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PURPLE HAZE

Clare Huntington*

RED FAMILIES V. BLUE FAMILIES: LEGAL POLARIZATION AND THE CREATION OF CULTURE. By Naomi Cahn & June Carbone. New York: Oxford University Press. 2010. Pp. 288. \$29.95.

INTRODUCTION

It takes only a glance at the headlines every political season—with battles over issues ranging from abortion and abstinence-only education to same-sex marriage and single parenthood—to see that the culture wars have become a fixed feature of the American political landscape. The real puzzle is why these divides continue to resonate so powerfully. In *Red Families v. Blue Families: Legal Polarization and the Creation of Culture*, Naomi Cahn¹ and June Carbone² offer an ambitious addition to our understanding of this puzzle, illustrating pointedly why it is so hard to talk across the political divide. In a telling anecdote in the conclusion of their book, Cahn and Carbone recount how, upon hearing that the rate of nonmarital births had risen to 38 percent of all births in the United States, a conservative commentator attributed this shift to the growing acceptance of same-sex marriage.³ Cahn and Carbone relate their astonishment at this, given *their* certainty that the increase in nonmarital births was due to the prevalence of abstinence-only education, the inaccessibility of contraception and abortion, and the poor economy (pp. 206–07). They readily admit that they had no more evidence to back their conclusion than did the conservative commentator. Instead, both sides resorted to strongly felt, though unproven, intuition. As Cahn and Carbone sum it up, “[s]uch is the nature of the culture wars” (p. 207).

As a starting point for understanding this intractable state of affairs, Cahn and Carbone paint a map of American families that tracks familiar political divisions. Cahn and Carbone contend that families in politically conservative red states embrace family values that center around the “unity of sex, marriage, and procreation” (p. 2). Families in blue states, by contrast, accept premarital sex as a given and educate their children to use contraception (and abortion, if necessary) to ensure that teens and young

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3. P. 206 (citing Maggie Gallagher, *Re: Marriage Proposal*, NAT’L REV. ONLINE, Mar. 10, 2009, <http://www.nationalreview.com/corner/178528/re-marriage-proposal/Maggie-gallagher>).

adults do not start families until they are emotionally and financially mature (pp. 1–2).

The great irony of this divide, Cahn and Carbone note, is that family practices do not follow family values. It is blue families that embody (at least some) red values, tending to get divorced at a lower rate and have fewer teen births (pp. 20–29). In tension with their espoused values, red families have relatively high rates of divorce and teen births (pp. 20–29).

Although their map of red families and blue families has its limits—as I elaborate in Part I, the divide may be better understood to run along class rather than electoral lines—it still provides new insights into American families. More than unearthing the ironies of ideology and practice, however, Cahn and Carbone offer intriguing insights into the deep resonance of the culture wars. Drawing upon the Cultural Cognition Project at Yale and the work of scholars such as the linguist George Lakoff, Cahn and Carbone convincingly argue that the red and blue filter will continue to distort the views of anyone who dares to cross the color barrier.

Cahn and Carbone offer two central solutions to this distorting lens: changing the subject and devolving policymaking to the states. These solutions, however, are unsatisfying. In many contexts it simply is not possible to change the subject, particularly when it comes to emotional issues at the heart of political divisions over the family. And for many issues, only a national solution will work, because devolution will tend to exacerbate the very parochialism that gives rise to such deep divides about the family in the first place.

Accordingly, this Review builds on the insights of Cahn and Carbone to develop a pragmatic program for bridging the divide that neither avoids true differences nor retreats to balkanized localism. Part I provides an overview of the book, both describing its central contribution and critiquing the red-families-versus-blue-families frame. Part II presents an alternative approach to defusing the culture wars that would involve learning to talk from red to blue and blue to red and crafting acceptable compromises in values and goals—truly finding purple.

I. MAPPING AMERICAN FAMILIES

In the first third of *Red Families v. Blue Families*, Cahn and Carbone present a rich description of family values and family practices, arguing that these break down largely along electoral lines. Their categories are both under- and over-inclusive, but the red and blue paradigms they describe are helpful in understanding why the culture wars continue to rage over the family in American politics.

