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WILL THE REAL CIVIL SOCIETY ADVOCATES PLEASE STAND UP?

JEAN BETHKE ELSHTAIN*

Civil society is in the air. Much of the energy and impetus for this renewed interest in civil society can be traced to the remarkable events leading to the collapse of the oppressive Soviet system in 1989. Why is that? Because so many leaders of the dissident movements in Central Eastern Europe had, for years, been writing about civil society as what they lacked and what they aspired to. Vaclav Havel, most eloquent among the civil society thinkers to come out of Central Eastern Europe, argued that the nature of the authoritarian state apparatuses set up in all Soviet client states was designed explicitly to destroy the possibilities for independent self-constitution in and through solidarity with others. In a number of remarkable essays, he called for a new birth of freedom made possible when citizens act together toward common ends.¹ Echoes of the doctrine of subsidiarity, central to Catholic Social Thought, also sounded—indeed, the freedom movement in Poland was called, simply, “Solidarity”—the heart of the idea of human civic life in the subsidiarity ideal being that the state is there to serve civil society, not to dominate over it.

When I first discovered Havel’s writings sometime in the mid-1970s, I picked up immediately the connection to two other great thinkers—Alexis de Tocqueville and Hannah Arendt. Tocqueville’s observations, in his classic work *Democracy in America*, concerning the civic enthusiasm of the Americans and their penchant for forming associations to further a variety of ends, relying on already extant

* Laura Spelman Rockefeller Professor of Social and Political Ethics, University of Chicago; Chair of the Council on Civil Society. The author wishes to thank Professors Macedo, Tushnet, Rosenblum, and Etzioni for their thoughtful and independent contributions to the civil society debate. Although I have some disagreements, I will not be able to address them in this response. But their essays stand as part and parcel of the civil society debate, as does the long essay by Professors McClain and Fleming, although I will air a number of points at which we differ. By contrast, the essays by Professors Fineman and Roberts strike me as a reaction against the ideal of civil society, which demands far more trust in the capacities of ordinary citizens to order their affairs than Fineman and Roberts seem prepared to grant. What is at stake as well is the understanding of self that moves through these contributions respectively.

1. See generally VACLAV HAVEL, *OPEN LETTERS: SELECTED WRITINGS* (1991).

forms of membership—particularly in churches;² and Hannah Arendt's distinction between power as dominion or rule and power as a "something" that comes into being when citizens come to know and to enact a good in common that they cannot know alone are civil society ideas.³ To that, one must add the vital importance of a *moral* dimension to civil society advocacy. Any discussion of human dignity, purposes, and vitality; or any lament, therefore, of systems that crush human aspirations, trample on human dignity, and violate fundamental rights is a moral discussion.

America, of course, has her own great exemplars of the moral voice in politics. Some were involved directly in the creation or extension of civil society. One thinks of Abraham Lincoln's insistence that one simply could not talk about the issue of the spread of slavery—the reference point here being his debates with Stephen Douglas—without criticizing the Supreme Court's decision in *Dred Scott v. Sandford*.⁴ The imagery and prophetic language of the great Second Inaugural Address is most instructive, of course, of Lincoln's indebtedness to strong notions that the nations (and therefore politics) are not independent in all things—that, indeed, they are under Divine judgement. Moving to the twentieth century, one can observe such great democratic exemplars as Jane Addams, Eleanor Roosevelt and Martin Luther King—all builders of civil society; all moral leaders. The lives and work of each is unthinkable absent his or her embrace of a strenuous set of moral norms and principles. Consider Eleanor Roosevelt's insistence in her 1940 book, *The Moral Basis of Politics*, that American democracy had its "roots in religious belief"⁵ and that the only hope for our future lay in basing democracy "on the Christian way of life," by which she meant full recognition of the claims made in behalf of stewardship and neighborly love.⁶

All of this makes us uncomfortable nowadays for some good reasons and some that are not so good. The good reason is that we are concerned with excluding anyone from civic life and civic dialogue on the basis of doctrinal differences. We hope that those who bring religious beliefs to the public square will do so in a language to which all citizens have access—a language of the common good, for

2. See generally ALEXIS DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* (J.P. Mayer ed. & George Lawrence trans., 1969).

3. See generally HANNAH ARENDT, *THE HUMAN CONDITION* (1958).

4. 60 U.S. 393 (1857).

5. ELEANOR ROOSEVELT, *THE MORAL BASIS OF DEMOCRACY* 42 (1940).

6. *Id.* at 81-82.

example, or the intrinsic dignity of all persons. This, certainly, was the tack we took in the Council on Civil Society with our claim in *A Call to Civil Society* that democracy “depends on moral truths.”⁷ There is something odd about the need for this reminder, but it struck us that in a day and age in which a kind of all-knowing skepticism is skeptical about everything but skepticism—the not so good reason to be wary of a moral voice in politics—it is important to remind ourselves that, among the moral truths on which democracy depends, *primus inter pares* is surely the “truth that all persons possess equal dignity.”⁸ We went on to add that civil society is a way we embody and discover the truth that we are “intrinsically social beings” and that our participation in civil society in a democracy is a way of living that “calls us fully to pursue, live out, and transmit moral truth.”⁹ The most important, again, being an affirmation of the status of persons such that no one is to be treated arbitrarily or capriciously, no one slated simply to be the means to someone else’s end.

