negative "building block," so to speak, for dysfunctional and impoverished communities of unemployment, crime, substance abuse, unwed childbearing (thus continuing the problems into the following generation), and more recently terrorism. And because of all this, it also

provides the *entrée* for further intervention of the state in the family and the open-ended expansion of state power over family members and others. Intact two-parent families seldom need (or want) the "services" and "help" of state functionaries within their homes.

The argument that these interventions are necessary and justified because the father has voluntarily "abandoned" the family is convenient but wholly untenable. Almost always, the father is forcibly removed¹⁶. While allegations of various forms of child or spousal "abuse" are often alleged, they are almost always spurious and seldom adjudicated formally.

Moreover, once the process of displacing parents begins, we begin to hear emotional rationalizations for growing government machineries to combat problems that previously did not exist: We hear that "Even one abused child is too many," and that government functionaries need more to expand their scope, power, and budgets because they are perpetually "overworked and underfunded". These stock phrases usually indicate a thriving governmental enterprise

¹⁵ Baskerville, *Taken Into Custody*. The argument is updated in Baskerville, *New Politics of Sex*.

¹⁶ *Ibid.*, pp. 48-51, and references therein.

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that can create business for itself and rationalize massive, open-ended, and ever-expanding expenditure and power, often by creating hysteria and false accusations against innocent parents.

Whether the accusations are trumped-up or valid is, under the procedures of these bureaucracies, virtually impossible to determine and, given their origins in the government machinery itself, irrelevant. For offenses like child abuse and spousal abuse have no effective legal definition. Traditional crimes like violent assault are defined as they are adjudicated; if a jury convicts, a crime has been committed. Due process protections are thus built into the very definition of a crime, and the purpose of a jury system is to scrutinize not only the facts but the law itself.

But family violence accusations like child abuse and spousal abuse are “confirmed” or “substantiated” not by convictions in jury trials but by social workers or sometimes judges according to their own subjective judgements. Government statistics claiming widespread child and spousal abuse, or nonpayment of child support (even “confirmed” cases), are therefore virtually meaningless. In effect, plainclothes police who can act as judge and jury have a fundamental conflict-of-interest, with bureaucratic incentives to find problems for themselves to solve. No jury of your peers decides when the government may seize your children or you for refusing to surrender them. The burden then falls on the parents to prove their innocence and recover their children. It is hardly surprising that officials sometimes seem to find abuse wherever they can¹⁷.

Measured against these trends, the current trajectory of Polish family policy appears to be ambiguous. (I am basing my understanding of Polish practice entirely on last year’s report from *Ordo Iuris, State of Democracy, Human Rights, and the Rule of Law in Poland*, chapter 6, by Olaf Szczypinski.) On the one hand, Poland self-identifies as a Christian country, strongly devoted to the preservation of the family. Moreover, the current government has enacted some strong measures aimed at preserving the family and increasing fertility.

Yet our survey of family-state relations indicates that government measures, however well intentioned, can have unintended consequences. In Poland, the approach adopted in certain government measures (and apparently provisions of the Polish Constitution itself) can cut both ways. As we have often found in the West¹⁸, provisions motivated by an aim to encourage and strengthen the family may be susceptible to other interpretations and to being diverted to other uses. In some instances, the culprit seems to be sentimentality rather than a complete or realistic assessment of the problem.

For example, measures devoted specifically to strengthening motherhood may seem unexceptionable at first glance. Yet recent trends make it very clear that our larger imperative is to reinforce the *two-parent* family. The trend toward *single* motherhood certainly needs no

¹⁷ E.g., Stephen Krason, “The Mondale Act and Its Aftermath: An Overview of Forty Years of American Law, Public Policy, and Governmental Response to Child Abuse and Neglect,” in *Child Abuse, Family Rights, and the Child Protective System: A Critical Analysis from Law, Ethics, and Catholic Social Teaching*, Lanham, Maryland, 2013.

¹⁸ Baskerville, *Taken Into Custody, passim*. This includes governments of the right as well as of the left. The sometimes ill-fated consequences of government programs promising to “strengthen” both fatherhood and marriage are discussed in Stephen Baskerville, “Strengthening Marriage through Divorce and Custody Reform,” *The Family in America*, Vol. 18, No., 5 May 2004.

encouragement. Yet state programs funding specifically mothers (of which many examples already exist in most welfare states) could, however unintentionally, exacerbate this harmful trend, with all the social ills that attend it. Recent experience has shown – and Western societies have increasingly recognized – that strengthening fatherhood is equally imperative, if not more so right now. Indeed, if anything it is fatherhood whose deterioration has brought a train of serious social ills, including crime and substance abuse.