A. Hues of American Family Life

The central descriptive claim of the book is that American families fall into two groups—red families and blue families. Red families espouse what are often called “traditional family values”—the ideas that sex should not

precede marriage, that children should be born only within marriage, that marriage is reserved for opposite-sex couples, and that sexuality should be controlled. The strongest marker of a red family, then, is early family formation.⁴

By contrast, blue families are more liberal in their attitudes towards family matters, believing that women should participate in the paid workforce and have the control over their fertility necessary to facilitate this participation, that men and women should play equal roles in the family and workplace, and, perhaps most importantly, that childbearing should be delayed until a couple is financially and emotionally ready (p. 1). Blue families, as a result, delay family formation until after completing college or graduate school.

The “aha” moment in the descriptive portion of *Red Families v. Blue Families* is the revelation by Cahn and Carbone that family practices seem almost inversely related to family values. Blue states, with their liberal approach to family law, tend to have more traditional families, with low rates of divorce and teen pregnancy. Massachusetts, with its acceptance of same-sex marriage and relatively easy access to abortion, has the lowest divorce rate in the country (p. 28) and relatively few teen births (pp. 21–22). By contrast, Arkansas, with its opposition to same-sex marriage and dedication to abstinence-only sex education, has the second-highest divorce rate (p. 28) and a high rate of teen births.⁵ And—perhaps providing liberals with a dose of schadenfreude—the majority of evangelical teens become sexually active earlier than their peers who are members of religions with less strict attitudes towards sexual activity (pp. 4, 41–42).

As longtime family law scholars, Cahn and Carbone are too familiar with their subject to attribute a causal relationship to family structure and family law regimes. Instead, they carefully note that levels of income and age of marriage are the best indicators of divorce. For example, because men and women in Idaho marry at the second-lowest median age, it is no surprise that their divorce rate is among the highest in the country (pp. 25–28). By contrast, Connecticut has the fourth-highest median age of marriage and has a divorce rate among the lowest in the country (pp. 25–28).

Although the frame is engaging, it ignores segments of the American public—most notably lower-income African Americans and middle- and

4. P. 19. Although Cahn and Carbone do not define family formation, they use the term to encompass both first marriage and becoming a parent. Pp. 24, 40.

5. P. 22. Cahn and Carbone are careful to clarify that teen births are not the same as non-marital births. Pp. 22–23, 29. Although the teen birth rate is lower in blue states, p. 21, the teens who do give birth in blue states are more likely to do so outside of marriage, p. 22. For example, in Massachusetts, only 8 percent of teen births are marital. P. 22. By contrast, in Idaho, 36 percent of teen births are marital. P. 23. Cahn and Carbone argue that although we do not know definitively whether teens are getting pregnant because they are married, or getting married because they are pregnant, we do know that teens are more likely than other age groups to give birth within eight months of marriage, “suggesting that the shotgun marriage continues to be the solution for improvident pregnancy in some parts of the country.” P. 22. Finally, Cahn and Carbone note that the rate of *nonmarital* births does not follow the red-blue pattern. Disaggregating only white nonmarital births, states with the highest rate of nonmarital births include both red and blue states. P. 29.

upper-income supporters of Republican candidates—for whom family form does not necessarily follow voting patterns. The book thus elides several distinctions: class (non-college versus college graduates), voting patterns (Republican versus Democratic candidates), family form (early versus delayed family formation), and family values (sex in marriage versus sexual freedom). The conflation of educational attainment and voting patterns, in particular, tends to hide important variations in the red-blue families paradigm.

A look at a few statistics not cited by Cahn and Carbone illustrates this point: according to exit polls, 52 percent of college graduates voted for Bush in 2004,⁶ and 48 percent voted for McCain in 2008.⁷ Do these individuals fall within the red paradigm because they voted Republican, or the blue paradigm because, as college graduates, their families are more likely to be founded on marriage, have delayed family formation, have low divorce rates, and so on?⁸

Similarly, the frame does not accurately depict nonwhite Americans, particularly lower-income African Americans, whose voting patterns are overwhelmingly blue,⁹ but whose family form is more red, with, for example, higher rates of teen births (pp. 21–22). To maintain their frame, then, Cahn and Carbone control for race. For example, they cite statistics showing that the teen pregnancy rate for whites is lowest in the blue states of New Jersey, Connecticut, Massachusetts, New York, and Rhode Island, and highest in the red states of Arkansas, Kentucky, Mississippi, Oklahoma, and Tennessee—but this is only true when African American and Latino teenagers are excluded (pp. 21–22).

