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FALLING FERTILITY RATES: THE OFFSPRING OF THE CONTRACEPTIVE MENTALITY

EDWARD L. METZGER III*

From a demographic standpoint, the middle class is in imminent danger of decline. Since the 1970s, American fertility rates have been at or below replacement levels, which will eventually result in a declining population.¹ Although some may believe that decreasing the human population is desirable, the economic consequences of such a scenario could be disastrous. A faltering economy,² the collapse of the Social Security System,³ and a weaker military are just a handful of examples of the potential repercussions of falling fertility rates and population decline.⁴ However, these oncoming crises, the effects of which should be felt within the next few decades, can still be averted. If the government promotes pronatalist policies through a revision of the tax code, and society rededicates itself to principles of the natural law, the oncoming threats induced by falling fertility rates could be avoided.

Part II of this Note examines the effects of falling fertility rates and highlights a few of the possible consequences of the expected population decline. Part III introduces the relevant demographical issues, and explains how our population can temporarily grow despite decades of falling fertility rates. Part IV examines why fertility rates fall, and Part V analyzes the judicially-sanctioned activities that contribute to fewer child-births. Part VI then considers options for boosting fertility rates in the United States. One possibility is a pronatalist revision of the tax code that would provide child-raising incentives for middle-class couples, many of

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1. Rob Stein, *U.S. Fertility Rate Hits 35-Year High, Stabilizing Population*, WASH. POST, Dec. 31, 2007, at B11, available at http://www.washingtonpost.com/wp-dyn/content/article/2007/12/20/AR2007122002725_pf.html.

2. BEN J. WATTENBERG, *THE BIRTH DEARTH: WHAT HAPPENS WHEN PEOPLE IN FREE COUNTRIES DON'T HAVE ENOUGH BABIES?* 55 (2d ed. 1989) [hereinafter *BIRTH DEARTH*].

3. *THE 2008 ANNUAL REPORT OF THE BOARD OF TRUSTEES OF THE FEDERAL OLD-AGE AND SURVIVORS INSURANCE AND FEDERAL DISABILITY INSURANCE TRUST FUNDS*, H.R. DOC. NO. 110-104, at 18-19 (2008), available at <http://www.ssa.gov/OACT/TR/TR08/tr08.pdf> [hereinafter *TRUSTEES REPORT*].

4. Peter G. Peterson, *Gray Dawn: The Global Aging Crisis*, 78 *FOREIGN AFF.* 42, 50 (Jan./Feb. 1999).

whom now opt to amass wealth rather than raise large families. An alternative, though possibly concurrent solution, is an adherence to the precepts of the natural law as expounded by the Catholic Church in her papal encyclicals, *Humanae Vitae* and *Evangelium Vitae*, both of which promote childbirth. The Note then concludes with a call to action so that the United States might avert the coming dangers of population decline.

II. THE EFFECTS OF FALLING FERTILITY AND POPULATION DECLINE

Commentators such as Paul Ehrlich have long harped on the hazards of population growth,⁵ but falling fertility rates and the subsequent danger of population *decline* pose equally disturbing dilemmas. Collapsing pensions,⁶ an insolvent Social Security System,⁷ less money to spend on the military,⁸ a declining economy,⁹ less innovation and high-risk investment,¹⁰ and a self-perpetuating cycle of fewer and fewer children¹¹ are just a few examples of the unsavory ramifications of population decline. These consequences are likely to have a significant impact “in the next decade, as millions of [B]aby [B]oomers start crashing past the boundaries of old age, and as today’s teenagers find themselves saddled with massive student loans, rising taxes, and growing frustration over the increasing difficulty of forming or affording a family.”¹²

One important repercussion of falling fertility rates is the negative effect that it would have on our capitalist system. Historically capitalism has relied on population growth to promote economic advancement,¹³ because population growth is typically accompanied by an increased demand for goods and services.¹⁴ Population decline, on the other hand,

5. See generally PAUL R. EHRLICH, *THE POPULATION BOMB* (1968) (discussing some of the potential dangers of population growth, such as famines, increases in crime, war, and violence, and widespread disease); Paul R. Ehrlich & Anne H. Ehrlich, *Symposium on Population Law: The Population Explosion: Why We Should Care and What We Should Do About It*, 27 ENVTL. L. 1187 (1997).

6. PHILIP LONGMAN, *THE EMPTY CRADLE: HOW FALLING BIRTHRATES THREATEN WORLD PROSPERITY AND WHAT TO DO ABOUT IT* 165 (2004).

7. BIRTH DEARTH, *supra* note 2, at 68.

8. Some commentators have suggested that a decrease in military spending—and military might—could lead to a decline in U.S. global influence. Peterson, *supra* note 4, at 50; LONGMAN, *supra* note 6, at 20.

9. BIRTH DEARTH, *supra* note 2, at 55.

10. LONGMAN, *supra* note 6, at 126–127.

11. *Id.* at 22.

12. *Id.* at 149; see also Rod N. Andreason, Note, *The International Convention on Population Development: The Fallacies and Hazards of Population “Control”*, 1999 BYU L. REV. 769, 789 (“In a time where people are prospering more than at any other time in history, many are saying that they do not have enough money to have children.”).

13. LONGMAN, *supra* note 6, at 4.

14. BIRTH DEARTH, *supra* note 2, at 51.

should lead to a decrease in demand because there will be fewer buyers for those goods and services.¹⁵ If our population declines, our gross domestic product (GDP) could shrink,¹⁶ because one of the main driving forces behind GDP growth is growth in the labor force.¹⁷ Having fewer workers can lead to a lower GDP, which is not a traditional hallmark of a booming economy.¹⁸

Additionally, falling fertility rates lead to an aging society.¹⁹ In this regard, the greatest impact will be felt in Social Security pension plans. The basic way our Social Security system works is that current workers put in money for current retirees. No worker puts in money for his own future use. The system is premised upon having more workers than retirees.²⁰ If our fertility rates continue to stay at or below current levels, sooner or later there will not be enough workers to pay for the Social Security benefits of all the retirees.²¹ As a result, the Social Security Trust Fund will become insolvent.²² In a 2008 report, the Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Trust Funds (the Social Security funds) predicted that the cost of Social Security payments will begin to exceed income by 2017, and that payments at current levels will no longer be feasible by 2041.²³ This problem is no mere hypothetical; absent reform, it will manifest itself in the very near future.

In all likelihood, the government would not allow an insolvency scenario to occur, but what reforms could be undertaken to stop it? Benefits could be cut, but this would raise the ire of the elderly. Taxes could be raised, but this would anger workers. Retirement age could be

15. *Id.* at 56.

16. Peterson, *supra* note 4, at 49 (“If workforces shrink rapidly, GDP may drop . . . since labor productivity may not rise fast enough to compensate for the loss of workers.”).

17. LONGMAN, *supra* note 6, at 41.

18. *Id.*

19. Peterson, *supra* note 4, at 42–53; BIRTH DEARTH, *supra* note 2, at 65.

20. BIRTH DEARTH, *supra* note 2, at 67.

21. One commentator has described the problem in this way: “More people are having fewer children, and retirees are now living longer There will be less [sic] workers to support more retirees, and . . . these retirees, under the current benefit structure, will receive payments from the government for a much longer time than originally anticipated.” James E. Hennessey, Note, *Keeping the Promise: Will the Bush Administration’s Plan to Privatize the Social Security System Actually Work?*, 11 CONN. INS. L.J. 433, 466 (2005).

22. TRUSTEES REPORT, *supra* note 3, at 3. The Trustees estimate that the Old-Age and Survivors Insurance trust funds will be depleted by 2042. *Id.* See also George W. Bush, Address Before a Joint Session of the Congress on the State of the Union, 44 WEEKLY COMP. PRES. DOC. 117 (Jan. 28, 2008) (“Every member in this Chamber knows that spending on entitlement programs like Social Security, Medicare, and Medicaid is growing faster than we can afford.”).

23. TRUSTEES REPORT, *supra* note 3, at 3.

delayed, but this would irritate nearly everyone. If retirement age is delayed, or if Social Security benefits are cut, older workers will keep their jobs longer and younger workers will find less demand for their services. Consequently, the younger generations will have greater difficulty securing employment commensurate with their skills, and likely will have smaller salaries.²⁴ These smaller salaries, combined with the prospect of higher social security taxes, could well convince those workers that having children—the simplest solution to the problem, because more children would equal more taxpayers in the future to support the system—is not in their economic best interests.²⁵ Children can be, after all, “rather costly impediments to material success.”²⁶

In the past, particularly in rural societies, parents were able to recapture part of the investment they made in their children because children were able to help with chores while in their youth, and subsequently could tend to their parents once the parents became elderly. Now, “parents no longer hold a unique claim on their children for support in old age. Instead the state, primarily through programs like Social Security and Medicare, redistributes an ever-increasing share of the human capital parents create to all members of society.”²⁷ Consequently, there is less of an economic incentive for parents to have large families in the present day. Concededly, while there are certain tax advantages to having children,²⁸ the current tax credits and write-offs are not even remotely close to offsetting the costs of raising these future workers.²⁹ In fact, when comparing the tax benefits of children to the financial demands of maintaining a middle-class lifestyle, it becomes clear that our modern economy actually creates perverse incentives that cause couples to have fewer children (if any). Such an economic model cannot, and will not, sustain itself.³⁰

How did we get to this point? What was the impetus for the falling fertility rates that ultimately will lead to population decline in America? The answer is remarkably simple: we stopped having babies. The Baby Boom, which lasted from the end of the Second World War through the mid-1960s, provided an influx of new taxpayers for future years and a short-term benefit to the Social Security system. However, when birth rates began to drop in the mid-1960s, a problem arose. Not only did

24. *Id.* at 60.