This would not seem to be particularly controversial but, apparently, the diverse group of Americans who signed *A Call to Civil Society* did not reckon with the sorts of responses, even rather heated responses, that any notion of a moral dimension to civil renewal and political life seems to generate nowadays. In several of the essays in this issue, those tagged “civil society revivalists”¹⁰—a locution I find problematic—are charged with, and found guilty of, a number of things, including “nostalgic longing for the vibrant civil society that Alexis de Tocqueville observed in America in the 1830s . . . which excluded entire categories of persons from membership in civil society and from equal citizenship in the polity.”¹¹ As if that were not bad enough, this gaggle of “revivalists” are accused of being the bearers of coercive bad tidings; being blind to “abuse and violence”¹² within marriage; and being blasé about “growing inequality.”¹³ The *pièce de resistance* is surely the charge that revivalists are bogus Santa Clauses, turning up with “gifts

7. COUNCIL ON CIVIL SOC’Y, *A CALL TO CIVIL SOCIETY: WHY DEMOCRACY NEEDS MORAL TRUTHS* 27 (1998).

8. *Id.*

9. *Id.*

10. Linda C. McClain & James E. Fleming, *Some Questions for Civil Society Revivalists*, 75 CHI.-KENT L. REV. 301, 301 (2000).

11. *Id.* at 307-08.

12. Martha Albertson Fineman, *The Family in Civil Society*, 75 CHI.-KENT L. REV. 531, 544 (2000).

13. *Id.* at 544-45.

wrapped nicely in beautiful paper and tied with pretty ribbons. . . . But when they [children] open up the lovely package, the children discover to their horror that it is filled with coals."¹⁴ In addition, despite the fact that the Council on Civil Society included in its ranks distinguished African-American scholars and activists, we (I speak as Chair of the group) are allegedly blind to "systemic injustice," particularly if its roots lie in racial discrimination.¹⁵ There are also lurking suspicions that civil society "revivalists" are amnesiacs *par excellence*, forgetting that the Western intellectual inheritance included "scientific racism," among other horrors, thereby suggesting (not so subtly) that the "revivalists" are tacitly allowing such toxic arguments to go blithely unanswered.¹⁶ I do not recognize these so-called "revivalists," particularly since I myself have warned against seeing civil society as a "cure-all."¹⁷

Let me turn first to the essay by Professors McClain and Fleming, as it is the most thoughtful of the essays to which I am taking, in their case, only partial exception. It is indeed unfortunate that the readers of this symposium will not have available to them the texts of *A Call to Civil Society*¹⁸ and *A Nation of Spectators*¹⁹ as this would help the reader to sort out things more clearly. But that, alas, is not to be, so we will just have to slog along without the benefit of the primary texts ready-to-hand. Let me try to be as clear as I can about what I take *A Call to Civil Society* to be calling for. Let me clarify, first, why I take exception to the characterization "revivalist" for those of us on the front lines of the civil society debate. As anyone attuned to ordinary language and usage in contemporary

14. Dorothy Roberts, *The Moral Exclusivity of the New Civil Society*, 75 CHI-KENT L. REV. 555, 555 (2000).

15. *Id.* at 556. The African-American scholars and activists among the 24 signatories of the Call to Civil Society are: Enola Aird, activist mother; Ray Hammond, Pastor of Bethel AME Church in Jamaica Plains, Massachusetts; and Cornel West, Professor of Philosophy of Religion and Afro-American Studies at Harvard University.

16. *Id.* at 564.

17. See generally Jean Bethke Elshtain, *Not a Cure All*, BROOKINGS REV., Fall 1997, at 13, 13-15. Astonishingly, this warning against seeing in civil society a kind of magic bullet to solve all our problems also earns me the ire of Professor Roberts who claims that my article was about dismissing "concern about social problems." Roberts, *supra* note 14, at 562. This is a willful misreading. My essay was an attempt to dispel the utopian haze surrounding civil society advocacy. To insist that civil society is not primarily problem-oriented (the cure-all idea) but citizenship creating, thereby helping to establish the pre-conditions that make possible problem-solving through politics, seems to elude Ms. Roberts, who reads everything through an ideological lens.

18. COUNCIL ON CIVIL SOC'Y, *supra* note 7.

19. NATIONAL COMM'N ON CIVIC RENEWAL, *A NATION OF SPECTATORS: HOW CIVIC DISENGAGEMENT WEAKENS AMERICA AND WHAT WE CAN DO ABOUT IT* (1998).

