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THE FAMILY AND THE STATE*

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I. INTRODUCTION

CHILDREN are incapable of caring for themselves during many years of physical and mental maturation. Since their mental development is not sufficient to trust any contractual arrangements they may reach with caretakers, laws and social norms regulate the production and rearing of children. Laws punish child abuse, the sale of children, and unauthorized abortions. They provide compulsory schooling, welfare payments to families with dependent children, stringent rules about divorce when young children are involved, and minimum ages of marriage.

Trades and contracts are efficient if no deviation from the terms would raise the welfare of all participants. An alternative criterion for efficiency is that the monetary gains to those benefiting from a deviation do not exceed the monetary loss to those harmed. Unfortunately, the immaturity of children sometimes precludes efficient arrangements between children and parents or others responsible for child care.

This difficulty in establishing efficient relations within families provides the point of departure for our interpretation of the heavy state involvement in the family. We believe that a surprising number of state interventions mimic the agreements that would occur if children were capable of arranging for their care. Stated differently, our belief is that many regulations of the family improve the efficiency of family activities. To be sure, these regulations raise the welfare of children, but they also raise the welfare of parents, or at least they raise the combined welfare of parents and children.

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