Cahn and Carbone admit these limitations, noting that “neither the family practices of minority communities nor the internal divisions within them translate automatically into the same construction of red and blue paradigms, nor do they necessarily carry the same political salience” (p. 11). Their solution is to acknowledge that the book is really about a particular segment of America, stating that “[t]he world views we are constructing in this volume, while they overlap with the views of many individual minori-

6. CNN National Exit Poll, President, 2004, <http://www.cnn.com/ELECTION/2004/pages/results/states/US/P/00/epolls.0.html> (last visited Aug. 21, 2010).

7. CNN National Exit Poll, President, 2008, <http://www.cnn.com/ELECTION/2008/results/polls/#USP00p1> (last visited Aug. 21, 2010). Breaking this down by state shows that college graduates in red states such as Arkansas and Idaho followed their state’s pattern, with 61 and 55 percent reporting in exit polls that they voted for McCain, respectively. CNN Arkansas Exit Poll, President, 2008, <http://www.cnn.com/ELECTION/2008/results/polls/#ARP00p2> (last visited Aug. 21, 2010); CNN Idaho Exit Poll, President, 2008, <http://www.cnn.com/ELECTION/2008/results/polls/#val=IDP00p2> (last visited Aug. 21, 2010).

8. Cahn and Carbone acknowledge this, stating that family structure “strongly reflect[s] wealth.” P. 29. Of course, this is not entirely true. As Cahn and Carbone explain later in the book, there are many college graduates who still have red families, at least in terms of family formation. See p. 73.

9. In 2008 exit polls, 95 percent of African Americans interviewed reported that they voted for Obama, see CNN National Exit Poll, President, 2008, *supra* note 7, and in 2004 exit polls, 88 percent reported voting for Kerry, see CNN National Exit Poll, President, 2004, *supra* note 6.

ties, do not adequately address either the way the debate is framed within minority communities nor the way minority communities might prioritize their own family needs."¹⁰

Although these omissions are troubling, it is unlikely that any overarching descriptive claim about an institution as varied as the American family could be all-encompassing.¹¹ Their claim has the virtue of resonating with a generalized understanding of American politics and is a useful starting point for understanding the culture wars.

B. *The Resonance of the Cultural Divide*

Cahn and Carbone are most persuasive, and most insightful, in their analysis of the impact of the red-blue paradigm on the culture wars. After putting the recent familial changes into historical context¹² and describing adolescent brain development to show why early family formation increases the risk of divorce and poor parenting (pp. 47–59), Cahn and Carbone begin to use the demographic differences to build their thesis—that the differences between red and blue families help illuminate why the culture wars exist.

One of the questions Cahn and Carbone seek to answer is why differences in family values trigger such a strong political response, when other differences in families and family law—such as the validity of premarital agreements, which varies greatly from one state to another—do not (p. 60). Their answer is that the red-family paradigm is inconsistent with the demands of the new information economy, which rewards investments in higher education. They contend that so long as unmarried young adults will continue to be sexually active (and chances are that they will),¹³ and so long

10. P. 11. This is not to argue that Cahn and Carbone are blind to the salience of race or insensitive to the needs of nonwhite families. For example, when talking about the tendency of blue families to encourage public tolerance but preach private discipline to their own children, Cahn and Carbone note that this approach may not work for all families: "[t]he leaders in more troubled communities, including many African American and Latino clergy, are often more socially conservative precisely because external authority is more critical where private discipline is harder to instill—and they understandably resent those who would denigrate their efforts." P. 4.