America will recognize immediately, “revivalism” suggests tent meetings and what, at least from the point of view of the academy, looks like runaway and thoughtless emotionalism. A “revivalist” is not something any self-respecting academic would want to be labeled. Why not simply speak of civic renewal? This problem is deepened when McClain and Fleming speak of “moral revivalists”²⁰ as one variant on the generic civic revivalism theme. If civil society revivalism is suspect, in certain ways, moral revivalism is really a worry—again given the image it conjures up immediately of something on the verge of being out of control and certainly not under the proper command of rational understanding. This casts an aura of suspicion over the whole enterprise, much compounded by the whiff of nostalgia McClain and Fleming detect wafting through the air rather like the scent of magnolia blossoms on a soft summer evening in the south.

I have pondered a bit the use of the term “nostalgia” as a way to cast a pall of suspicion over an enterprise. The word, I fear, has become something of an all-purpose putdown. Is there no way one can call up or call upon examples of some worthy event or person from history as embodying a challenge or an example worth emulating for today? How would or could one do that and avoid the charge of “nostalgia?” My hunch is that what underlies the label of “nostalgia” as one applies it to the ideas of another—one would likely not call oneself in thrall to nostalgia—is the tacit embrace of a teleology of history still indebted to the rationalist-progressivist thinking of the nineteenth century (progressivist in the sense that history has some sure and certain forward motion). If the twentieth century with its grotesque body count has not disabused one of such a confident notion, probably nothing will.

Certainly there is *nothing* in *A Call to Civil Society* that indicates anyone wants a revival of the precise mapping of Tocquevillian society! To the contrary: there is a good bit to indicate, in no uncertain terms, that calling upon Tocqueville is recalling a profound ethnographer who helped us to understand the dynamics and formation of civil society and the many ways in which it links people to one another and, in and through networks and associations, to government. Tocqueville was interested in what helps people to be strong and concerned with what weakens citizens, those caught up in

20. McClain & Fleming, *supra* note 10, at 303-05, 309-10, 312-13, 322, 324-25, 329, 333, 343-45, 350, 352.

the terrible denouement of civil society he called “democratic despotism” in a number of memorable passages.²¹ I am also reminded here that many of the brave dissidents that worked to create a regime of ordered liberty with protection for basic civil rights in Central Eastern Europe were charged by those who wanted to maintain the oppressive authoritarian system with bourgeois romantic yearnings for some order that never existed or never should exist. One person’s charge of nostalgia is another’s dream of freedom and justice.

So let me try to be clear about what the documents at issue say about inclusion and tolerance. In the opening salvos of *A Call to Civil Society*, the Council on Civil Society asks: “Are we likely to sustain our commitment to freedom and justice for all, so that those in our midst who are suffering might yet be lifted up by our democratic faith and practice?”²² Or:

When citizens worry about “moral decline,” what do they mean? Do they want, as we so often hear, to “roll back the clock?” Return to the 1950s? Reverse the gains made by women and minorities?

No. Racism and sexism remain serious problems in our society. Yet with each passing year, Americans express growing intolerance for segregation, bigotry, prejudice against minorities, or restricting opportunities for women in public life. Despite widespread concern about our moral condition, there is little desire to “go back” to some earlier era.²³

Sometimes words actually mean what they say and in this instance, over a two-year period of debating, drafting, and re-drafting, the members of the Council on Civil Society never once—as a group or as individuals—suggested that there had not been significant progress in the fraught areas of race relations, gender, and so on, nor believed that this progress was sufficient unto itself. Moreover, *A Call to Civil Society* is not at all an appeal to citizens to refrain from exercising and affirming rights but, rather, a critical scrutiny of “rights claims.” Is a collective Victorian swoon every time someone mentions a “right” the way for critical, skeptical, yet committed thinkers and citizens to go? I trust not. Rights need to be distinguished from mere wants and preferences, and priorities need to be established—questions of whether some rights are fundamental, serving as the ground for others, must be assayed. This is the direction civil society proponents are moving, rather than in either an

21. See generally TOCQUEVILLE, *supra* note 2, at 690-95.

22. COUNCIL ON CIVIL SOC’Y, *supra* note 7, at 3.

23. *Id.* at 5.

automatic affirmation (from one side of the political spectrum) or negation (from the other) of everything now grouped under the rubric of rights. Surely, we are not obliged to affirm proclaimed rights that might well make a mockery of real rights. *A Call to Civil Society* laments the by-now well-documented “unraveling of many aspects of civic engagement and voluntary association” and does so in the interest of thinking about how good citizens come into being.²⁴ It is hard to understand how this concern implicates *A Call to Civil Society* in shirking civic matters, as McClain and Fleming suggest.²⁵

McClain and Fleming are quite right to insist that attention must be paid to the types of associations out there in civil society and not just to the mere existence of associations as such. The ideal association is certainly not Tony Soprano and his crime “family,” white supremacist groups or violent gangs. Civil society advocates need to be prepared to set forth the criteria under which some kinds of associations are found worthy of endorsement and affirmation as part of a well functioning civil society, and which groups, by contrast, run counter to that ideal. Here again, the affirmation of the dignity of persons is central. A careful reading of *A Call to Civil Society* demonstrates that we believe one cannot escape the fundamental ontological and anthropological presuppositions that undergird the whole and are spelled out, not hinted at in some obscure way. The fundamental proposition is one about “the human person,” and we take a firm stand on behalf of the dignity of persons, a dignity incompatible with groups that are by definition committed to bigotry and violence. We talk about the conditions for “human flourishing”²⁶ as a normative claim and a civic aim, and the burden of the argument is about creating these conditions. More succinctly, to lift up *the intrinsic dignity of human persons* and to call for conditions optimal for human flourishing is always a critique of racist and exclusionary claims.