25. LONGMAN, *supra* note 6, at 22.

26. *Id.* at 31. See *infra* Part VI-A for a discussion of the cost of raising children.

27. LONGMAN, *supra* note 6, at 141–142.

28. See *infra* Part VI.A. for a discussion of the current tax breaks for having children, as well as suggestions on how the tax code can be revised to promote sustainable fertility rates.

29. LONGMAN, *supra* note 6, at 146.

30. *Id.* at 145.

birth rates decline—they declined drastically,³¹ raising two questions: (1) With fewer future taxpayers, who would pay for the retirement benefits of the Boomers?; and (2) What were the likely causes of the sudden end of the Boom? Before attempting to answer these questions, though, we must have a rudimentary understanding of the demographics at issue.

III. THE IMPORTANCE OF THE TOTAL FERTILITY RATE

Assuming an absence of immigration, each woman must have, on average, 2.1 children during the course of her childbearing years for the human population to remain stable over time.³² The math is easy: two parents must yield two children for the population to remain static.³³ If each woman does not average 2.1 children, human population eventually declines.³⁴ Thus, this 2.1 figure is commonly referred to as the “replacement rate,” the reproduction level at which we, as a species, will merely replace ourselves.³⁵

The average number of children that women bear over the course of their childbearing years is referred to as the total fertility rate (TFR).³⁶ If, for example, the average woman in a country has four children in her childbearing years, the TFR for that country is 4.0.³⁷ Problems arise when the TFR falls below the replacement rate of 2.1 for an extended period of time. In the United States, the TFR has been at or below the replacement rate of 2.1 for over 35 years.³⁸ If the TFR continues to stay below replacement levels, the consequences of population decline will be made manifest.

A low TFR, however, does not immediately translate into a shrinking population. It takes a number of generations for a below-replacement fertility rate to take full effect, especially when it has been preceded by a significant baby boom like the one that occurred in the United States following the Second World War. A generation after our Baby Boom in America, even though the TFR began to fall, the overall number of births

31. See *infra* notes 68–76 and accompanying text.

32. BIRTH DEARTH, *supra* note 2, at 4. The 2.1 children-per-woman minimum does not take into account the effects of immigration on a population. *Id.* Although immigration plays a role in maintaining sustainable population levels, its aggregate effects on the United States’ population are beyond the scope of this Note.

33. *Id.* at 21. The reason that the .1 is included is because (a) some children do not survive to adulthood, when they too would have the potential to become parents, and (b) there are slightly more males than females born each year. *Id.* at 22.

34. See Thomas J. Espenshade et al., *The Surprising Global Variation in Replacement Fertility*, 22 POPULATION RES. & POL’Y REV. 575, 582 (2003) (“Only among the more developed countries is the level of replacement fertility typically within .1 of 2.1.”).

35. BIRTH DEARTH, *supra* note 2, at 15.

36. BEN J. WATTENBERG, FEWER: HOW THE NEW DEMOGRAPHY OF DEPOPULATION WILL SHAPE OUR FUTURE 8 (2004) [hereinafter FEWER].

37. *Id.*

38. Stein, *supra* note 1.

stayed at roughly the same level.³⁹ This can be easily explained. Because there were more women of child-bearing age (as a result of the Baby Boom), the crude birth rate was able to stay roughly the same, even though each individual mother was having fewer babies.⁴⁰ The following generations, though, are actually the ones that determine whether the population will shrink. In other words, if the grandchildren and great-grandchildren of the Boomers continue to have children at a rate below the replacement level, then the American population will gradually decline. The Boomers will eventually die, and their grandchildren and great-grandchildren have not had (and presumably will not have) enough children to replace them.⁴¹ If the concept still seems nebulous, consider the following analogy:

[T]hink of a train accelerating up a hill. If the engine stalls, the train will still move forward for a while, but its loss of momentum implies that it will soon be moving backwards, and at ever-greater speed. So it is when fertility rates shift from above to below replacement levels.

The equivalent of the hill is death itself, which is always pushing against any increase in human population. The equivalent of the engine is a fertility rate that consistently produces more births than deaths. When fertility falls below replacement levels, the population continues to increase for a while through sheer force of momentum. But this momentum is a dwindling legacy of a past effort when fertility rates were still above replacement levels.⁴²

During the Boomer years, this was not a problem. From 1946 to 1964, the United States' TFR was at least 2.94 children per woman.⁴³ However, the national TFR first dipped below this level in 1965, and had fallen all the way below replacement level by 1972.⁴⁴ The United States' TFR has never been above the replacement level since.⁴⁵ The question now is, why? What caused this drastic plummet in the fertility rate?

39. BIRTH DEARTH, *supra* note 2, at 26. The crude birth rate is another way to measure population change and is calculated by looking at the number of births per every one thousand people in the adult population. *Id.*

40. *Id.*

41. *Id.* at 28. This point about "replacing" the Baby Boomer generation is meant in only demographic terms; it is not meant to have any bearing whatsoever on the value of particular individuals. I would be remiss if I neglected to emphasize the intrinsic worth of each and every human being. In that regard, no individual can ever be "replaced" when he or she passes away.

42. LONGMAN, *supra* note 6, at 12.

43. BIRTH DEARTH, *supra* note 2, at 171.

44. *Id.*

45. *Id.*; Stein, *supra* note 1.

IV. WHY FERTILITY RATES FALL

The total fertility rate can fall for myriad reasons. Factors such as wealth, education, delayed marriage and delayed childbearing, women in the labor force, the Women's Liberation movement, high divorce rates, urbanization, and cohabitation all can play a role in declining fertility.⁴⁶

First, let's consider the impact of wealth on low fertility rates. Aspirations to affluence—that is, desires to reach or maintain middle- or upper-class status—often inhibit childbearing. People become accustomed to a certain lifestyle based upon their level of income, and they are reluctant to part with that income and the amenities it provides in order to raise children.⁴⁷ Indeed, every decision to bear and raise a child is accompanied by economic ramifications. The Department of Agriculture estimates that the cost of raising a middle-class child from birth through age seventeen is somewhere in the range of \$300,000.⁴⁸ With this in mind, it should come as no surprise that the data shows fertility rates decreasing as income rises.⁴⁹

Education can also play a role in low fertility rates. Demographer Ben Wattenberg has suggested that the more educated a woman is, the less likely she is to bear many children.⁵⁰ This is because women who pursue higher education are more likely to delay marriage, delay childbearing, and/or enter the workforce.⁵¹ If and when these women start having children, they do so within a more limited biological timeframe than their peers who do not receive post-secondary or post-graduate educations. Moreover, the Women's Liberation movement, which certainly played a role in gaining greater access to higher education and equal employment opportunities for women, contributed to low fertility rates in another way: at the height of the movement in the 1960s and 1970s, many women rejected the idea of marriage and the family as constituting the most important component of a woman's life.⁵² Although a number of subsequent feminists have reconsidered this view, lower fertility rates resulted in the short term.⁵³

Additionally, high rates of divorce can have a negative impact on the TFR. A woman who is divorced is often removed, temporarily if not

46. *Id.* at 129.

47. *Id.* at 120.

48. MARK LINO, U.S. DEPT. OF AGRIC., EXPENDITURES ON CHILDREN BY FAMILIES, 2007, at ii (2008) (Table ES1. Estimated annual expenditures on a child by husband-wife families, overall United States 2007), available at <http://www.cnpp.usda.gov/publications/CRC/crc2007.pdf> [hereinafter USDA REPORT].

49. BIRTH DEARTH, *supra* note 2, at 120.

50. *Id.* at 119–120.

51. *Id.* Concededly, women who enter the workforce contribute to the GDP, thus alleviating some of the economic problems discussed in Part II.

52. *Id.* at 127.

53. *Id.*

permanently, from the pool of potential mothers.⁵⁴ As divorce rates climb, the TFR can be expected to drop, because the pool of potential mothers theoretically shrinks with each divorce.⁵⁵ A comparison of the divorce statistics from the Baby Boom era with today's statistics lends credence to this theory. For example, in the Boom year 1960, when the TFR was 3.65,⁵⁶ there were 2.2 divorces for every 1,000 members of the population.⁵⁷ By comparison, in 2003, when the TFR was down to 2.0,⁵⁸ there were 3.5 divorces for every 1,000 members of the population.⁵⁹ This 2003 divorce rate of 3.5 represents more than a 60% increase over the 1960 divorce rate. Is it really all that surprising that an increase in the divorce rate has been accompanied by a parallel decline in fertility?

Another factor contributing to a low TFR is urbanization. In the late eighteenth century, when the majority of Americans still lived on farms, children were seen as an economic asset, as they could work to contribute to the success of the family enterprise. However, in an urban or suburban setting, children present less economic value because there is a lack of meaningful work for them to do to contribute to the family's economic well-being. In fact, children may often present a net financial drain on the family and create a need for both parents to work outside the home.⁶⁰

Somewhat surprisingly, cohabitation also leads to lower fertility rates.⁶¹ Although many cohabiting relationships are sexual in nature, procreation is often not the participants' desired result. Because cohabiting individuals are in a relationship that, by design, is less permanent than marriage, they are often reluctant to bring children into the world, for children would impose permanence on their union. Consequently, many cohabiting couples are inclined to adopt a contraceptive mentality so that they may consider their relationship less binding and deem their sexual

54. *Id.* at 125.

