



# **THE SUPPORTIVE STATE**

Families, Government,  
and America's  
Political Ideals

Maxine Eichner

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*Families, Government, and America's  
Political Ideals*

MAXINE EICHNER

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*For Hannah, Abe, and Eli, who both inspired this book  
and delayed its completion considerably, and for Eric, who,  
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# THE SUPPORTIVE STATE

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## Introduction

Most of us spend the majority of our lives in long-term relationships with others whom we consider family. These relationships have a fundamental influence on us from our day of birth, and are central to our emotional and moral commitments. They profoundly affect the way we live our lives on a daily basis. In addition, they serve an important role in meeting the dependency needs that must be met for citizens themselves and our society to flourish. It is through these relationships that we largely rear our children; handle much of the caretaking for sick, disabled, and elderly adults; and generally manage other issues of dependency, including financial dependency.

What role should the state play with respect to these critical ties among citizens? Until now, the set of beliefs and assumptions that has animated American political thought and public policy has had little to say about the inevitability of dependency in human lives and the important role families serve in dealing with dependency. These beliefs and assumptions generally derive from the dominant tradition of political thought in the United States, namely, that of liberal democracy.<sup>1</sup> Liberalism, particularly in its American incarnations, has largely conceived of citizens as able, autonomous adults, and has focused on them as individuals rather than as members of families. Conceiving of citizens in this manner has served valuable functions: It has helped ground the liberal moral ideal that all citizens should be treated as free and equal. It has also justified the important notion that citizens have an entitlement to rights that the state should safeguard.

However, although the liberal conception of humans as able, autonomous adults is an important moral ideal, it is still only a moral ideal. It is not, as it is often treated, an adequate ontological understanding of the human condition. The conception of citizens as able adults freezes citizens at one point in time in the human life cycle, and even then it exaggerates their independence from one another.<sup>2</sup> In reality, citizens spend most of their lives dependent on one another to some greater or lesser degree. Citizens are born completely dependent and live in near total dependence on others for roughly the first decade of their lives. They spend their next decade requiring considerable assistance from others, although

generally to a decreasing extent. During these first two decades, and often longer, they require a number of things to become healthy, flourishing adults and contributing members of the polity. For one thing, they require significant caretaking, which, for young children, involves a wide array of tasks. They must be supervised to ensure they are safe, played with, interacted with, fed, bathed, changed, put to bed, picked up when they are crying, and taken to the doctor when they are sick, among a hundred other activities. In addition to caretaking, children require certain things to foster the human development it takes for them to become sound adults and good citizens. During the course of youth, they must learn to perform for themselves many of the tasks that adults have performed for them. They must also develop deep and stable attachments with at least a few others, receive moral guidance, learn social skills, acquire an education and skills to support themselves when they reach adulthood, and develop citizenship skills. Meeting human development needs, like meeting caretaking needs, requires a considerable investment of time, attention, and resources.

Some small but significant number of citizens will never achieve a substantial degree of independence from the caretaking of others because of physical or mental disabilities. Most others will enter an adulthood in which they are largely, although never completely, independent. When it comes to dependency issues, no adult is an island; virtually all adults have some periods in which they require significant caretaking because of physical or mental illness, and most have intermittent periods of such dependence.<sup>3</sup> Further, a considerable portion of adults will experience serious disabling conditions that will leave them dependent for long periods of time, if not permanently.<sup>4</sup> And as they age and approach the end of life, most adults will become increasingly dependent on others for care.<sup>5</sup> Not only does all this mean that most people spend a good deal of their lives dependent on others, it also means that many citizens—particularly women and minorities—spend a good part of their adult lives engaged in caretaking for children or ill or aging adults.<sup>6</sup>

Focusing on the dependency of the human condition makes the picture of what citizens need from their government more complex than dominant versions of liberal democratic theory would have it. These versions conceive the state's role in terms of ensuring citizens' freedom to pursue their own life plans and, often, ensuring at least some measure of equality. Conceiving the state's role in this manner is a natural outgrowth of conceiving of citizens as able adults; given this conception of citizens, the appropriate role for the state is to ensure that their individual rights are respected. Further, if adults are conceived as capable and autonomous, the respect for human dignity that grounds liberalism requires, above all, ensuring their freedom and equality. Once the human life cycle is introduced into this picture, however, the importance of caretaking and human development come to the fore as every bit as important to the liberal democratic project as safeguarding the mainstream liberal goods of freedom and equality. The importance of caretaking and human development, in turn,

calls attention to the role of the family, which, in our society, has been the institution largely responsible for performing these functions.