A bit of what we propose to this end includes reorienting public policies and social problem-solving to a new model that favors “decentralized structures of authority and a rich diversity of approaches.”²⁷ We support “efforts aimed at community empowerment and community organizing—efforts that, in some of our

24. *Id.* at 6.

25. See McClain & Fleming, *supra* note 10, at 307-09.

26. COUNCIL ON CIVIL SOC’Y, *supra* note 7, at 15.

27. *Id.* at 18.

nation's poorer and more marginalized communities, are developing new local leaders and rebuilding society."²⁸ We call for "supporting parents in the day-to-day work of raising their children"; "charitable choice" legislation favored by all major candidates for the presidency and both parties; and we urge reformation but not abolition of what is usually called Affirmative Action, arguing for a "developmental" approach that

focuses on special opportunities for performance enhancement among minority and lower-income students and employees. . . . The civil society purpose of this form of affirmative action is simple and urgent: racial reconciliation and reaching out with generosity toward what is often called the "underclass," or those of our fellow citizens who are most in need of justice and civil friendship.²⁹

This brings us to some basic concerns about men, women, children, and families. McClain and Fleming seem ready to sign on with—certainly they do not object to—the notion attributed to some feminists that "fatherless families might seem to offer an alternative to patriarchy."³⁰ Here, some consideration of the mountains of available empirical evidence that shows the systems-wide or macro-effects of fatherlessness, especially for male children, is in order. A definition of what one means in the early twenty-first century by "patriarchy" would also be helpful. Use of the word does not create the phenomenon and whatever tattered remnants of a historic patriarchy—and historic patriarchy is, quite literally, rule of the fathers—that is not our situation today. Today, in fact, we face, if anything, a growing dilemma, even crisis, among young men who are told increasingly that they are not needed, not wanted and may as well pack their bags and—quite literally—leave home. The centuries-old and laborious moralization of the male role—not to mention the generous feminist vision of drawing men and women working together as help-meets in the tasks of parenting and work—falls by the wayside if one endorses, despite all the evidence of the baneful effects of this reality, a symptom of contemporary disorder that disconnects men from the tasks of nurturance and care as the wave of the future. Further, McClain and Fleming's support of Martha Fineman's notion that the mother-child dyad should be the "model" for families—as opposed to men, women, and children—and that this model alone should be subsidized indicates a willingness to entertain

28. *Id.* at 20.

29. *Id.* at 26.

30. McClain & Fleming, *supra* note 10, at 334-35.

further the possibility that men can just take a hike.³¹ Here, an interesting difference between McClain and Fleming and the signers of *A Call to Civil Society*—as well as a number of signers who have authored independently important work on family life, public policy, political theory, law, and so on—emerges. Picking up on what is surely one of the weakest points in John Rawls' great work, McClain and Fleming quote Rawls as follows: "no particular form of the family . . . is required by a political conception of justice so long as the family is arranged to fulfill these tasks [of social reproduction] effectively and doesn't run afoul of other political values."³² From this Rawlsian stance, McClain and Fleming go on to embrace a "functional approach to family policy" as "more inclusive" and therefore preferable.³³

But there are serious problems with the functionalist approach to family life, a matter that has been taken up for years by scholars of the family. I will note a few of the problems associated with functionalism and then go on to explain why Rawls' omission of a substantive account of moral development is a serious lacuna in his argument, one repeated, therefore, by McClain and Fleming. Functionalist treatments of family life are flat-footed when it comes to consideration of the ethical, biological or embodied, and even sacral dimensions of human life, focusing almost exclusively on "socialization," or what Talcott Parsons, the chief theoretician of functionalism, called "systems maintenance."³⁴ The notion that families are, in effect, obliged to shift their organization depending on shifts in the macro-order received its definitive mapping in Parsons' work.³⁵ The family is obliged to mesh with the wider macro-order; as

31. *See id.* Often this celebration of the mother-child dyad as a benign connection by contrast to the malign relations between men and women or men and children winds up diabolizing male-female relations and idolatring female-child relations as if the latter is wholly benign and the model for everything exemplary. Surely it is a bit too late in the day for this sort of romanticism. Maternal practice includes a big share of frustration, resentment, anger, manipulation, and control and is never exempt, as a human activity, from its share in what St. Augustine called the *libido dominandi*. Women, after all, are the prime abusers of children, not men, and this sorry fact surely flows from a mother-child "unit" bereft in all too many instances of additional pairs of caring hands: that is what help-meets are for. If care helps to humanize us and to instill the impetus to care in the young, what sort of feminist ideal, other than an incoherent one, can it possibly be to see as an *ideal* disconnecting men from this primary activity.