11. Cahn and Carbone call the red-blue frame an "organizing theme" that usefully captures the relationship between voting patterns and values on the one hand and family patterns on the other. P. 10. They note that blue families "most tellingly describe[] college graduates who live in blue regions." P. 11. For these families, there is considerable overlap among class, voting preferences, family values, and family form. For red families, Cahn and Carbone admit that there is tremendous diversity, from low-income whites living in Appalachia with high teen pregnancy rates to Mormons in Utah with a lower teen birth rate but also a low average age for marriage. Pp. 11, 30. Later in the book they argue that the real divide among Republican and Democratic supporters is an attachment to traditional values. P. 70.

12. For example, Cahn and Carbone note that in England the average age of marriage for women in the seventeenth century was 25.9 years of age, p. 33, whereas in the United States in 1960, the average age of marriage for women was 20.3, p. 25.

13. This is true regardless of ideological orientation—"[b]y the age of 44, 95% of the entire population will have had sex outside of marriage, and they will overwhelmingly have done so with someone other than a person they will eventually marry." P. 85.

as contraception and abortion are relatively difficult to obtain,¹⁴ then we can be certain that young women will have unplanned pregnancies. These pregnancies complicate women's ability to continue with their education—for example, only 2 percent of teenagers who give birth go on to graduate from college (p. 194). And when the pregnancies lead to "shotgun marriages," it is no wonder these marriages often end in divorce (p. 2). In today's economy, early family formation means less education and lower incomes. It also means a less stable family.

For blue families, the information economy has led to a new middle-class ethic that does not frame sexuality in moral terms but instead in rational and instrumental terms—"waiting produces a better life" (pp. 41, 44). In light of the challenges of completing an education while also raising a family, postponing family formation is the key to succeeding in the new economy. Blue families embrace this approach to family life and thus benefit economically from the new economy. Creating a cascade effect, blue families, with their greater economic stability, are able to invest in the earning potential of their children by sending them to college. These children, in turn, delay childbearing until after they have finished their education and are more emotionally mature and financially stable.

Disagreements over family issues are salient because, as Cahn and Carbone explain, red families are "mad as hell" that their approach to family life (early marriage and childbearing) is at odds with the new information economy (p. 207). Cahn and Carbone argue that blue family values—comprehensive sex education, access to abortion when necessary, same-sex marriage, and equality within marriage—offend red families, in part because these values are antithetical to red values, but also because these values are rewarded by the information economy. The red families thus feel embattled in their attempts to maintain their family values (pp. 73–74). They are angry that their way of life is at odds with what it takes to succeed in America and they resent that blue families benefit economically by espousing the offensive values (pp. 44–46, 73–74, 207). According to Cahn and Carbone, red families believe that the only way to address this conflict is rigid adherence to traditional values.

This reaction explains why issues such as abortion, same-sex marriage, and single parenthood assume "different symbolic and practical meanings" in red-family regions and blue-family regions (p. 30). For red families, these issues are a rearguard action in an all-out effort to protect their way of life and identity. For blue families, the focus is on preparedness for parenting, and if this means educating teenagers about contraception and even accepting abortion so that childbearing can be delayed, so be it.

The book thus explains why the culture wars are not only about differing values, such as a disagreement about when life begins. It is the combination of conflicting values coupled with ever-increasing relative economic re-

14. Cahn and Carbone present convincing evidence that this is true, at least for young women in red states. Pp. 104–05.

wards for the blue paradigm that has heightened the sense of moral alarm in red states, raising the stakes for everyone.

In a fascinating chapter entitled "Personality, Politics, and Religion," Cahn and Carbone explain why the culture wars are unlikely to go away. For some individuals, the changes in the family since the 1960s are a welcome opportunity to create something new, free from traditional moral constraints (p. 60). For others, however, the changes are deeply unsettling and call for a return to traditional values (pp. 60–61). Drawing on a rich body of research, Cahn and Carbone demonstrate how these divisions stem from "basic differences in personalities . . . and world views" (p. 61). The perspectives, therefore, are less likely to change.