Likewise, some recently enacted policies in Poland appear to proceed from the single-minded aim of increasing the fertility rate. Yet while declining fertility is certainly a cause for concern, it is far from clear that this is the only or even principal crisis of family deterioration, nor the only one with serious economic consequences. Low birth-rate is one component in a larger crisis that must be confronted holistically if it is to be effectively reversed, and from a clear understanding of the overall origins of the problem. While tax incentives to avoid discouraging family formation and childbearing may be helpful, their implementation elsewhere indicates that their impact can be, at best, marginal. It is not clear that paying people to have children (the Child Raising Benefit) can be an effective method to attain the desired goal. (Szczyński calls another aspect of the Polish government’s approach “highly statist,” and the term might apply here.) And here again, even where state subsidies appear to have slowed or reversed fertility decline, it is not necessarily the case that they have restored *married* childbearing. Out-of-wedlock childbearing entails huge financial costs of its own, and it is not clear that it is wise to encourage this as a remedy for the declining birthrate. Even from a strictly economic viewpoint (which of course should not be our only one), if our aim is to provide future workers and taxpayers to finance the ever-expanding welfare state, then trying to attain this end by state subsidies to childbearing in order to create more (fatherless) children – with the state subsidizing childbearing to provide workers to pay for itself – would only seem to take us further down the path of subordinating the family to the needs of the state machinery, rather than demanding that the state serve the people and respect the autonomous integrity of the family. (Words, quoted by Szczyński, from the Communist-era government, apparently still in force, support this trend: “Parents raising and guiding a child under their parental authority are duly bound to care for the child’s physical and spiritual development and to equip the child appropriately to work for the good of society according to his or her abilities.”)¹⁹. Given the social pathologies associated with unwed childbearing, and the huge financial costs of treating them, such a course may not even make financial sense.

Likewise, strengthening parental rights is of the highest importance, and Poland’s willingness to put this at the top of the policy agenda is almost unique and truly inspiring. But the only aspect of this problem that

¹⁹ Quoted in Olaf Szczyński, Family Rights and Family Policy, [in:] *State of Democracy, Human Rights, and the Rule of Law in Poland: Recent Developments*, ed. J. Banasiuk and T. Zych, Warsaw: Ordo Iuris, September 2016), p. 97.

seems to be addressed concretely is the injustice of removing children from their parents because of poverty. While serious, this is far from being the only reason why children are unjustly removed from the care of their parents. Other reasons (and more common ones) include unjust or frivolous accusations of child abuse, legitimate homeschooling, and unjust divorce procedures – all of which may be underpinned by religious discrimination and violations of religious freedom. The Bodnariu case and many others illustrate that effectively preserving and strengthening parental rights means addressing these abuses as well. For example, poverty severe enough to trigger procedures for removing children from a home seldom arises in two-parent families; it is almost exclusively a problem endemic to single-parent homes. Preserving the married two-parent family therefore largely obviates the problem of poverty in the first place – obviously a desirable goal in itself.

State-financed child care is also questionable as a measure to increase fertility or discourage family dissolution. Aside from serious questions about the impact of institutional care on the development of children²⁰, facilitating the full-time employment of both parents as workers could well have the opposite effect to that intended, discourage childbearing, reduce real wages, and encourage divorce.

In conclusion (and again, based on my reading of the *Ordo Iuris* study), it appears to me that the Polish Constitution and recent legislation, while admirable in venturing to explicitly codify the integrity of the family and the rights of parents, risks codifying them in language that is too weak or vague to protect them adequately. Consistent with our opening theme, the *Ordo Iuris* study cites multiple instances of the state machinery proposing to “help” parents raise their children, even when such help may not have been requested or desired. It is not difficult to find suitable language that is precise and categorical to establish principles that will effectively protect family integrity from the encroachments of the state. For example, the proposed Parental Rights Amendment in the US would establish, “The liberty of parents to direct the upbringing, education, and care of their children is a fundamental right”²¹.

Finally, two larger crises are closely connected to, and raised by, the current dilemmas of family policy and in need of debate. The first is that of the welfare state – not only the increasingly untenable financial cost, but the connected social cost of creating ghettos of fatherless children, crime, addiction, social anomie, and more recently even terrorism. Closely connected here is the role of the welfare state as a magnet for costly forms of immigration. All this is directly connected to family policy in ways that do not appear to be addressed by either the current government or its critics (or perhaps predictably, any government today).

The second connected crisis is one that, happily, the Polish government has already exercised significant leadership in confronting: the growing political power of the judiciary throughout the world²². If

²⁰ The literature is examined in Baskerville, *New Politics of Sex*, 51-55.