32. *Id.* at 331 (quoting John Rawls, *The Idea of Public Reason Revisited*, 64 U. CHI. L. REV. 765, 788 (1997)).

33. *Id.*

34. *See generally* Talcott Parsons, *The Family in Urban Industrial America*, in *SOCIOLOGY OF THE FAMILY* 43-62 (Michael Anderson ed., 1971).

35. *See id.*

it mutates, family life is more or less bound to do so as well. The functionalist model holds that families historically shed one function after another, becoming more specialized as they do so. The current function is social reproduction—turning out men and women to take their place in the overall social order. Parsons was quite clear that “socializing agents should not themselves be too completely immersed in family ties” because too strong of a commitment to the family would handicap such persons in their ability to “fit” with the needs and demands of a mobile, opportunistic society.³⁶

Construing the family in functionalist terms deprives scholars of any normative stance from which to evaluate what is happening to families so long as the abstract “needs” of the overall social order are served. The importance of parenting to the well-being of flesh and blood children—rather than the abstract needs of an abstract construed social order—are slighted under the functionalist approach. It is easy, therefore, to accept any changes that appear in family norms, including the rise in divorce, say, as just the latest variation in a family’s endless mutability given the demands of social life. This, in turn, invites the notion that so long as a “role” is being served, it scarcely matters who occupies it. This perspective led some to advocate doing away with the unpredictable messiness of families altogether in favor of some more streamlined way to “socialize.”

Rawls gives no account of moral development, but he does privilege, like Parsons, the “needs” of the “macro-order” with his insistence that whatever “effectively” serves social reproduction is just fine. In addition, “effectively” is defined top-down: the family must mesh with dominant political values. Here, Rawls, and those who follow this formulation, miss an abiding irony in liberal democratic societies, namely, that such societies have depended historically on institutions that liberal political philosophy can neither adequately thematize, understand, nor nurture. Families cannot be organized on a model of a political caucus or of a macro-order notion of what justice demands or requires. Lessons of fairness and equity emerge in a context of relations in which, by definition, parents must have authority in relation to their children—precisely so that children, over time, can grow up to be responsible adults.

There is a much longer debate here than I can enter upon in a brief response, but I do want to note that one staple of social-democratic argumentation in the 1970s, when I first entered the lists

36. *Id.* at 59.

in these discussions, was that the existence of institutions that are not organized like political democracies is absolutely essential to the functioning of democracy for at least two reasons. The first being the centrality of the moral formation of the young: what we know about that formation tells us that stability, continuity, predictability, nurture, discipline and an emotionally rich and complex family life are the best assurances—not guarantees—that we have that formation will go forward. The second reason is that democracy, certainly our democracy, is based in important part on *social pluralism*. We are a society dotted with a variety of networks, associations, institutions, and organizations. The Rawlsian derived position that McClain and Fineman endorse comes perilously close to what I call *liberal monism*, namely, the insistence that all institutions internal to a democratic society must be ordered homologously with analogous structures of authority, representation, and so on. If you push too far in this direction, you destroy pluralism, ironically, in the interest of perfecting democracy.³⁷

Let me turn next to Fineman's argument, which is, in large part, an embrace of *laissez-faire* in "private life" so long as this does not clash with certain feminist requirements.³⁸ Fineman would also require more stringent regulation and control in economic life, coupled with more state action to deal with the problems she identifies as inconsistent with her understanding of equity. "Do your own thing" is the tack Fineman takes when it comes to all matters of what she construes as personal morality, so long as that morality is somehow uncoerced.³⁹ I am not sure what definition of coercion Fineman is working with, but it is surely the case that *no society anywhere at anytime is free from coercion*. The question is what sorts of coercion and to what ends. Even Mahatma Gandhi described his method of *satyagraha* ("truth force") as a form of moral coercion. The whole point was to *force* people to face certain unpleasant facts and to compel a response. Somehow, in Fineman's reading of *A Call to Civil Society*, a two-parent family is a coercive institution because it is "regulated" by the state.⁴⁰ But marriage and all forms of family life are regulated in some ways. People cannot just do anything they

37. For a more thorough discussion on these matters, see generally JEAN BETHKE ELSHTAIN, *PUBLIC MAN, PRIVATE WOMAN: WOMEN IN SOCIAL AND POLITICAL THOUGHT* (1992).

38. See generally Fineman, *supra* note 12.

39. See *id.* at 532-33.

40. *Id.* at 537.

want. There is no bright line separating the uncoerced from the coerced, particularly if you equate coercion with regulation.

Continuing, Fineman claims that the argument that “no-fault-divorce laws be reformed” is somehow a demand to move from deregulated to regulated relationships.⁴¹ Yet, who does Fineman think passed no-fault legislation and set about enforcing it? States, of course. So why is this not regulating divorce? To call for a re-examination of the no-fault mode, given its baneful unintended consequences for women and children, is a call for a different form of regulation, not for going from no regulation to “coercive” regulation. Fineman seems to suggest that if she favors something, it is noncoercive; if she opposes it, it is coercive. But the family—however it is set up—is never a simply voluntary or unregulated institution. The modern state reaches into all aspects of our lives. So this distinction is a red herring.