To the scant extent liberal theory has attended to families, it has generally conceived of them as if, like the adults that head them, they properly are and should be autonomous. The goal of public policy, in this view, is to keep the family as free as possible from state intervention. Moreover, insofar as dependency needs of children arise, this theory contends that the autonomous adults who head families should properly deal with them, without action by the state. This view of family autonomy, however, like the view of individual autonomy, is a gross oversimplification.<sup>7</sup> In truth, the ways in which families function are always deeply and inextricably intertwined with government policy.<sup>8</sup> To mention just a few examples, child-labor laws keep children financially dependent on their parents; equal employment legislation has encouraged women's movement into the labor market and out of the home; and Social Security survivors' benefits influence some recipients not to marry. Most importantly, for the purposes of this book, law and public policy affect families' ability to deal with dependency needs. Because of this, and the critical role that sound families play in the lives of flourishing citizens and a flourishing society, the family-state relationship must occupy a central position in liberal democratic theory. The tasks of integrating dependency and the role that families play in dealing with it into liberal democratic theory, and considering the role that the state should play with respect to American families, are the subjects of this book.

Although this book seeks to put families in appropriate perspective as a matter of theory, the current neglect of dependency and families in dominant versions of liberalism has had far more than theoretical consequences in the United States. Political theory never translates seamlessly into public policy; there are always gaps and discontinuities. With that said, the theoretical tenets that have obscured the importance of families have prevented the formulation of coherent law and public policy regarding families in the United States. This has resulted in government policies that fall far short of achieving goods that we, as a nation, should care a great deal about.

At the top of this list of goods is the welfare of children. Contemporary liberal democracy's focus on protecting the rights and liberties of able adults, and its expectation that children's dependency issues will be dealt with solely by families headed by these adults, has made it difficult to formulate policies that adequately support children's well-being. The result is that the poverty rate among children in the United States is among the highest in the industrialized world, with 21.9 percent of all children and 30 percent of African-American children living below the poverty threshold. Although other relatively wealthy nations, such as France, Ireland, New Zealand, and the United Kingdom, have higher child-poverty rates than the United States before government aid, the United States'



government-aid policies are much less ambitious than these, and its child-poverty rates are, therefore, substantially higher.<sup>9</sup>

The lack of a well-thought-out theory of dependency in combination with the assumption of family autonomy has also resulted in laws that inadequately support families in ensuring that children receive the caretaking they need to flourish. The influx of women into the workforce during the past two generations has created a situation in which the citizens who had been largely responsible for raising children now have significant other demands on their time. Between 1975 and 2008, the percentage of women in the workforce with children under the age of six years grew from 39 percent to 63 percent.<sup>10</sup> Women with children between the ages of six and seventeen increased their participation in the workforce from 55 percent in 1975 to 75 percent in 2008.<sup>11</sup> Seventy percent of families are now headed either by two working parents or by an unmarried working parent.<sup>12</sup> Yet the United States has implemented very few policies to help families ameliorate the conflicts between work and family.<sup>13</sup> The result is that, on average, U.S. families work significantly more hours than they have in the past,<sup>14</sup> and far longer hours than parents work in other industrialized countries.<sup>15</sup> Meanwhile, younger children are placed in day care settings that are largely unregulated and generally not developmentally enriching.<sup>16</sup> Many older children, in turn, come home to empty, unsupervised homes.<sup>17</sup>

Among the many disadvantages for children caused by the extended hours that parents work is the negative impact it has on their relationship with their parents. A recent UNICEF report ranked the United States twenty-third out of twenty-five member countries of the Organization for Economic Cooperation and Development (OECD) in terms of the percentage of teens who eat dinner with their parents several times a week, an indicator of parental-child interaction that UNICEF found to be an important determinant in children's well-being.<sup>18</sup> Both this indicator and the U.S. child-poverty rates, among other factors, contributed to that same report ranking the well-being of children in the United States as second to last overall among OECD nations measured, twentieth of the twenty-one countries ranked, when all areas of children's well-being were measured.<sup>19</sup>

These blind spots regarding dependency also perpetuate gender inequality. As I noted earlier, they weaken the justification for the state to provide protection for working parents as well as for the many workers who care for sick or aging family members. Faced with jobs that do not accommodate caregiving, it is generally women who step off the career track and either leave the paid workplace or choose non-demanding "mommy-track" jobs so that they will have adequate time for this caregiving.<sup>20</sup> They do so at a substantial economic cost. A growing body of evidence suggests that the reduction in women's pay caused by childrearing is the primary factor in women's continued economic inequality with men in the United States.<sup>21</sup> Those women who are childless, by one calculation, earn 90 percent as much as men do; mothers, however, earn

only 70 percent as much as men.<sup>22</sup> This wage gap does not appear to be diminishing over time. Researchers considering it concluded that “children decrease women’s wages significantly, and this penalty has been quite stable.”<sup>23</sup> These inequalities in pay cause women to have less decision-making power within marriages, less future earning power in the case of divorce, and lower pensions in the case of their husbands’ deaths. Moreover, it is women’s child-care responsibilities that are the biggest continuing factor in the feminization of poverty.<sup>24</sup>