²¹ Internet site of ParentalRights.org: <https://parentalrights.org/amendment/>, 21 Sep. 2017

²² Stephen Baskerville, “Polski kryzys konstytucyjny – mniej i bardziej poważny niż się wydaje,” *Arcana*, May 2016, reprinted as “Poland’s ‘Constitutional Crisis’: Less and More Serious than it Appears,” *Providence: A Journal of Christianity and American Foreign Policy*, 13 January 2016.

children are subject, by default, not to the trusteeship of their parents but to the coercive power and effective ownership of the state.

Poland's leadership role in confronting judicial power has generated considerable controversy, but this is good; there should be even more debate. Were this debate matched by a similar initiative addressing bureaucratic power as embodied in the welfare machinery (these being the two *non-democratic* branches of government), Poland would vindicate itself as a true champion of democracy and answer critics who seem to equate unelected judicial and bureaucratic power – rather than elected legislative and executive authority – with the essence of “democracy.”

At one time, it was axiomatic in law that parents have an inviolable right to the “care, custody, and companionship” of their children, until they commit some transgression to merit forfeiting that right. But today, as Zimmerman and Dawson perceived early on, children are subject, by default, not to the trusteeship of their parents but to the coercive power and effective ownership of the state. Perhaps what is most troubling about this overreach is that we have imposed it upon ourselves. This is precisely what Tocqueville warned about as we embarked on the democratic experiment. It is not an external tyranny but a neglect of the responsibilities that attend democracy.

ABSTRACT/ABSTRAKT

The role of the state in the family has been increasing, arguably, since the beginning of modern history. Historical sociologists like Carle Zimmerman suggested that modern history has been characterized by a gradual increase in the power of the state and that this growth is inversely proportionate to the declining importance of the family. The very field and concept of “family policy” presupposes that the family is a legitimate sphere of life for state intervention and activity. Yet the intervention of the state may be like the touch of Midas: that which it touches it destroys. If scholars like Zimmerman are correct, then the more the state intervenes in the family, the more we can expect the family to decline. This is borne out by recent experience, and very logical reasons may be adduced for this and very clear manifestations in areas like family integrity, parental rights, child welfare, and the increase in family-connected bureaucracies associated with the welfare state. Often our only acceptable response to the problems created by government intervention is more government intervention. Not only can the cure be worse than the disease; the cure can *be the disease*. *The result is ever-more-powerful and ever-more-intrusive government bureaucracy – all purporting to solve the problems created by the previously policies and the previous bureaucracy. The only way to break this vicious cycle is to discard some of our sacred assumptions about what constitutes family health and to accept a new understanding of the relations between the family and the state.*

Rola państwa w rodzinie wzrasta od początku nowożytnej historii. Socjologowie tacy jak Carle Zimmerman sugerowali, że nowoczesna historia charakteryzuje się stopniowym wzrostem potęgi państwa i wzrost ten jest odwrotnie proporcjonalny do malejącego znaczenia rodziny. Sama dziedziną i koncepcją “polityki rodzinnej” zakłada, że rodzina jest jedną ze sfer działalności państwa. Jednak interwencja państwa może być jak dotyk Midasa: czego dotknie, to zniszczy. Jeśli Zimmerman ma rację, to im bardziej państwo interweniuje w rodzinę, tym bardziej możemy oczekiwać, że rodzina będzie w odwrocie. Potwierdzają to ostatnie doświadczenia i można przedstawić logiczne powody dla coraz wyraźniejszych przejawów ingerencji państwa opiekuńczego w takie obszary jak integralność rodziny, prawa rodzicielskie, dobro dzieci, a także wzrost biurokracji związanej z rodziną. Często naszą jedyną reakcją na problemy spowodowane ingerencją państwa w rodzinę jest jeszcze więcej ingerencji państwa. Taka kuracja nie tylko może być gorsza niż choroba, ale może się wręcz okazać, że to sam lek *jest* chorobą. Rezultatem jest coraz większa i coraz bardziej natarczywa biurokracja państwowa – próbuje ona rozwiązać problemy, które sama powoduje. Jedynym sposobem na przerwanie tego błędnego koła jest

odrzućenie niektórych spośród naszych utartych dogmatów dotyczących tego, na czym polega zdrowie rodziny i zaakceptowanie nowego rozumienia stosunków między rodziną a państwem.

KEY WORDS/ SŁOWA KLUCZOWE

family integrity, family policy, parental rights, role of the state

integralność rodziny, polityka rodzinna, prawa rodzicielskie, rola państwa