55. *Id.* Presumably, many divorced women do not attempt to conceive a child without a partner, although this is certainly not the case in every instance.

56. *Id.* at 171.

57. National Center for Health Statistics, *Summary Report: Final Divorce Statistics, 1970*, 23 MONTHLY VITAL STAT. REP., Supplement 2, May 2, 1974, at 2, available at http://www.cdc.gov/nchs/data/mvstr/supp/mv23_02s2acc.pdf.

58. CENTERS FOR DISEASE CONTROL AND PREVENTION, QUICKSTATS: TOTAL FERTILITY RATES, BY STATE — UNITED STATES, 2003 (Morbidity & Mortality Wkly. Rep., Dec. 16, 2005), available at <http://www.cdc.gov/mmwr/PDF/wk/mm5449.pdf>.

59. CENTERS FOR DISEASE CONTROL AND PREVENTION, FASTSTATS: MARRIAGE AND DIVORCE, <http://www.cdc.gov/nchs/fastats/divorce.htm> (last visited April 10, 2010).

60. BIRTH DEARTH, *supra* note 2, at 119.

61. *Id.* at 129.

activity to be without consequence.⁶² This mentality might well be at the root of declining fertility rates.

In its most basic terms, “the contraceptive mentality is a mentality of not wanting babies.”⁶³ This mindset embraces both contraception and abortion as viable methods of avoiding pregnancy. Logically, the two practices are inextricably linked, for “the contraceptive mentality, in practice, requires abortion as a backup.”⁶⁴ It comes as no surprise, then, that after contraception was legalized for married couples in 1965,⁶⁵ and for unmarried individuals in 1972,⁶⁶ abortion would become legal nationwide shortly thereafter.⁶⁷ To what extent, though, did the widespread availability of contraception and abortion impact fertility rates?

V. THE BIRTH(?) OF THE CONTRACEPTIVE MENTALITY

During most of the Baby Boom, the TFR exceeded 3.0.⁶⁸ In 1965, however, the total fertility rate suddenly dropped below 3.0 for the first time.⁶⁹ Although the factors previously discussed undoubtedly played a role, a number of them, such as aspirations to wealth and urbanization, were also at play in the prior Boomer years, and yet the TFR remained relatively high. So what changed in 1965?

That year, the United States Supreme Court declared contraception legal for married couples in *Griswold v. Connecticut*.⁷⁰ In the years following that decision, fertility rates continued to drop, but still stayed slightly above the replacement rate.⁷¹ Then, in 1972, for the first time in the nation’s recorded history, the TFR fell below the replacement rate of 2.1.⁷² That same year, the Supreme Court exacerbated the “baby bust” via its decision in *Eisenstadt v. Baird*, which extended the legal right to contraceptives to unmarried individuals.⁷³ That decision, coupled with

62. *But see* JENNIFER ROBACK MORSE, SMART SEX 67–92 (2005) (explaining why the term “reproductive freedom” is a misnomer).

63. Charles E. Rice, *Implications of the Coming Retreat from Roe v. Wade*, 4 J. CONTEMP. HEALTH L. & POL’Y 1, 13 (1988).

64. Charles E. Rice, *A Cultural Tour of the Legal Landscape: Reflections on Cardinal George’s Law and Culture*, 1 AVE MARIA L. REV. 81, 98 (2003).

65. *Griswold v. Connecticut*, 381 U.S. 479 (1965).

66. *Eisenstadt v. Baird*, 405 U.S. 438 (1972).

67. *Roe v. Wade*, 410 U.S. 113 (1973).

68. BIRTH DEARTH, *supra* note 2, at 171.

69. *Id.*

70. *Griswold*, 381 U.S. at 485.

71. BIRTH DEARTH, *supra* note 2, at 171. In 1965, the TFR dropped to 2.91; in 1966, to 2.72; in 1967, to 2.56; in 1968 and 1969, to 2.46. In 1970, it rose slightly to 2.48, and in 1971 the TFR dropped noticeably yet again, to 2.27. *Id.*

72. The TFR in 1972 was 2.01. BIRTH DEARTH, *supra* note 2, at 171.

73. 405 U.S. 438, 443 (1972) (holding that statutes prohibiting contraception violate the Equal Protection Clause of the Fourteenth Amendment). Note that the Court made its decision in mid-March, 1972. As a result, its decision likely had very little effect

Roe v. Wade and the subsequent nationwide legalization of abortion in 1973,⁷⁴ could explain why the TFR has lingered well below the replacement level for decades.⁷⁵ In fact, the American TFR has not exceeded the replacement rate since 1971, the year immediately preceding *Eisenstadt*.⁷⁶

Although contraception and abortion may not have been the sole causes of lower fertility rates, they certainly played an integral role. Part of the problem in determining precise causality stems from a lack of any reliable means of measuring contraceptive use, which thereby precludes an accurate assessment of the number of children who have been prevented from coming into existence.⁷⁷ Nevertheless, data gathered by the United Nations reveals that as the availability of contraceptives has increased in the United States, fertility rates have decreased.⁷⁸ This phenomenon could perhaps be dismissed as mere coincidence if it were only happening domestically, but the trend has been observed across the globe.⁷⁹ That is, regardless of locale, fertility rates typically drop when contraception becomes widespread. From a pragmatic standpoint, it is hardly surprising that there is a near-universal correlation between the use of products that are intended to prevent pregnancies and an overall drop in the fertility rate.

Abortion presents a much easier case. The Centers for Disease Control and Prevention (CDC) has kept abortion statistics since 1969, thus enabling quick calculations of how many children have been aborted

on the TFRs for that year, but may have had significant effects on the national TFR for the following year.

74. *Roe v. Wade*, 410 U.S. 113, 152–154 (1973) (explaining that the right of privacy extends to a woman's decision whether to terminate a pregnancy).

75. BIRTH DEARTH, *supra* note 2, at 171.

76. The American TFR hit the replacement level of 2.1 for the first time since 1972 in 2007. Stein, *supra* note 1. The TFR estimates for 2009 are yet again below replacement level, at 2.05. CENT. INTELLIGENCE AGENCY, THE WORLD FACTBOOK, COUNTRY COMPARISONS—TOTAL FERTILITY RATE, <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2127rank.html> (last visited April 10, 2010) [hereinafter WORLD FACTBOOK].

77. Although it is possible to track contraceptive distribution and sales, it is quite another matter to accurately record whether those contraceptives were actually used in any given sexual act.

78. UNITED NATIONS POPULATION DIVISION, WORLD POPULATION PROSPECTS: THE 2008 REVISION, <http://esa.un.org/unpp> (follow “Country profile” hyperlink; then select “United States,” “Medium variant,” Start Year: 1950,” “End Year: 2010” and “Display”) (last visited June 25, 2010). The report shows, for example, that from 1955 to 1960, years in which contraceptive use was not legal across the nation, the average TFR was 3.71. Forty years later, in the time period from 1995 to 2000 and during which contraceptive use was legal, the average TFR was 1.99. *Id.*

79. *Id.* According to Ben Wattenberg's research, which is based on data culled from the United Nations Population Division, worldwide fertility has fallen as contraceptive use has increased. FEWER, *supra* note 36, at 99.

since that year.⁸⁰ In 1973, the year of *Roe*, 615,831 children were legally aborted.⁸¹ By 1978, just over five years later, the annual total had *nearly doubled*, to 1,157,776.⁸² The abortion total climbed all the way to 1,429,247 in 1990, and the CDC estimates that in recent years,⁸³ the United States has aborted more than 800,000 children per year.⁸⁴ This number, in fact, may be too conservative, as the National Abortion Federation estimates the figure at over 1.3 million annually.⁸⁵ Abortion, therefore, has had a rather significant and well-documented effect on fertility rates. For further evidence, consider the abortion ratio, as reported by the CDC: for every 1,000 live births, 233 children are aborted.⁸⁶ In other words, nearly one out of every five children in this country is aborted.⁸⁷ Put into proper perspective, the data illustrates the fact that since 1974, we have been aborting *more than 20 percent* of our nation's potential taxpayers.⁸⁸

It would be wise to take action immediately to stall, if not reverse, the oncoming population decline. Yet in order to do so, perhaps we should first ask who is responsible. Perhaps we should start by determining which group has had the most dramatic impact on fertility rates, and specifically encourage that group to have more children. Perhaps that group could then become the key to the solution, rather than the root of the problem. But who comprises that group?

Low fertility rates in the United States are most attributable to the choices of the middle and upper-middle class.⁸⁹ As demographer Ben Wattenberg's research has revealed, "It is a straight class issue. It is an issue of the non-poor and the well-educated. It is, in short, a middle-class problem. If we are seeking change, we should know who the prime target

80. SONYA B. GAMBLE ET AL., CENTERS FOR DISEASE CONTROL AND PREVENTION, ABORTION SURVEILLANCE — UNITED STATES, 2005 at 1 (Morbidity & Mortality Wkly. Rep., November 28, 2008), *available at* <http://www.cdc.gov/mmwr/preview/mmwrhtml/ss5713a1.htm> [hereinafter MMWR Report]. Three states—California, Louisiana, and New Hampshire—did not report abortion statistics in 2005. *Id.*

81. *Id.* at 13.

82. *Id.*

83. From 1988 to 2005, expectant mothers in the United States aborted at least 800,000 children per year. *Id.* at tbl. 2.