Yet the lack of attention to dependency and to the important role that the state can play in supporting families dealing with dependency issues has effects that extend still more broadly. The failure to support workers who have caretaking responsibilities puts the great number of families with significant dependency responsibilities in a significant bind for time. The influx of women into the workforce in the last four decades has caused families to add 10–29 hours per week working outside the home.<sup>25</sup> In an attempt to preserve family time, American parents have responded by spending significantly fewer hours socializing with friends and engaging in community activities than they once did. This has caused their social circles to narrow dramatically and the broader social networks in neighborhoods and communities to shrink.<sup>26</sup> Not only does this affect the quality of lives of those adults whose social circles have narrowed, but also the well-being of communities, which lack the benefits of engaged citizens. Further, the weakening of social ties among citizens negatively affects levels of civic trust in society, which is important for a democracy to function well.<sup>27</sup>

Among the many other effects of liberalism’s blindness to dependency, in combination with its myth of family autonomy, is that it leaves social programs that address dependency vulnerable to the criticism that they are inimical to our way of life. These programs are derided as “creeping socialism” or the rise of the “nanny state.” Even their supporters find them difficult to justify, since they have no coherent ideological structure within the dominant liberal understanding of the world on which to hang them.<sup>28</sup> The result is that public policies that address issues of dependency and families are generally patchwork rather than coherently laid out, and they are particularly vulnerable to the political vagaries of the time. This explains the drastic swings of policy regarding both welfare and foster care in the 1990s, as well as the extended debates regarding the propriety of single-parent families in that era.

The absence of a well-developed liberal theory regarding families also leaves questions unresolved about the legitimacy of particular family forms. The heated and rapidly-changing battle now being waged over same-sex marriage in the United States is a case in point. The recent admission of same-sex couples into the institution of marriage, first in Massachusetts, then in California (albeit temporarily), and in Connecticut, Iowa, Vermont, and New

Hampshire, represents a seismic shift in family law in these states.<sup>29</sup> Yet the majority of states have enshrined rejection of same-sex marriage explicitly into state law, many in their state constitutions.<sup>30</sup> The federal government has done the same for federal law.<sup>31</sup> This polarization between the states over same-sex marriage has shed a strong light on the ways that, even in the absence of a coherent theory of the family-state relationship, state power in the United States has routinely favored some families over others. Federal law and the law in most states currently grant hundreds, if not thousands, of privileges to those families deemed to warrant it—generally heterosexual marital families.<sup>32</sup> Yet these privileges are accorded with few coherent ideological underpinnings to justify them.

Same-sex marriage presents the most volatile and visible, but not the only, pressing issue with respect to how the state should deal with different types of families. The high contemporary divorce rates,<sup>33</sup> the increasing visibility of same-sex relationships,<sup>34</sup> the mushrooming rates of single-parent families,<sup>35</sup> and the growing number of couples who cohabit without being married<sup>36</sup> challenge conventional understandings that families necessarily take any pre-given form, removed from political and social circumstances. Today, fewer than one in four U.S. households consist of a husband, wife, and children, down from 44 percent in 1960.<sup>37</sup> That number drops to fewer than 10 percent for households in which both parents live with their biological children and the wife does not work outside the home.<sup>38</sup> The lack of a nuanced theory of the state's relationship to families has exacerbated the polarized debates taking place about nontraditional families, and has led to inconsistent public policies that apply to them.

Liberalism's problematic relationship with families and dependency has not been lost on legal and political theorists in recent years. In the past decade or so, the legal, political, and social developments surrounding families have spurred a long-overdue conversation regarding the family-state relationship.<sup>39</sup> Feminists, communitarians, and queer theorists have all pointed out liberal theory's shortcomings with respect to families. The great majority of this still relatively new discussion has consisted of critique of liberal theories and the policies derived from them. There has been much less focus on reconstructing the relationship between families and the state in a more productive manner. Moreover, those theorists who have sought to develop a new vision have generally called for the abandonment of liberal principles and the adoption of some other theoretical framework.