To repeat: the question is not regulation or no regulation but what forms of regulation and to what ends? What is to be encouraged or discouraged? What behavior is to be rewarded or, in some ways, inhibited? What is to be held up as exemplary and what not? There is no society anywhere that does not regulate, encourage, discourage, inhibit, reward. The question is how and to what ends.

A large chunk of Fineman’s article is devoted to an attack on the by now overwhelming burden of social scientific evidence concerning the effects on children of growing up in single-parent households. As counterevidence, Fineman cites a new study by Henry Ricciuti, *Single Parenthood and School Readiness in White, Black, and Hispanic 6- and 7-Year-Olds*.⁴² This, plus a first-person screed by Pepper Schwartz: “How about man’s inhumanity to woman? How about thousands of years of female sacrifice unnoticed, almost unmentioned? And how about the family as the primary institution of women’s subordination and oppression?”⁴³ One wants to cry to Schwartz: How about an argument rather than an ideological *crise de coeur*? Fineman’s last piece of support is a reference to Judith Stacey’s conspiracy theory about all those wily pro-family people who somehow control the media, public policy and the like.⁴⁴ This leads

41. *Id.*

42. *See id.* at 542 (citing Henry N. Ricciuti, *Single Parenthood and School Readiness in White, Black, and Hispanic 6- and 7-Year-Olds*, 13 J. FAM. PSYCHOL. 450, 459-63 (1999)).

43. *Id.* at 543 (quoting Pepper Schwartz, *Gender and the Liberal Family*, RESPONSIVE COMMUNITY, Spring 1991, at 86, 87).

44. *See id.* at 542 (citing JUDITH STACEY, IN THE NAME OF THE FAMILY: RETHINKING

her to aver that the criticisms of both “social scientists and feminists” converge on the position with which she wholeheartedly agrees.⁴⁵ However, “social scientists” *most emphatically do not agree* with her conclusion. The weight of the most solid evidence points entirely in the other direction—as Fineman herself notes in a buried reference to McLanahan and Sandefur’s definitive work.⁴⁶

Consider the Ricciuti essay, as that is the piece of “social scientific” evidence on which Fineman relies. This essay

examined an extremely limited range of outcomes—vocabulary and math test results and mother’s reports of behavioral problems—affecting the very young children (age 6-7) of mostly young, lower-income, poorly educated mothers. These are severe, important restrictions. The age limitation is especially problematic, since many of the ill effects of growing up in a father-absent home only show symptoms (especially symptoms clear enough to be detected by crude social science instruments) after the child’s seventh or eighth birthday. Even if the study were competent, it could provide no basis for the global assertion that “single parenthood seems to have no effect on how a child does in school.”⁴⁷

Ricciuti’s study is also not competent on several other grounds. For example:

Ricciuti crumbles his entire inquiry by playing fast and loose with the definition of “single parent.” If the unmarried mother has a live-in boyfriend at the time the questionnaire was administered, Ricciuti counts it as a two-parent home. That’s quite a trick. Since many of these young mothers have boyfriends, and since many of the problems associated with unwed parenthood are made *worse*, not better, by the presence of boyfriends in the home. Ricciuti can, in one fell swoop, transfer much of the bad stuff that would have been in column A over to column B.⁴⁸

Additionally, argues Norval Glenn, one of the country’s leading sociologists of the family:

[T]he study should have distinguished between step-families and families including both biological parents, because there is evidence that the effects of the two kinds of families on some child outcomes are typically different. Even more important, as Ricciuti admits, just looking at family type as age 6 or 7, as was done in this study, is not adequate. It is family history that is important. Consider that a child who lived in a single-parent family for 6 years, but whose

FAMILY VALUES IN THE POSTMODERN AGE 59 (1996)).

45. *Id.* at 543.

46. See *id.* at 543 n.83 (citing SARA MCLANAHAN & GARY SANDEFUR, *GROWING UP WITH A SINGLE PARENT: WHAT HURTS, WHAT HELPS* (1994)).

47. *Propositions* (Institute for American Values, New York, N.Y.), Fall 1999, at 3.

48. *Id.*

mother recently married, is classified by Ricciuti as living in a two-parent home, while a child who lived for 6 years with both biological parents who recently divorced is classified as living in a single-parent home. These deficiencies in the definition and measurement of the independent variable make the findings of the study essentially meaningless.⁴⁹

This, in sum, is *the* “social science evidence” on which Fineman relies—a study that is, on the view of those who have devoted their lives to studying this question, so flawed as to be “worthless.”

Civil society proponents try to be tough-minded and realistic by taking seriously the preponderant force of the evidence and by looking at the world that is actually out there—where it is broken, where people are suffering and children are languishing, and where parents, *especially* single mothers, are overworked, exhausted and at the end of their tethers. Fineman thinks that if the state (a state that she also thinks is patriarchal) just “subsidized” women’s choices, all would be well. There is not a shred of evidence that this is the case. There is no chance—not even the remotest—that a political coalition could be put together to provide state subsidies in order to perpetuate a situation that, according to those who have examined the issue closely, is not only less than ideal, but also likely to yield results that no decent society could accept as normative. By all means, support all children, whatever the family situation. However, at the same time, we should help to create the conditions that are, on all the best available evidence, more optimal than others for child rearing.