84. *Id.* at 14–15. Bear in mind, however, that California usually does not report its abortion statistics. In 1997, the last year that California reported, over 23% of U.S. abortions were performed in the state. If we assume that California is still responsible for roughly 23% of abortions, then well over one million abortions are performed in the United States each year. *Id.* at 6, 15.

85. SUSAN DUDLEY, NATIONAL ABORTION FEDERATION, WOMEN WHO HAVE ABORTIONS (Rev. 2003), http://www.prochoice.org/pubs_research/publications/downloads/about_abortion/women_who_have_abortions.pdf.

86. MMWR Report, *supra* note 80, at 1, 16.

87. This estimate excludes calculations for miscarriages.

88. MMWR Report, *supra* note 80, at 16.

89. BIRTH DEARTH, *supra* note 2, at 77.

audience is: the culprit is the middle class—white, black, Asian, and Hispanic.”⁹⁰ Therefore, if we want to avoid future population decline, we need to encourage fertility; and, if we want to encourage fertility, we must begin with those who are most at fault for our current low fertility rates—the middle class.

VI. THE SOLUTIONS: THE TAX CODE AND THE CATHOLIC CHURCH

A government-endorsed pronatalist policy would be the most efficient means of combating the contraceptive mentality and boosting fertility. Two steps can be taken to achieve this objective: (A) Congress can revise the tax code (Code) to provide couples with greater financial incentives for raising children; and (B) the nation can dedicate itself to an adherence to the natural law, which, according to the interpretation of the Catholic Church, mandates rejection of the contraceptive mentality.⁹¹ Both the secular and the ecclesiastical solution should cause a rise in fertility rates if implemented independently, but they will be even more effective if adopted in tandem.

A. *The Secular Solution: Reform of the Tax Code*

The tax code, as of the taxable year 2008, does not provide enough financial incentives to encourage middle class couples to raise children.⁹² Although the Code offers certain tax benefits for childrearing, most of the exemptions and credits offered fall far short of what couples need to offset the costs of raising a family. Furthermore, most of the tax expenditures⁹³ that promote childrearing do not extend any financial benefit beyond a couple’s second child.⁹⁴ The Code, therefore, does not encourage couples to have more than two children, as the couple must always bear the brunt of the economic burden occasioned by a third child. However, to avoid the problem of falling fertility rates, couples need to be encouraged to have more than two (i.e., at least three) chil-

90. *Id.*

91. See generally Pope Paul VI, *Humanae Vitae: Encyclical of Pope Paul VI on the Regulation of Birth* (July 25, 1968) [hereinafter *Humanae Vitae*].

92. Defining “the middle class” is a tricky enterprise and no universally agreed-upon definition exists. For the purposes of this Note, however, the author will presume that the middle class encompasses those married couples filing joint tax returns who earned between \$65,100 and \$357,700 in taxable income in 2008. This grouping represents all married joint filers in the 25 percent, 28 percent, and 33 percent tax brackets for the taxable year 2008. Rev. Proc. 2007-66, 2007-45 I.R.B. 970.

93. A tax expenditure is nothing more than “a feature of the tax law which exists to further some non-tax goal.” ALAN GUNN & LARRY D. WARD, *CASES, TEXT AND PROBLEMS ON FEDERAL INCOME TAXATION* (6th ed. 2006).

94. Specifically, benefits are capped at “2 or more” children in three Code provisions: I.R.C. § 21 (West Supp. 2008); I.R.C. § 23 (West Supp. 2008); and I.R.C. § 32 (West Supp. 2008).

dren. If the Code were revised, extending enough aid in tax credits and exemptions to shelter from taxation the income necessary to raise three children, many middle-class couples would begin to view three-child families as an economically viable option. As a consequence, fertility rates should rise.

Each year, the United States Department of Agriculture estimates the cost of raising a child from birth through age seventeen. For 2007,⁹⁵ the Department of Agriculture reported that, for a married couple with pre-tax income above \$77,100 (which would ostensibly include the middle and upper-middle class), it would cost roughly \$689,950.50 to raise three children from birth through age seventeen.⁹⁶ That amounts to an average of \$38,330.60 in child-related expenses *per year*.⁹⁷ For that same year, though, the Code might only allow the couple to claim \$10,500 in exemptions and \$1,200 in credits.⁹⁸

To ameliorate this problem, Congress should amend those sections of the Code that most directly incentivize couples to raise children. Specifically, Congress should focus on (a) section 23, which offers a credit for adoption expenses; (b) section 32, which permits an earned income tax credit; (c) section 24, which outlines the child tax credit; (d) section 21, which allows a credit for household and dependent care services necessary for gainful employment; and (e) section 151, which sets forth personal exemption amounts. Many of these sections already provide adequately for the poor, but they neglect to account for the needs of the middle class, which is the primary group Congress should seek to benefit when revising the Code.⁹⁹ Congress could refer to the Department of Agriculture's cost-of-child-raising publications to determine the estimated costs that middle class families incur in raising children, and then

95. At the time of this writing, this was the most recent report issued by the USDA.

96. USDA REPORT, *supra* note 48, at ii.

97. *Id.* Table ES1 only presents the costs of raising the younger child in a two-child family, and estimates the overall cost of raising that younger child at \$298,680. Costs for the older child are presumed to be "about the same." The footnotes to the table, however, provide instructions for calculating the costs of raising three children to age 18. The overall cost of raising a child, as presented in the table, is to be multiplied by 0.77. In this case, that calculation would yield a result of \$229,983.60. As this total only represents one child, it must be multiplied by three to adequately account for the costs of raising three children. The resulting product is \$689,950.80, representing the cost of raising three children from birth through age 17. To determine the average cost of raising children per year, simply divide \$689,950.80 by the 18 years that the couple pays for each child, for a yearly cost of \$38,330.60. *Id.*

98. Imagine a couple with adjusted gross income of \$200,000 and three qualifying children. These taxpayers would qualify for personal exemptions of \$3,500 per child, and a \$1,200 credit for household and dependent care services, but no child tax credit and no benefit from the earned income tax credit. These calculations are discussed at length, *infra* notes 100–117 and accompanying text.

99. See *supra* notes 89–90 and accompanying text.

alleviate those costs by increasing the amounts allowable for credits and exemptions. By using the Code as a form of partial subsidy to families, Congress can promote a pronatalist agenda that should, in turn, pay remarkable dividends in future decades.

Imagine an upper-middle class couple—Mr. and Mrs. Lawprof—with an adjusted gross income (AGI) of \$200,000 in 2008, who already have two children and are contemplating adopting a third from overseas, but are concerned about the potential expense. Section 23 of the Code offers couples a credit of up to \$11,650 in adoption-related expenses, but the Lawprofs would only be eligible for a portion of this.¹⁰⁰ Section 23(b) of the Code begins phaseouts of this adoption credit once a taxpayer reaches \$174,730 in AGI, and completely bars taxpayers with AGI of \$214,730 or above from receiving any of the credit.¹⁰¹ As a result, Mr. and Mrs. Lawprof, who earn between \$174,730 and \$214,730, would be affected by the phaseout. Once their AGI is taken into account, they could claim a credit of approximately \$7,360.¹⁰² If they were to spend more than this in adopting the child, though, the Code would offer no further benefit.

For the sake of argument, assume that the Lawprofs decided to go through with the adoption and incur the additional expenses. They now have three children, and can expect to spend about \$38,330 per year to raise them.¹⁰³ How does the Code help this family cope with their expenses? First, they could look to the earned income tax credit (EITC) of section 32 for help, but they would discover that they are not eligible for this relief.¹⁰⁴ The EITC offers assistance only to lower and lower-middle class taxpayers. Anyone who earned more than \$41,646 in 2008, like the Lawprof family, is ineligible for the credit.¹⁰⁵ Thus, a family like the Lawprofs must look elsewhere.

Having derived little benefit from sections 23 and 32, the Lawprofs could then turn to section 24, the child tax credit. Typically, families receive \$1,000 per qualifying child, with no limits on how many qualify-

100. I.R.C. § 23 (West Supp. 2008). Unless otherwise noted, assume that all necessary inflation adjustments for 2008 have been calculated according to Rev. Proc. 2007-66, 2007-45 I.R.B. 970.

101. I.R.C. § 23(b)(2)(A) (West Supp. 2008).

102. *Id.* To arrive at this figure, take the AGI of the couple—in this case, \$200,000—and subtract the phaseout amount of \$174,730. Take the resultant \$25,270 and divide by \$40,000 to get the appropriate percentage which will be applied against the maximum credit. In this case, the proper percentage is .63175, which is multiplied against the \$11,650 maximum credit for a credit of \$7,359.89 for this family, or approximately \$7,360.

103. See *supra* note 97 and accompanying text.

104. I.R.C. § 32 (West Supp. 2008).

105. Internal Revenue Service, 2008 Earned Income Tax Credit (EITC)—Should I Claim It?, *available at* <http://apps.irs.gov/app/eitc2008/ProcessIncomeEligibility.do> (last visited April 15, 2009).

ing children a taxpayer may claim.¹⁰⁶ The Lawprofs might assume, then, that they would be entitled to a \$3,000 credit—\$1,000 for each child. Unfortunately for them, they cannot claim this credit either. Section 24 begins phaseouts of the credit once a taxpayer exceeds \$110,000 in AGI. The credit is to be reduced (but not below zero) by \$50 for each \$1,000 by which the taxpayer's AGI exceeds the threshold amount of \$110,000.¹⁰⁷ Because the Lawprofs make \$200,000 per year, they have exceeded the threshold ninety times. A \$50 reduction of the credit taken ninety times would be \$4,500, and only sixty of those ninety reductions would be needed to completely eliminate the \$3,000 credit that they were hoping to receive.