Cahn and Carbone identify two groups—modernists, who value tolerance, equality, openness to change, and flexible thinking; and traditionalists, who value tradition, respect for authority, and a desire for clear rules and order (pp. 61–62). Although very few people are entirely modernist or traditionalist, drawing upon several bodies of work Cahn and Carbone contend that the groups usefully capture dominant worldviews. The Cultural Cognition Project at Yale posits that there are two relevant axes along which people fall: egalitarian versus hierarchical and social solidarity versus individualism.¹⁵ The work of the Cultural Cognition Project has demonstrated that for politically sensitive and symbolic issues, such as gun control and affirmative action, responses to these issues tend to fall along predictable lines, with individuals who self-identify as holding egalitarian and social-solidarity values lining up against individuals who self-identify as holding hierarchical and individualistic values (pp. 63–64). These views are relatively impermeable to new data points. For example, a person who is inclined to support gun rights is not going to change her view based on new evidence about the number of accidental shootings among children. Individuals perceive issues depending on their worldview and discount data challenging these views (p. 65).

Cahn and Carbone also discuss the work of linguist George Lakoff, who contends that liberals and conservatives use different metaphors to understand the relationship between the citizen and the state.¹⁶ These metaphors are rooted in images of the family. The "strict father" embraces fixed and hierarchical values and believes that the world is dangerous and that it is a parent's job both to protect and discipline the child in preparation for this world (p. 64). By contrast, the "nurturing mother" makes context-specific decisions that are geared to improving individual well-being; this person sees the parent's role as one of nurturance and inculcating responsibility (p. 64). Cahn and Carbone explain that when political issues draw upon these metaphors, the discussion is no longer a rational debate, deploying logic and

15. P. 63; see also Dan M. Kahan et al., *Whose Eyes Are You Going to Believe?* Scott v. Harris and the Perils of Cognitive Illiberalism, 122 HARV. L. REV. 837, 841, 849–54 (2009) (using this breakdown to discuss divergent reactions to a high-speed police chase); Cultural Cognition Project, <http://www.culturalcognition.net> (last visited Aug. 21, 2010).

16. P. 64. See generally GEORGE LAKOFF, *MORAL POLITICS: HOW LIBERALS AND CONSERVATIVES THINK* 143–76 (2d ed. 2002).

evidence. Instead, it becomes a debate conducted from within a specific worldview.

Cahn and Carbone then describe how Americans are increasingly likely to live and worship with people of similar political dispositions, thus reinforcing their beliefs and the larger political divisions (pp. 66–68). It is no accident that individuals with similar beliefs end up in the same states, setting the stage for the red-blue divide in the electoral map. Similarly, the rise of niche news distribution—think Fox News and MSNBC; Drudge Report and Huffington Post—means that people get information from sources that are unlikely to challenge their preconceptions.

Understanding the origins of our political attachments makes clear that disagreements are not going away. Deploying rational arguments, marshaling more facts, or simply yelling louder is not going to persuade the other side. Arguments such as “Hey, red staters, you’re getting divorced an awful lot and having lots of kids as teenagers. This isn’t good for your families” are unlikely to evoke responses such as “Oh, thanks for pointing that out. You’re right. We should become more like Massachusetts.” Attachments run deep, are rooted in personalities and worldviews, and are unlikely to be dislodged easily.

C. *Two Solutions*

Cahn and Carbone offer two main prescriptions: change the subject and return control over divisive family law issues to the states in order to defuse tension, allow for the expression of different points of view, and facilitate the development of pragmatic approaches to the differing needs of red and blue families. Both solutions, however, are unsatisfying.

Cahn and Carbone suggest that we change the subject in several of the most divisive debates. Instead of arguing about sex, we should talk about the more shared value of using marriage to promote commitment. In lieu of fighting over abortion, we should discuss contraception as the most important tool for preventing unwanted births. Rather than focusing sex education on teenagers, thus provoking claims of interference with parental authority, we should direct sex education efforts to young adults, who also have many unplanned pregnancies. Finally, instead of talking about families, we should talk about the workplace, and how it needs to become more family-friendly for both red and blue families (pp. 9, 190–92).