To conclude with Fineman, she is right, I believe, to insist that “growing inequality does have implications for civil society and should be central in the debates.”⁵⁰ There is no space to take up (and I am not, quite frankly, the most competent person to do it) the question of just how rapidly we are getting to be a less egalitarian society. Economically, I am convinced that we are and this is enormously troubling. I have repeatedly addressed this question elsewhere. Candidly, I wish we had spent more time on *A Call to Civil Society* to address this matter. But, we were functioning as a deliberative, political body, and in democratic and deliberative politics, you do not always get everything you want. This is a hard lesson for ideologues to learn for they always underestimate the difficulties of going from abstract claims to empirical realities. Here, however, are a few of the economic arguments we did make:

49. *Id.* at 4.

50. Fineman, *supra* note 12, at 545.

Economic activities that weaken communities or assault the integrity of childhood might not always reveal their ill-effects in the short run, but the task of sustaining civil society requires a disciplined commitment to the long run. . . .

Wherever possible we urge employers to expand opportunities available to employees for flexible workplace arrangements, including tele-working, job sharing, compressed work weeks, career breaks, job protection and other benefits for short term (up to six months) parental leave, and job preferences and other benefits, such as graduated re-entry, for long term (up to five years) parental leave. . . .

Even in strict economic terms, the companies that do best are often those that do *not* treat their workers like replaceable commodities. Regarding downsizing or replacing permanent employees with independent contractors, temporary workers, or so-called perma-temps, “tough-minded” often turns out to be weak-minded—an example of bad civil society generating bad economics.⁵¹

We also lift up trade unions as having the potential to play “an important role in renewing civil society.”⁵² Not enough, agreed, but it is not the case that economic matters were simply ignored.

To the third treatment, Professor Roberts believes that the signers of *A Call to Civil Society* are duplicitous Santa Clauses bringing coals rather than gifts to children.⁵³ Roberts practices the hermeneutics of suspicion with such ardor that *the* “commitment to freedom and justice for all”⁵⁴ in *A Call to Civil Society* is, she insists, just a mask hiding a philosophy that is concerned with “rescuing a disappearing way of life,”⁵⁵ one that is “exclusionary and regressive.”⁵⁶ Civil society “revivalists” are also taxed with paying no attention to racism⁵⁷ and with attributing our decline in morals to the success of egalitarian movements.⁵⁸ We also champion “patriarchal norms”—although I do not understand what is patriarchal about the dignity of the human person.⁵⁹ As well, our “understanding of morality offends . . . basic tenets of democratic civility,” a rather elusive claim that seems to turn on the notion that to assess some situations by comparison to others as more beneficial for the upbringing of

51. COUNCIL ON CIVIL SOC'Y, *supra* note 7, at 24.

52. *Id.*

53. See Roberts, *supra* note 14, at 555.

54. COUNCIL ON CIVIL SOC'Y, *supra* note 7, at 3.

55. Roberts, *supra* note 14, at 555.

56. *Id.*

57. See *id.* at 556, 560.

58. See *id.* at 555.

59. See *id.* at 574-76.

children is an uncivil act.⁶⁰

Roberts specializes in stark dichotomies: one either makes an economically deterministic argument (in which case moral and cultural matters are merely epiphenomenal) or one fusses with the froth (moral matters) and makes a flawed argument that egalitarian issues are epiphenomenal. But why drive cultural, ethical and moral questions, and economic and social questions apart in this way? Roberts seems pinioned to a dualistic logic that fails to do justice to the complexities and nuances of these matters, issues that William Galston has addressed in great detail in his work as a political philosopher.

I come in for some heavy fire because I “dismiss[] concerns about social problems”⁶¹ and because I am in the ranks of the nostalgists (yet again) by attacking “progressives who stubbornly refuse to relinquish their faith in federal government to solve social problems.”⁶² This is simply not so. My critique has been against those who yearn for a “Big Cause,” for exciting “movement” politics rather than the slow, patient building of social institutions over time— institutions that have some staying power. Here, I have been mightily influenced by my connection to a democratic, participatory community organizing under the auspices of the Industrial Areas Foundation (of which I am a Board member). Ernesto Cortes, Jr., whenever he makes a presentation, speaks eloquently of helping people to discover their “political-ness,” to find within themselves capacities for citizenship and action that require power in the service of justice.⁶³ As Cortes and others insist: movements come and go, but they *are* unstable. Only institutions have staying power. The problem with the position Roberts represents is that it is implicitly disdainful of the long, hard unglamorous work of building communities of decency and justice, preferring the big slam dunk: let’s hit the streets, get the federal government to solve the problem, and voila!