This family is not entirely neglected by the Code, however. If the Lawprofs paid for dependent care services for their children so that both Mr. and Mrs. Lawprof could work, they would be able to claim a credit equal to 20 percent of whatever they paid for childcare expenses.¹⁰⁸ However, no credit would be allowable beyond 20 percent of the first \$6,000 spent.¹⁰⁹ Assuming this family paid at least \$6,000 in dependent care expenses for their children while they worked, they would be entitled to a tax credit of \$1,200 (\$600 per child). If they did not pay for child care services, however, they would not be entitled to receive any of this credit.

The final portion of the Code that the Lawprofs should consult for a potential tax break is section 151. Section 151 grants personal exemptions to each taxpayer for his or her dependents, which include the taxpayer's children.¹¹⁰ For the taxable year 2008, a taxpayer could claim an exemption for his or her dependents in the amount of \$3,500 each.¹¹¹ Phaseouts of this exemption amount begin once a taxpayer's AGI exceeds \$239,950, and since the Lawprofs made only \$200,000, they are unaffected by the phaseout.¹¹² They are thus entitled to an exemption of \$3,500 for each of their three children — a total of \$10,500.

106. I.R.C. § 24(a) (West Supp. 2008).

107. I.R.C. § 24(b)(2)(A) (West Supp. 2008).

108. I.R.C. § 24(a)(2) (West Supp. 2008).

109. I.R.C. 21(c)(2) (West Supp. 2008). A family can claim a credit of the applicable percentage (here, 20 percent) of \$3,000 in expenses in the case of one child, and 20 percent of \$6,000 in the case of two children. *Id.*

110. I.R.C. § 151 (West Supp. 2008). Dependents are defined in Section 152(a) as a "qualifying child"; "qualifying child" is later defined in Section 152(c)(2) as "a child of the taxpayer or a descendant of such a child."

111. I.R.C. § 151(d)(1) (West Supp. 2008).

112. I.R.C. § 151(d)(3)(C) (West Supp. 2008). Families with an AGI above \$239,950 can calculate their deduction as follows: For every \$2,500, or fraction thereof, that their AGI exceeds \$150,000, each personal exemption is to be reduced by 2 percent. I.R.C. § 151(d)(3)(A)–(B) (West Supp. 2008). However, for the taxable years 2008 and 2009, the phaseouts are to be reduced by one-third. Thus, the applicable reduction percentage must be multiplied by one-third, which then must be multiplied by the general \$3,500 exemption amount. I.R.C. § 151(d)(3)(E) (West Supp. 2008). This product must

In sum, the Lawprofs would be eligible for a \$1,200 dependent care credit, \$10,500 in personal exemptions for the children, and a \$7,360 one-time adoption credit. Compare these tax expenditures to the \$38,330 that the USDA has estimated as the cost of raising three children each year. The adoption credit would be of some assistance in the year of adoption, but not subsequently. Therefore, in most years, a family such as the Lawprofs would be eligible only for the personal exemptions and the dependent care credit. How much benefit, though, do those exemptions and credits actually provide?

First, we must understand that tax credits are a dollar-for-dollar reduction of tax liability.¹¹³ To roughly estimate how much income a tax credit shelters for a family, simply divide the tax credit by the applicable marginal rate. A family like the Lawprofs, who make \$200,000 a year, would fall in the twenty-eight percent marginal tax bracket for the taxable year 2008.¹¹⁴ Therefore, to determine how much their \$1,200 dependent care credit is “actually” worth, the Lawprofs would divide \$1,200 by twenty-eight percent, resulting in \$4,285.71 in sheltered income. They would then add this to their \$10,500 in personal exemptions—which are *not* dollar for dollar reductions in tax liability, but rather reduce taxable income—for a total of \$14,785.71 sheltered in a normal year. This total falls more than \$20,000 below the USDA estimates of the annual cost of raising three children. Only if the adoption credit were factored in would this family shelter enough money to cover the nearly \$40,000 it would cost to raise the children in a given year.¹¹⁵

In response to the financial burden borne by many American families, a cynic might reply, “So what? No one is making these people have children. If they don’t want to incur the cost, then they don’t need to have kids.” *But that is precisely the point.* When couples are forced to choose between children and wealth, some will undoubtedly choose wealth. If enough choose wealth, sooner or later the country ceases to replace its taxpayers at a sustainable rate, which ultimately leads to the negative consequences of population decline.

The solution to this problem is not difficult. The Code should be revised to alleviate the costs a taxpayer normally incurs in raising three

then be subtracted from \$3,500 to determine the applicable exemption amount for each eligible member of the household. *Id.*

113. Tax credits do not reduce the taxpayer’s gross income. Rather, credits reduce the overall tax liability. Imagine a taxpayer with gross income of \$100,000, pre-credit tax liability of \$25,000, and \$5,000 in credits. This \$5,000 in credits would get subtracted from the overall tax liability of \$20,000 (instead of being subtracted from the gross income of \$100,000).

114. Rev. Proc. 2007-66, 2007-45 I.R.B. 970.

115. If the adoption credit were factored in for 2008, the family would have an overall tax savings of \$41,071.42. The adoption credit itself, being worth \$7,360, would translate to \$26,285.71 in tax savings (\$7,360 divided by a 28 percent marginal tax rate).

children, which would thus create incentives for more taxpayers to have three-child families. An increase in the number of three-child families should help to boost the TFR above the replacement rate. Up to this point, this Note has used the USDA estimates for child-rearing costs for an upper-middle class family, but an even better figure for Congress to use in revising the Code would be the USDA's estimated costs for a lower, or lower-middle class, family.¹¹⁶ For a family with a pre-tax income of \$45,800 or less—those in the lower or lower-middle class—the USDA estimates the cost of raising three children at \$19,034.40 per year.¹¹⁷ Thus, Congress could use this estimate as a baseline for the bare minimum of what it costs a family to raise three children each year and amend the Code accordingly.

Congress should begin by looking at the personal exemptions granted under section 151 of the Code. The Code does not place a cap on the number of personal exemptions that a taxpayer may claim, so a family with three children would typically be entitled to a deduction of \$10,500 (\$3,500 per child) per year, which is more than half of the estimated costs of raising the three children.¹¹⁸ However, the problem with personal exemptions is that they do not apply to everyone. Section 151(d)(3) phases out the personal exemptions for taxpayers who exceed \$239,950 in AGI,¹¹⁹ consequently destroying the ability of many middle class taxpayers to claim the credit.¹²⁰ The practical effect is that lower,

116. The USDA breaks down the cost of raising a child into three pre-tax income groups: (i) those who earn less than \$45,800; (ii) those who earn between \$45,800 and \$77,100; and (iii) those who earn more than \$77,100. The cost of raising a child increases as the taxpayer's income increases. USDA REPORT, *supra* note 48, at ii. There are many plausible explanations for this, but one possibility is that this is the result of the parents' desire to provide the child with a standard of living commensurate with their own, rather than simply providing for the child's basic needs. Congress is likely to be unconcerned with compensating parents for maintaining the higher standard of living for their child, but might be more receptive to assisting parents in recovering expenses directly related to the child's basic needs. For this reason, the costs of raising a child in the lowest income bracket are probably the most accurate estimate of the actual costs of raising a child, and will be presumed to be so for the purposes of this analysis.

117. *Id.* The USDA estimates the cost of raising one child from birth to age eighteen at \$148,320. Table ES1, contained within the USDA Report, gives instructions to multiply this number by .77 for a child in a three-child family, which results in an average cost of \$114,206.40 to raise one child in a three-child family where the pre-tax income of the parents is \$45,800 or less. This \$114,206.40 must then be multiplied by three to obtain the total for raising three children from birth to age eighteen (\$342,619.20), and then divided by eighteen to determine the average cost per year, which is \$19,034.40.

118. I.R.C. § 151(d)(1), (4) (West Supp. 2008).

119. Currently, this section of the Code reduces the phaseout, but this provision expires in 2010. The applicable phaseout for 2008 begins at \$239,950 and completely eliminates any personal exemptions for taxpayers who exceed \$362,450 in AGI. I.R.C. § 151(d)(3)(E) (West Supp. 2008).

120. I.R.C. §§ 151(d)(3)(A)–(C) (West Supp. 2008).

lower-middle-, and middle-middle-class taxpayers are financially encouraged to have large families, while upper-middle class taxpayers derive no economic benefit. Thus, these high-income taxpayers may decide to have few children, if any. To remedy this problem, Congress should eliminate the phaseouts of dependent-based personal exemptions so that all taxpayers will have the same incentive to raise large families.

Similarly, section 24, which ordinarily allows a \$1,000 child tax credit, completely phases out the credit once joint-filing taxpayers reach \$130,000 in AGI.¹²¹ As a result, many middle-class taxpayers are prevented from receiving any benefit under this section. To encourage these higher-income taxpayers to raise children, Congress should eliminate the phaseout provision altogether (or drastically increase the threshold at which the phaseouts begin) so that all members of the middle class will have an opportunity to claim the credit. Furthermore, Congress should amend the definition of “qualifying child” in section 24, which is currently defined as “a qualifying child of the taxpayer. . . who has not attained age 17.”¹²² The USDA child-cost estimates are based on assumptions that taxpayers will pay to raise their children *through* the age of seventeen, rather than *up to* the age of seventeen, so the “qualifying child” definition in section 24 should be increased by one year, thus allowing a credit for all children of a taxpayer who have not yet attained the age of eighteen.