This book takes a different tack. It develops a normative account of the family-state relationship that is liberal in nature, at least if the term *liberal* is construed expansively. I use the term here in the broad sense of liberalism as a theory of the state that is committed to the equal dignity of all human beings, the importance of limits on government, considerable respect for individuals' own views of how to live their lives, and the view that legitimate government is

grounded in the consent of the people.<sup>40</sup> Although this definition of liberalism is more expansive than some liberals would have it, it comports with earlier understandings of this line of thought. Conceived in this way, in my view, liberalism is a tradition worth preserving so long as it is amended to accommodate the recognition of dependency and the role of families. Staying within the liberal tradition also has the virtue of not foreclosing the possibility of political relevance. For better or worse, our political tradition is overwhelmingly liberal. A theory of dependency that can be squared with this tradition has a greater chance of being implemented than one that radically departs from it.

The theory I develop, however, rejects the more limited recent understanding of liberalism as a theory that requires the state to be neutral on all visions of the good life, and dedicated above all to furthering individual justice (generally described, depending on the theorist, in terms of some optimal mix of liberty and equality). That understanding, most prominently associated with John Rawls,<sup>41</sup> has come under fire by liberal revisionists in the last decades, who argue that a liberal polity must strive to further a broader range of goods and purposes than the individualistic versions of justice that have been associated with it in contemporary liberal theory.<sup>42</sup> Some of these revisionists call themselves “civic liberals,” to signal their views that a healthy, liberal democracy demands that the state seek to promote the values of community and civic virtues, in addition to the standard liberal goods. I agree with the view that liberalism needs to achieve greater moral complexity than it has demonstrated in recent years,<sup>43</sup> but I think these liberal revisionists have not cast their nets widely enough. Specifically, given the significant role that dependency plays in the human condition, the state must seek to expand its purposes to support caretaking and human development. This places me in the company of those feminists who have argued that the liberal state must recognize the virtue of care.<sup>44</sup> Among the most important means to support caretaking and human development, I contend, is through supporting families. Support for families is necessary to further the value of human dignity, which gives liberal democracy much of its normative appeal. Once we recognize the dependency of the human condition, supporting caretaking and human development becomes necessary so that citizens can lead full, dignified lives, both individually and collectively.

The account developed in this book not only seeks to draw on liberal principles, but democratic principles as well. Although I generally treat liberalism and democracy as if they walk hand-in-hand on issues of family and state, the fact that the two are so often linked can sometimes obscure the tension between the two concepts.<sup>45</sup> Those who stress the *liberal* in liberal democracy see the point of that form of government as being the preservation of individual rights to allow citizens to live their lives as they choose. Those who stress the *democratic* aspects, in contrast, focus on the exercise of collective self-government as individual citizens join together to create a political community that together

determines its way of life. Families play an important role at the juncture between these two conceptions, not only serving as the emotional center of many citizens' life plans, but also serving a key role in developing the traits and virtues necessary for the collective self-rule on which democracy depends.

To be viable, a theory of liberal democracy must recognize both the private and public aspects of the family. To do so, it must stitch together the dominant liberal purposes of the state in safeguarding liberty and equality with support for caretaking and human development. This theory must also take into account the complex ways that families affect the goods necessary for democracy, including a sense of community among citizens, and the presence of civic virtues in the citizenry. It is only by considering this richer range of goods and principles, and by seeking more nuanced approaches that ameliorate the inevitable tensions among them, that the appropriate relationship between families and the state can be brought into focus.

My argument that the state has an integral role in supporting families puts me in conflict with a number of scholars and commentators across the political spectrum. In contrast with some conservatives, I reject the idea that state support for families leads to dysfunctional dependency. In fact, in my view, supporting families is as central to a sound polity as developing a competent police force to ensure citizens' safety. I am, however, more willing to require that families bear significant financial responsibility, as well as other forms of responsibility, for caretaking and human development functions than some of my colleagues on the left.<sup>46</sup> And, in contrast to other colleagues on the left who argue that state support for some forms of families is both narrow-minded and discriminatory and seek instead the repeal of privileges, I take the position that the state has good reasons to privilege and support particular family relationships.<sup>47</sup>

When it comes to determining which relationships should receive state support, I define the field expansively, in contrast to those on the right and in the middle of the political spectrum. A wide range of long-term relationships can foster the caretaking and human development necessary for a flourishing citizenry, and are, therefore, good candidates for state support. As a result, I take issue with those who argue that there is some sort of "natural" family out there that is the only sort that the state should privilege,<sup>48</sup> and with those who contend that the state should support only heterosexual marriage because it is the best environment in which to raise children.<sup>49</sup>

But why start with considering families at all when thinking about how society should deal with issues of dependency? The longer answer to this question, laid out in the course of this book, is that families properly form a vital part of the caretaking networks necessary for flourishing citizens and a flourishing society, even if they should never be taken for the whole of such caretaking networks. The shorter answer to this question is that it is because families—defined broadly—currently constitute a key institution responsible for dealing with dependency issues. Perhaps if we were constructing society from the ground up,