Changing the subject will not work, however, because these symbolic issues resonate on such a deep level that it is nearly impossible to distract individuals. The key component of these issues—and one largely unexplored by Cahn and Carbone—is their emotional valence. Both red and blue families want to transmit their values to the next generation. A foundational principle in family law is that the family safeguards cultural and moral diversity in matters of child rearing,¹⁷ in turn serving democratic

17. See Emily Buss, *Allocating Developmental Control Among Parent, Child and the State*, 2004 U. CHI. LEGAL F. 27, 27 (arguing that leaving the upbringing of children to private actors

principles.¹⁸ Cahn and Carbone argue that red families feel besieged in passing on their values in light of the strong pull toward the blue model, both culturally and economically (pp. 73–74).

This sense of investment in family issues is not surprising given the level of emotion associated with families—our own and others. Referring to families as “private” is a common trope, but it does not account for the tremendous possessiveness some individuals and groups seem to feel about other people’s families. Small-scale examples of this are ubiquitous, such as fathers and mothers at the playground watching and judging the parenting decisions of other parents. But a similar, and much broader, dynamic plays out at the societal level as well. Even when individuals are not directly affected by an issue touching on families, these outsiders often have the sense that they are affected.

And in many ways, we *are* affected. Children, of course, influence each other, thus moderating the lessons parents try to instill in their own children. The broader community also influences families, making it easier or harder for a family to maintain values that run counter to those of the majority. Think of a conservative, Christian family in Berkeley, or a same-sex couple in Provo. The “traditional values” family knows it will be harder to pass those values on to its children if most other families in the community embrace same-sex marriage, and vice-versa. Although some advocates of same-sex marriage deride opponents with such slogans as “Focus on Your Own Damn Family,”¹⁹ this simplification fails to account for the influence families have upon one another.

It is no surprise that the culture wars engage an emotional center of our lives—our families and our ability to pass along a heritage of values. These issues are deep-seated and go to the core of who we are. Changing the subject is not going to make them go away.

The second solution Cahn and Carbone propose is to devolve decision making to the states.²⁰ They believe family law federalism will enable the development of programs tailored to the specific and divergent needs of the two paradigms (pp. 151–52). Red families need help either delaying

reflects a “commitment to pluralism by allowing one generation to perpetuate its own diversity, and even expand upon it, in the next generation”).

18. See Anne C. Dailey, *Constitutional Privacy and the Just Family*, 67 TUL. L. REV. 955, 959 (1993) (“The family’s role in nourishing and sustaining diverse moral traditions is what in part distinguishes our liberal democracy from totalitarian political regimes As the locus of potential political resistance, the family acts as an important institutional check on the power of the state to mold citizens in its own image.”).

19. Designed for You, “FOCUS ON YOUR OWN DAMN FAMILY!” Bumper Sticker, <http://www.cafepress.com/designedforyou.21312867> (last visited Aug. 21, 2010). This bumper sticker is an obvious play on the conservative organization, Focus on the Family. FOCUS ON THE FAMILY, <http://www.focusonthefamily.com> (last visited Aug. 21, 2010).

20. Cahn and Carbone argue that some matters should not be subject to devolution. For example, although states should be able to decide whether to embrace same-sex marriage, this “regional variation[] in expression should not extend to control over the most intimate and personal private behavior,” such as the right to engage in sexual relations with the person of our choosing. Pp. 163–64. Similarly, Cahn and Carbone make clear that basic access to abortion and contraception must continue to be guaranteed at the federal level. See pp. 164, 174–86.

family formation or supporting those families that do form early, for example by enabling women to continue their education after giving birth (pp. 45, 166–67, 190–92). By contrast, blue families need help integrating work and family responsibilities such that women can have children before their fertility begins to wane too dramatically (p. 191).

The best way to answer these different needs and decrease cultural polarization, Cahn and Carbone argue, is to embrace the local in family law, moving away from national solutions that pit one paradigm against the other, with all the political and social costs that entails, and instead allowing states to implement different policies. They note that this has been successful in other contexts. For example, Cahn and Carbone describe the relative success of state courts in resolving disputes about sexuality in custody battles with little political controversy (pp. 139–50). As expected, courts in red states are more willing to police sexuality by, for example, conditioning custody for a gay or lesbian parent on the absence of the parent's same-sex partner in the house; but even in these cases, courts refrain from exacerbating polarization (p. 141).