The effect of such changes to section 24 would be significant. Consider, for example, a taxpayer in the 28 percent bracket, such as the Law-prof family mentioned previously. A tax credit of \$3,000—\$1,000 per child for three dependent children—would net tax savings of more than \$10,700.¹²³ This, combined with the \$10,500 that could be claimed in personal exemptions, would protect from taxation the income required to raise three children.¹²⁴ Taxpayers in lower tax brackets would shelter even more.¹²⁵ Even joint filers in the 35 percent tax bracket would shelter over \$8,571 in income. When combined with the \$10,500 sheltered via personal exemptions, these high-end taxpayers would net a tax savings of \$19,071—over thirty dollars more than the estimated minimum costs of raising the children.

121. I.R.C. §§ 24(a)–(b) (West Supp. 2008).

122. I.R.C. § 24(c)(1) (West Supp. 2008).

123. To arrive at this figure, take \$3,000, which is the amount of the credit, and divide by the percentage listed in the applicable tax bracket. Here, \$3,000 divided by 28% yields a result of over \$10,700.

124. Recall that the minimum cost of raising three children was estimated as \$19,034.40, whereas taxpayers with the highest incomes would pay an average of \$38,330.60 per year for three children. USDA REPORT, *supra* note 48, at ii.

125. For married taxpayers filing jointly with three children, those in the 25 percent tax bracket would shelter \$12,000 in income, and those in the 15 percent bracket would shelter \$20,000 in income.

Making only these minor adjustments to the Code would significantly lessen the economic burdens felt by taxpayers raising three children. Yet, still more could be done. Further revisions could be made to entice taxpayers to raise three-child families. For example, section 21, which offers a credit for dependent-care expenses, does not provide any benefits beyond the first two children.¹²⁶ Specifically, subsection (c) dictates that a taxpayer may not claim more than \$3,000 in employment-related expenses incurred for the care of one qualifying child, and may not claim more than \$6,000 for “2 or more qualifying individuals.”¹²⁷ The structural setup of this provision implies that Congress felt that \$3,000 was sufficient for the child-care expenses of one child, and another \$3,000 (a total of \$6,000) was sufficient for the child-care expenses of a second child. Why not then raise the cap another \$3,000 (to \$9,000 total) for child-care expenses based on a third child? This minor adjustment would give taxpayers a benefit, however small, for having more than two children.¹²⁸ Even taxpayers who qualified for the minimum credit would still be entitled to \$1,800, which is quite a significant amount when considered in the context of how much income would actually be sheltered (over \$6,000 for those in the twenty-eight percent bracket) by such a credit.¹²⁹

Section 32, which offers an earned-income tax credit to low-income taxpayers, should remain largely intact. The main issue with this section is that it, like section 21, caps the number of qualifying children at two; that is, taxpayers receive no benefit beyond the second child.¹³⁰ Low, middle, and high-income taxpayers alike should all be encouraged to have three children, so section 32 should be amended to allow a credit to low-income taxpayers for “3 or more qualifying children,” rather than the current provision which allows a credit for “2 or more.”¹³¹

Section 23, which permits a credit for adoption-related expenses, offers couples an initial financial incentive to raise children, but it too is far from perfect. This section, like many others in the Code, phases out the credit to reduce its applicability to upper-income taxpayers.¹³² Why? Is it sound social policy to encourage lower and lower-middle class taxpayers to adopt children, but to withhold the same encouragement from the upper and upper-middle class? Consider this: a taxpayer who adopts a

126. I.R.C. § 21 (West Supp. 2008).

127. I.R.C. § 21(c)(2) (West Supp. 2008) (emphasis added).

128. This would be a third \$600 credit. *See supra* notes 108–109 and accompanying text for a brief explanation of how this credit is calculated for two children.

129. I.R.C. § 21(a)(2) (West Supp. 2008). Twenty-eight percent applied against \$9,000 in expenses would yield a credit of \$1,800, which would roughly translate to \$6,428 sheltered.

130. I.R.C. § 32(b) (West Supp. 2008).

131. *Id.*

132. I.R.C. § 23(b)(2) (West Supp. 2008).

child with “special needs”—which includes children with physical or mental handicaps—is entitled to the maximum credit of \$11,650, but if that taxpayer’s AGI exceeds the threshold amount, this credit is significantly reduced or eliminated entirely. Would it not be better policy to encourage upper-income taxpayers to adopt special-needs children? After all, these taxpayers have greater resources at their disposal to care for children with such needs over the course of their lifetimes. Logic, then, would dictate that the government should offer these taxpayers as much incentive as possible to adopt children with special needs, because (a) upper-income taxpayers have greater financial ability to care for these children over the long term than lower-income taxpayers, and (b) the government will be saved the expense of caring for these children should they not be adopted at all.

Nevertheless, this is beside the point. High-income taxpayers should not only be encouraged to adopt children with special needs, but to adopt *any* child. In promoting a pronatalist agenda, Congress needs to persuade all families, and specifically middle class families, to raise at least three children. Provisions that phase out child-related credits for upper-middle class taxpayers cut against this goal because those taxpayers have fewer incentives to raise large families. Therefore, the phaseout of the adoption credit for upper-income families should be eliminated so that they will have greater incentive to adopt.

At this point, an attentive reader might be thinking, “Wait a minute. How will adoption boost the TFR? Aren’t adopted children already included in the fertility rate?” This is perhaps a valid concern when limiting the discussion solely to domestic adoption. International adoption, however, is quite another matter. Adopting children from other nations should alleviate some of the problems associated with low fertility rates domestically, as international adoption will increase the total number of individuals counted among the national population, and can thus play a role in circumventing the dangers of population decline. Moreover, domestic adoption should still be encouraged, because a governmental promotion of domestic adoption could help engender a pro-adoptive mentality on a societal level, which in turn might persuade women with unplanned pregnancies to forgo elective abortions. If a substantial number of these women decide to allow their children to be adopted, rather than to abort them, we will likely see a rise in the TFR.

In summary, Congress should have three general goals when revising the Code. First, it should use the USDA’s minimum estimates of the costs of raising three children, \$19,034.40, as a baseline measurement of how much income must be sheltered to encourage taxpayers to have three-child families. Second, all applicable provisions should extend exemptions and credits to at least the first three qualifying children of the taxpayer who have not yet attained the age of eighteen, because the USDA estimates are based on the costs of raising children from birth

through age seventeen. Third, all phaseouts should be eliminated, or at least have the threshold amounts for the phaseouts dramatically increased, so that upper-middle class taxpayers will have greater motivation to have large families. If these reforms are instituted and taxpayers are given more economic reasons in favor of having children, middle-class Americans will be less likely to use the cost of children as an excuse for small families. Thus a pronatalist revision of the Code would likely have the effect of boosting our nation's sagging total fertility rates.¹³³

B. *The Ecclesiastical Solution: Adherence to the Natural Law*

In addition to reforming the Code, our nation's citizens and lawmakers would be wise to heed the message of the Catholic Church, which is the authentic interpreter and guardian of the natural law.¹³⁴ Guided by basic precepts of the natural law, the Church has consistently promoted pronatalism as a means of combating the Supreme Court's endorsement of the contraceptive mentality. Her initial response to the Court was Pope Paul VI's 1968 encyclical letter *Humanae Vitae*, proffered a mere three years after the Supreme Court's ruling in *Griswold*.¹³⁵ Similarly, three years after the Supreme Court reaffirmed a woman's right to have an abortion in *Planned Parenthood of Southeastern Pennsylvania v. Casey*,¹³⁶ Pope John Paul II conclusively rejected the Court's ruling by promulgating his Papal Encyclical *Evangelium Vitae*.¹³⁷ Both of these documents emphatically declare the Church's unequivocal support for human life at every stage. Moreover, they expressly condemn contraception and abortion in all cases, regardless of the circumstances.

Pope Paul VI promulgated *Humanae Vitae* to address the Church's growing concern over birth regulation, and specifically the regulation achieved through contraception and abortion. He began his letter by acknowledging that while children can be a hindrance to wealth,¹³⁸ men and women

are not free to act as they choose in the service of transmitting life, as if it were wholly up to them to decide what is the right course

133. There is, of course, a tradeoff. The government would necessarily have to sacrifice substantial tax revenue in the short term so that it might have a broader tax base in the long term. The precise financial impact that these suggested tax revisions would have on the government's tax revenue is an interesting question, but is, unfortunately, beyond the scope of this Note.

134. *Humanae Vitae*, *supra* note 91, at § 4.

135. *Id.*

136. 505 U.S. 833 (1992).

137. Pope John Paul II, *Evangelium Vitae: Encyclical of Pope Paul II on the Value and Inviolability of Human Life* (March 25, 1995) [hereinafter *Evangelium Vitae*].