There are a number of tendentious claims that civil society revivalists think it is “uncivil” for minorities to make demands for equal citizenship. As a riposte, I suggest my *Hard Questions* article

60. *Id.* at 558.

61. *Id.* at 562.

62. *Id.* at 567.

63. The second edition of my book, *Public Man, Private Woman: Women in Social and Political Thought*, is dedicated to Cortes and the men and women of the Texas Interfaith Coalition, the Industrial Areas Foundation Southwest coalition.

for the *New Republic*, in which I endorse civil disobedience and insist that it is vital to distinguish between robust political action and criminality.⁶⁴ This column responded to those who claimed that the Oklahoma City bombing was an instance of “incivility.”⁶⁵ In the article, I insisted that the bombing was a crime, an extreme antipolitical act that kills argument rather than encouraging and deepening it.⁶⁶ I reminded readers that democratic politics is often rowdy, “Frederick Douglass proclaimed that those who want their politics polite ‘want rain without thunder and lightning.’”⁶⁷ This does not seem to me an argument against demands for equal treatment. Bluntly, it is not a contribution to the discussion regarding civil society to conclude an essay, as Roberts does, with the image of white citizens of South Boston hurling curses at African-Americans during the height of the judicially mandated school desegregation crisis.⁶⁸ I challenge Roberts to find *anything* in either *A Call to Civil Society* or *A Nation of Spectators* that would hold such behavior up as exemplary civil society political activity.

Of course, in a pluralistic, democratic society we cannot always control the behavior of other people. *Yet, we have faith in the capacity of people for independent self-constitution*, knowing that the more robust the institutions and associations to which people belong, the sturdier the individuals are and the more capable they will be of the rough and tumble of politics.

I confess that I found reading several of the essays here collected both challenging and enormously discouraging. Why discouraging? Because it said to me that our universities seem to encourage a peculiar tunnel vision in which arguments that have no relationship, or the thinnest relationship, to the *actual conditions* are permitted to fly forward like so many genies unleashed from bottles. They fly forward unchallenged, encountering very little friction because they are untethered to the actual conditions in which we find ourselves—we as a society, not we as privileged academics (although we are part of it).

This, to me, is how a civil society proponent thinks: He or she thinks we need to take stock; we need to try our best to glimpse decent alternatives that remain within our civil reach; we need to

64. Jean Bethke Elshtain, *Hard Questions*, NEW REPUBLIC, Feb. 24, 1997, at 23.

65. *See id.*

66. *See id.*

67. *Id.*

68. *See Roberts, supra* note 14, at 580.

create and to sustain ways of being that repudiate any and all invidious distinctions between men and women and that, in so doing, free us for love, service and citizenship rather than for fear, resentment and anxiety. Surely, there is something profoundly distorted about a culture prepared to send nursing mothers of six-week-old infants into a war zone (as did the United States during the Persian Gulf War, with some feminists embracing this sort of thing as a great victory); that does not support parental leave in any generous way; or that cuts children and parents adrift from the moment of birth. There is also something distorted within a culture that makes men and women (especially women) who *want* to stay home with their infants feel guilty because they are not living out some ideological ideal.

I have argued for a quarter of a century that the historic devotion of women to families and communities was vital and important in ways we only now are beginning to appreciate as women continue to be drawn out more and more of families and communities (for good and bad reasons) and into the paid labor force. The pity, surely, is not that women historically did so much of the work of sustaining the everyday world; rather, the pity is that this work was insufficiently honored and recognized. Now, we (or all decent people, at least) expect that men and women should both be involved with families, children, and work. However, we arrange economic and social life in such a way that families consistently get cheated.

Civil society proponents contend that we should evaluate culture on the ground. What does it tell us about what kind of a people we are or hope to become? I close with words from one of the great civil society advocates, President Vaclav Havel of the Czech Republic, from an address to the Parliament and Senate of the Czech Republic delivered on December 9, 1997:

I have left culture to the end not because I consider it to be some superstructural "icing on the cake," but for precisely the opposite reason. I consider it the most important of all, something that deserves to be mentioned at the very conclusion of my remarks. . . . I mean culture in the broadest sense of the word—that is, the culture of human relationships, of human existence, of human work, of human enterprise, of public and political life. I refer to the general level of our culture

[Y]ou must know I am talking about what is called a civil society. That means a society that makes room for the richest possible self-structuring and the richest possible participation in public life. In this sense, civil society is important for two reasons: in the first place, it enables people to be themselves in all their dimensions,

which includes being social creatures who desire, in thousands of ways, to participate in the life of the community in which they live.

In the second place, it functions as a genuine guarantee of political stability. The more developed all the organs, institutions, and instruments of civil society are, the more resistant that society will be to political upheavals or reversals. It was no accident that communism's most brutal attack was aimed precisely against this civil society. It knew very well that its greatest enemy was not an individual non-Communist politician, but a society that was open, structured independently from the bottom up, and therefore very difficult to manipulate.⁶⁹

69. Vaclav Havel, *The Sad State of the Republic*, N.Y. REV. BOOKS, Mar. 5, 1998, at 42, 46.