Devolution, however, will not work for many of the most important family law issues. The boldest proposal in *Red Families v. Blue Families* is the call for greater support for both family paradigms. Cahn and Carbone convincingly argue that this support is essential to the well-being of all families—strengthening fragile red families, who form early, and blue families, who form later but who still face challenges with work-life balance and diminished fertility.

As elaborated in Part II, family law federalism is not a promising solution for red families because the very states that should embrace policies that would help fragile families are the least likely to do so, given the confluence of red family values and antigovernment sentiment.²¹ In the context of support programs for lower-income families, the abysmal track record of devolution suggests that centralized programs are more effective.²² State experimentation has weakened the safety net for lower-income families because it obscures the need for a national consensus on the normative goals of state support; places responsibility for support on state and local governments, which, in economic downturns, may not have the resources to support low-income families; skews incentives of state and local governments and encourages free riding; imposes high transaction costs; and allows those with the strongest views and greatest power to score expressive

21. For example, the nascent Tea Party Movement, most active in red states, is virulently antigovernment. See Tea Party Cooperative, <http://www.teapartycoop.com> (last visited Aug. 21, 2010) (stating that the movement's mission is to "stop the encroachment of an overreaching government into all aspects of our lives").

22. See David A. Super, *Laboratories of Destitution: Democratic Experimentalism and the Failure of AntiPoverty Law*, 157 U. PA. L. REV. 541, 545 (2008) ("The decentralized, participatory, and deliberative approach the United States has relied upon to design antipoverty policies over the past four decades has prevented it from developing, and mobilizing supporters around, a coherent, plausible proposal."); *id.* at 567–83 (describing the failure of devolving decision making over anti-poverty measures).

victories, at the expense of low-income families.²³ Low-income families suffer from a decentralized approach to support.

Moreover, devolving power will only reify the political divide Cahn and Carbone describe because when like-minded people talk only to each other, they are more likely to reach extreme conclusions.²⁴ The states that are hostile to government support will become more so. Massachusetts, which already provides universal health care, will offer even more support, and Alabama, with 71 percent of public school fourth graders reading below grade level but ranking forty-third in per-pupil expenditures,²⁵ will resist providing the support needed for struggling families.

Finally, although Cahn and Carbone may be correct that decentralizing family regulation is the better course for at least some issues, like same-sex marriage, it is also somewhat depressing for anyone committed to the idea of *e pluribus unum*. The federalism solution acknowledges that we simply may not be able to get along and that instead of trying to reach consensus, we would be better off living separate lives in separate parts of the country.

II. PURPLE OUT OF THE HAZE

Rather than change the subject and devolve power to the states, a better approach to defusing the culture wars is to find a way to talk constructively across the political divide. To explore that possibility, this Part uses the example of family support because it is at the heart of the book's vision for family law—strengthening fragile families.²⁶

A. A Rational Choice: State Support for Families

Ample research demonstrates that when families function better—that is, when parents are attentive to the needs of their children and the adults in a home have healthy relationships with one another—children are far more likely to become emotionally stable and productive adults.²⁷ As Cahn and

23. See *id.* at 545–47.

24. See Cass R. Sunstein, *Deliberative Trouble? Why Groups Go to Extremes*, 110 YALE L.J. 71, 74–75 (2000).

25. See CHILDREN'S DEFENSE FUND: CHILDREN IN ALABAMA 2 (2008), available at <http://www.childrensdefense.org/child-research-data-publications/data/state-data-repository/cits/children-in-the-states-2008-alabama.pdf>.

26. Another example of the limitations of the red-family–blue-family frame is that it is not possible to talk coherently about lower-income families within the frame because many upper-income families vote for Republican presidential candidates and many lower-income families, particularly African Americans, vote for Democratic candidates. See *supra* text accompanying notes 6–10. References in this Part to “red families” mean primarily lower-income families, with the understanding that this is both over- and under-inclusive.