138. *Humanae Vitae*, *supra* note 91, at § 2.

to follow. On the contrary, they are bound to ensure that what they do corresponds to the will of God the Creator.¹³⁹

This divine will, he explained, mandates that conjugal acts may lawfully¹⁴⁰ take place only in the context of the marriage relationship.¹⁴¹ "Each and every marital act," he proclaimed, "must of necessity retain its intrinsic relationship to the procreation of human life."¹⁴² The marriage act itself is based upon an inextricable link between unitive and procreative aspects that were created and ordained by God.¹⁴³ Man may not, of his own accord, destroy this connection, for when he attempts to do so he acts "in opposition to the plan of God and His holy will."¹⁴⁴

Paul, speaking for the Church, thus denounced contraception, abortion, and sterilization, and also expressly rejected any action that takes place before, during, or after sexual intercourse that specifically aims to avoid procreation. Such practices, Paul noted, are to be condemned, for they are "intrinsically wrong."¹⁴⁵ As an alternative to these methods of birth regulation, Paul suggested couples rely on natural family planning, a method in which married couples engage in sexual relations only during those times of the wife's menstrual cycle which render her infertile.¹⁴⁶ In this way, the couple reduces the likelihood of pregnancy but does nothing to change the nature of the conjugal act, thereby leaving themselves open to God's will should He desire to bring new life into the world.¹⁴⁷

In rejecting the various forms of artificial birth control, the Pope was quick to point out that he only promoted "the law of God Himself."¹⁴⁸ The Church has been entrusted with the power to authoritatively interpret the natural law, he noted,¹⁴⁹ whereas various governments

139. *Id.* at § 10. Paul's discussion of procreation occurs entirely in the context of marriage, as the natural law only permits married couples to engage in procreative acts. *Id.*

140. This assertion is made in the context of the moral law. Paul traces his authority back to Christ, who communicated his divine power to interpret the moral law to the Apostles and their successors. *Humanae Vitae*, *supra* note 91, at § 4.

141. *Id.* at § 8.

142. *Id.* at § 11.

143. *Id.* at § 12.

144. *Id.* at § 13.

145. *Id.* at § 14.

146. *Id.* at § 16.

147. *Id.*

148. *Id.* at § 20.

149. *Id.* at § 4 ("No member of the faithful could possibly deny that the Church is competent in her magisterium to interpret the natural moral law."); *See also* CHARLES E. RICE, 50 QUESTIONS ON THE NATURAL LAW: WHAT IT IS AND WHY WE NEED IT 235-36 (1999) ("There has to be an ultimate authority [on the natural law] Because an interpreter is needed, the claim of the Catholic Church—that the authoritative interpreter is the Pope as the Vicar of Christ, who is God—merits consideration. If not the

have not.¹⁵⁰ Consequently, Paul cautioned against affording public authorities, many of whom disregard the moral law, the power of interpreting it.¹⁵¹ These authorities, he warned, could sanction and perhaps recommend the use of artificial methods of birth control, and might ultimately even require their use.¹⁵²

The promulgation of his encyclical suggests that the Pope was distraught, in part, by the Supreme Court's ruling in *Griswold*. Although there is no way to measure how many children were denied birth through Court-approved contraceptive practices, the fact that the TFR dipped from 2.91 in 1965, when *Griswold* was decided, to 2.01 by 1972, the year of *Eisenstadt*, implies that contraceptive use may have played a major role in the decline of total fertility rates in those years.¹⁵³ What is certain, though, is that in the absence of legalized contraception, the United States' TFR had always been above replacement level.¹⁵⁴ Thus, heeding Pope Paul VI's call to avoid contraception could—and likely would—lead to similar above-replacement level TFRs today, as the United States is currently closer to the replacement level than it has been at any other time in the past thirty-five years.¹⁵⁵

Although Paul's encyclical condemned both contraception and abortion, its practical application in the United States was limited primarily to contraception until 1973.¹⁵⁶ However, after the *Roe* Court announced that the fundamental "right of privacy . . . is broad enough to encompass a woman's decision whether or not to terminate her pregnancy,"¹⁵⁷ American TFRs began to plummet, culminating in a low of 1.74 in 1976 and hovering between 1.80 and 1.84 for much of the 1980s.¹⁵⁸ Unlike contraceptive practices, though, which have no way of being measured, abortion statistics have been kept by the U.S. government since 1969.¹⁵⁹ Over that span, at least 800,000 unborn children

Pope, who else could adequately serve as the visible moral authority?") [hereinafter 50 QUESTIONS].

150. For a brief introduction to the natural law, see, e.g., J. BUDZISZEWSKI, NATURAL LAW FOR LAWYERS (2006), and CHARLES E. RICE, 50 QUESTIONS ON THE NATURAL LAW: WHAT IT IS & WHY WE NEED IT (rev. ed. 1999).

151. *Humanae Vitae*, *supra* note 91, at § 17.

152. *Id.* ("Who will prevent public authorities from favoring those contraceptive methods which they consider more effective? Should they regard this as necessary, they may even impose their use on everyone.")

153. BIRTH DEARTH, *supra* note 2, at 171.

154. *Id.* at 14 (discussing American TFRs since 1790), 171 (displaying TFRs from 1945 to 1986).

155. WORLD FACTBOOK, *supra* note 76.

156. Although various states allowed abortion prior to 1973, the practice was not permissible on a nationwide scale until *Roe v. Wade*. 410 U.S. at 139–140 (1973).

157. *Id.* at 153.

158. BIRTH DEARTH, *supra* note 2, at 171.

159. MMWR Report, *supra* note 80, at 1.

have been aborted per year.¹⁶⁰ In an effort to reduce that number, pro-life advocates chipped away at *Roe* for nearly twenty years, and the situation soon merited further review by the Supreme Court. In 1992, the Court again considered the abortion question in *Planned Parenthood of Southeastern Pennsylvania v. Casey*. The Court's plurality opinion in that case reaffirmed the "central holding" of *Roe*, re-emphasizing the constitutional protection of a woman's decision whether to terminate her pregnancy.¹⁶¹ The Court's opinion led to a second response from the Vatican.

John Paul II's monumental encyclical *Evangelium Vitae* ("The Gospel of Life") was designed to passionately reaffirm the Church's respect for and defense of human life. In that letter, John Paul clearly articulated papal doctrine, albeit with slight divergences from the teaching of his predecessor. He used language that paralleled the syntax used by the United States Supreme Court,¹⁶² and he emphatically rejected the Court's authority to sanction abortion and contraception.¹⁶³ Furthermore, he refused to accept economic arguments as legitimate bases for the contraceptive mentality, and instead urged a cultural transformation that would lead to the promotion of a culture of life. His condemnation of abortion was particularly emphatic: "I confirm that the direct and voluntary killing of an innocent human being is always gravely immoral."¹⁶⁴ Such killing is "always morally evil," he wrote, and "can never be licit" either as a means or as an end.¹⁶⁵

His teaching was not identical to that of his predecessor, Paul VI, though in a number of ways the two advanced similar ideas. For example, John Paul reiterated Paul's teaching that procreation is only for a man and woman joined together in marriage.¹⁶⁶ Children, he agreed, are "the supreme gift of marriage," and should be seen as a blessing.¹⁶⁷ He also affirmed Paul's interpretation of the natural law, acknowledging God as the sole Lord of life.¹⁶⁸ Moreover, John Paul vigorously condemned all

160. *Id.* at 13–15 (Table 1: Characteristics of women who obtained legal abortions—United States, 1973–2005). In most years, the number of abortions far exceeded 800,000, peaking at over 1.4 million in 1990. *Id.*

161. *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 860 (1992) ("Whenever it may occur, the attainment of viability may continue to serve as the critical fact, just as it has done since *Roe* was decided; which is to say that no change in *Roe*'s factual underpinning has left its central holding obsolete, and none supports an argument for overruling it.").

162. *See infra* notes 176–183 and accompanying text.

163. *See infra* note 184–187 and accompanying text.

164. *Evangelium Vitae*, *supra* note 137, at § 57.

165. *Id.*

166. *Id.* at § 43.

167. *Id.* at § 26 (quoting Second Vatican Council, *Gaudium et Spes* [*Pastoral Constitution on the Church in the Modern World*] § 50 (1965)).

168. *Id.* at § 39.

attacks against human life, just as his predecessor and the Second Vatican Council had,¹⁶⁹ and expressly denounced abortion and contraception, which he viewed as “specifically different evils” though “fruits of the same tree.”¹⁷⁰ However, whereas Paul had merely cautioned against giving governments the authority to permit contraception and abortion,¹⁷¹ John Paul forcefully argued that no government can ever legitimately permit the intentional killing of innocent human beings.¹⁷² No matter what reason is given, he proclaimed, there is never any justification for taking innocent human life.¹⁷³ He clarified that the unborn are to be included in the discussion of innocent human life, because the human experience begins at the moment of fertilization.¹⁷⁴ Therefore, killing an unborn child, “in whom the image of God is present, is a particularly serious sin.”¹⁷⁵

John Paul’s eloquent defense of the unborn adopted the language of the popular legal parlance, for it was addressed, in part, to the American judiciary. For example, in *Roe*, the Court framed the abortion issue in terms of “a woman’s decision.”¹⁷⁶ In his letter, John Paul adopted similar language, advocating that humanity has “the inescapable burden of *choosing* to be unconditionally pro-life.”¹⁷⁷ Likewise, just as the *Roe* Court had described abortion as a “fundamental” right,¹⁷⁸ which triggers a strict scrutiny standard of review,¹⁷⁹ John Paul framed his issue as the “fundamental right to life,” which should therefore be entitled to the same level of judicial deference.¹⁸⁰ In addition, John Paul mirrored the infamous “Mystery Passage” of the *Casey* decision—which discussed what is “[a]t the heart of liberty”¹⁸¹—when he asserted that the right to life is “at the

169. *Id.* at § 3.

170. *Id.* at § 13.

171. *Humanae Vitae*, *supra* note 91, at § 17.

172. *Evangelium Vitae*, *supra* note 137, at § 57.

173. *Id.* at § 58.

174. *Id.* at § 60.

175. *Id.* at § 55.

176. *Roe*, 410 U.S. at 153.

177. *Evangelium Vitae*, *supra* note 137, at § 28 (emphasis added).

178. *Roe*, 410 U.S. at 152–153 (“[O]nly rights that can be deemed fundamental . . . are included in this guaranteed concept of personal privacy This right of privacy . . . is broad enough to encompass a woman’s decision whether or not to terminate her pregnancy.”).

179. *Kadrmas v. Dickinson Public Schools*, 487 U.S. 450, 457–458 (1988) (“Unless a statute provokes ‘strict judicial scrutiny’ because it interferes with a ‘fundamental right’ . . . it will ordinarily survive an equal protection attack so long as the challenged classification is rationally related to a legitimate governmental purpose.”).

180. *Evangelium Vitae*, *supra* note 137, at § 71.

181. *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 851 (1992) (“At the heart of liberty is the right to define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life.”).

heart of the moral conscience."¹⁸² His word choice was no mere accident. Rather, he was specifically addressing the legal acceptance of our culture of death, which he viewed as "both a disturbing symptom and a significant cause of grave moral decline."¹⁸³

Although he adopted the language of the Supreme Court, he refused to accede to their authority on these matters. He pointed out that democracy, in and of itself, has no inherent moral value; rather, it obtains its moral value by adherence to the moral law.¹⁸⁴ The Court, he implies, has abandoned the moral law, by legitimizing practices—contraception and abortion—that it lacks the authority to legitimize. "No circumstance, no purpose, no law whatsoever can ever make licit an act which is intrinsically illicit, since it is contrary to the Law of God, which is written in every human heart," he argued, thereby rejecting the holdings of *Griswold*, *Eisenstadt*, *Roe*, *Casey*, and the like.¹⁸⁵ Such holdings, he suggested, are inherently lacking in any sort of judicial validity, and there is no obligation to obey these laws.¹⁸⁶ In fact, he argued just the opposite is true: everyone has an obligation to oppose them.¹⁸⁷

John Paul was aware of the dramatic effect that abortion and contraception were having on the Western world. He found the decline in the birth rate "disturbing,"¹⁸⁸ and hypothesized that TFRs were falling in part because of the legal promotion of individual freedoms. The main problem, as he saw it, is that crimes against life are viewed "as *legitimate expressions of individual freedom, to be acknowledged and protected as actual rights*."¹⁸⁹ This, he argued, "is a self-centered concept of freedom" because it "regards procreation as an obstacle to personal fulfillment."¹⁹⁰ Rather than seeing a child as a blessing to be cherished and nurtured for the good of both the family and society, the child is instead seen as "an enemy to be avoided at all costs,"¹⁹¹ who has the potential to "compromise[] the well-being or life-style" of the parents.¹⁹² This result is the unavoidable consequence of a society that values individualism above all else. "[P]eople inevitably reach the point of rejecting one another," the Pope warned. "Everyone else is considered an enemy from whom one has

182. *Evangelium Vitae*, *supra* note 137, at § 24.

183. *Id.* at § 4. Although this Note reflects primarily upon the decline of the middle class from an economic standpoint, Pope John Paul II's reflection of a cultural and moral decline merits exploration, as well.

184. *Id.* at § 70.

185. *Id.* at § 62.

186. *Id.* at § 72–73.

187. *Id.* at § 73.

188. *Id.* at § 16 (emphasis in original).

189. *Id.* at § 18.

190. *Id.* at § 13.

191. *Id.*

192. *Id.* at § 12.

to defend oneself.”¹⁹³ John Paul contends that this mentality forms the foundation of the culture of death: the “war of the powerful against the weak.”¹⁹⁴

Rather than merely condemning the problem, John Paul offered a solution: transform the culture.¹⁹⁵ The first step in this process “consists of *forming consciences* with regard to the incomparable and inviolable worth of every human life.”¹⁹⁶ The second step is a cultural adoption of natural family planning as the sole method of regulating births,¹⁹⁷ a practice his predecessor, Paul VI, also recommended.¹⁹⁸ John Paul emphasized that human beings are far more valuable than earthly riches, and thus as a third step called for a rejection of the materialist worldview and its accompanying desire for wealth. He encouraged all humanity to have “the courage to *adopt a new life-style*, consisting in making practical choices . . . on the basis of a correct scale of values: *the primacy of being over having, of the person over things.*”¹⁹⁹

Finally, John Paul argued, simply repealing unjust laws, such as those promulgated under *Griswold* and its progeny, would be insufficient. Rather, “[t]he underlying causes of attacks on life have to be eliminated *A family policy must be the basis and driving force of all social policies.*”²⁰⁰ Because children are the greatest gift of marriage, governments should promote pronatalist policies that encourage child-bearing by married couples.²⁰¹ A reform of the tax code would be a positive first step in promoting pronatalism, but still more could be done. Even if the lawmakers of this country cannot be convinced to overturn the *Griswold*-inspired decisions—either by constitutional amendment or subsequent Supreme Court decisions—individual Americans can still make the affirmative choice of rejecting the contraceptive mentality. Those who make this choice will assist in building a culture of life, a society dedicated to continuing itself, and a nation committed to raising fertility rates.²⁰²

193. *Id.* at § 20.

194. *Id.* at § 12.

195. *Id.* at § 95.

196. *Id.* at § 96 (emphasis in original).

197. *Id.* at § 97.

198. *Humanae Vitae*, *supra* note 91, at § 16.

199. *Evangelium Vitae*, *supra* note 137, at § 98 (emphasis in original).

200. *Id.* at § 90 (emphasis in original).

201. *Id.* at § 92.

202. LONGMAN, *supra* note 6, at 33 (“So where will the children of the future come from? They will come disproportionately from people who are at odds with the modern environment – from people who don’t “get” the new rules of the game that make large families an economic and social liability, or who, out of fundamentalist or chauvinistic conviction, reject the game altogether.”).

C. *Synthesis of the Solutions*

This Note has advocated two distinct methods for raising the total fertility rate above the replacement level. One option, which employs the power of the government, would entail a pronatalist revision of the tax code to provide financial incentives for raising three-child families. The other option, which is more of a grassroots initiative, would consist of individual citizens changing cultural norms through the way they live their lives, collectively building a culture of life in which human beings are valued and cherished above material goods and wealth. What should be immediately apparent in comparing these two alternatives is that they are intrinsically at odds with one another. The first option works within the current cultural framework, relying on—in fact, promoting—a materialist worldview. This option presumes that the accumulation of material wealth is a good, and offers couples the option of raising three-child families without sacrificing any of the comforts and amenities of a modern middle-class lifestyle. The second option takes a fundamentally different approach, implicitly rejecting materialism as a basic premise. Instead, this option calls for a transformation of culture, one in which human beings are given primary importance and consideration, and are fundamentally valued over material wealth.

Can these two options—one promoting and strengthening the materialist worldview, and the other rejecting it—be adopted in tandem? Should they? Yes, and yes. Both of these options are sorely needed and could have a dramatic impact on the TFR, particularly among the middle class. Those members of the middle class who are comfortable with the current cultural emphasis on material wealth would likely find a pronatalist revision of the tax code to be a more persuasive reason for having large families than the Catholic Church's interpretation of the natural law. Furthermore, they might exhibit a greater willingness to have three-child families if they know that they will not suffer overly burdensome economic consequences in raising a third child. Those middle-class citizens who embrace the authority of the Church, on the other hand, might find the teaching of the papacy to be a more compelling rationale. These people might be more inclined to alter their lives based on the ecclesiastical solution, rather than the secular one.

In summary, these solutions should be adopted concurrently. Although they differ in their underlying assumptions regarding the materialist worldview, both seek the same noble goal of raising the total fertility rate. Although each proposal, if adopted independently, would probably have a noticeable effect on the TFR, the two implemented in tandem would likely have a far greater impact on raising the fertility rate.

VII. CONCLUSION

If our fertility rates continue to lag beneath the replacement level, we will inevitably face population decline. Perhaps the greatest consequences of such a decline will be the collective aging of our population, the concomitant collapse of Social Security, and a faltering economy. If we take action now, though, we can prevent these harmful results from ever occurring. If the government promotes a pronatalist policy, it might be able to convince enough people to have more children—children who will in turn become the taxpayers of tomorrow, who will decrease the average age of the population, who will help stabilize Social Security funds, and who will assist in revitalizing our economy. One way to achieve this aim is through a reform of the tax code in which all taxpayers would be given incentives to raise three-child families. Another way to achieve a boost in fertility rates—one that could be done in the absence of Congressional or judicial action—is through adherence to the teachings of the Catholic Church, the authoritative interpreter of the natural law, which consistently promotes procreation, denounces the contraceptive mentality, and rejects the authority of governments to sanction or promote activities which result in the prevention or destruction of human life. Both of these options for raising fertility rates would likely have a noticeable effect if implemented individually, but they would have a far more substantial impact on the TFR if adopted concurrently.

As Pope John Paul II proclaimed in *Evangelium Vitae*, “Life is always a good.”²⁰³ Let us then protect this good—lawmakers and ordinary citizens alike—by promoting pronatalism and collectively building a culture of life. In so doing, we just might see our fertility rates rise, and avoid the oncoming dangers of population decline.

203. *Evangelium Vitae*, *supra* note 137, at § 34.