27. For a small sampling of the voluminous literature on this point, see JOHN BOWLBY, 1 ATTACHMENT AND LOSS 27–30, 330 (2d ed. 1982) (describing parent-child attachment) and E. Mark Cummings & Christine E. Merrilees, *Identifying the Dynamic Processes Underlying Links Between Marital Conflict and Child Adjustment*, in STRENGTHENING COUPLE RELATIONSHIPS FOR OPTIMAL CHILD DEVELOPMENT 27–35 (Marc S. Schulz et al. eds., 2010) (describing the importance to child development of healthy relationships between parents).

Carbone demonstrate, however, family functioning is exceptionally difficult when a child is born to a very young mother who has either no relationship, or only a tenuous relationship, with the child's father (pp. 55–57). Essential to the success of these children, then, is support for family functioning.

Extended families and communities can help families function better through social and economic supports, but for many young parents, this network either does not exist or is shaky at best.²⁸ State-sponsored programs often fill the gap and can be tremendously successful at lowering the need for back-end intervention and corrective systems, such as the child welfare and criminal justice systems.

For example, the Nurse-Family Partnership both prevents child abuse and neglect and serves the needs of parents and children. In this program, a public health nurse visits a low-income, first-time parent during pregnancy and for the first two years of a child's life.²⁹ The nurse works closely with the mother to improve prenatal health; help the new parents provide more competent care to the child; address the family's economic stability by helping the parents develop and accomplish goals relating to staying in school and finding work; as well as helping the parents plan subsequent pregnancies.³⁰ The results of the program are striking. Families receiving this kind of support have an 80 percent lower incidence rate of child abuse and neglect than similarly situated families,³¹ as well as numerous other benefits.³²

A more far-reaching example is the work of Geoffrey Canada and the Harlem Children's Zone ("HCZ"), an all-out effort to combat poverty and improve family functioning. The hallmark of HCZ's approach is what Canada calls the "conveyor belt"—beginning work with parents before a child is born and continuing with the family until the child graduates from high

28. For an excellent depiction of this point for young Dominican mothers in the South Bronx, see ADRIAN NICOLE LEBLANC, *RANDOM FAMILY* 148, 211, 320 (2003) (describing how in that community, although networks serve important social support functions, they also can be a hindrance as struggling individuals turn to the relatively more successful individuals for economic support, thus depleting their resources).

29. About Nurse-Family Partnership, <http://www.nursefamilypartnership.org/about> (last visited Aug. 21, 2010).

30. See JUDITH GLAZNER ET AL., *FINAL REPORT TO THE ADMINISTRATION FOR CHILDREN AND FAMILIES: EFFECT OF THE NURSE FAMILY PARTNERSHIP ON GOVERNMENT EXPENDITURES FOR VULNERABLE FIRST-TIME MOTHERS AND THEIR CHILDREN IN ELMIRA, NEW YORK, MEMPHIS, TENNESSEE, AND DENVER, COLORADO 1* (2004), available at http://www.acf.hhs.gov/programs/opre/welfare_employ/economic_analysis/reports/effect_nursefam/nursefam_title.html.

31. See David L. Olds, *Prenatal and Infancy Home Visiting by Nurses: From Randomized Trials to Community Replication*, 3 *PREVENTION SCI.* 153, 161–63 (2002); U.S. Dep't Justice, *OJJDP Model Programs Guide: Nurse-Family Partnership*, <http://www.ojjdp.ncjrs.gov/mpg/mpgProgramDetails.aspx?ID=368> (last visited Aug. 21, 2010).

32. See, e.g., David Olds et al., *Long-term Effects of Nurse Home Visitation on Children's Criminal and Antisocial Behavior: 15-Year Follow-up of a Randomized Controlled Trial*, 280 *JAMA* 1238, 1241 (1998) (documenting lower rates of involvement in the criminal justice system). The program also appears to be cost-effective. See Glazner et al., *supra* note 29, at 11 (documenting that during the fifteen-year period following intervention, the average visited family used, in 2001 dollars, \$56,600 less in government services and paid \$8,300 more in taxes than a control group, resulting in a 393 percent recovery over the fifteen-year period on the amount invested).

school.³³ HCZ starts with a course for expecting parents called Baby College and then channels the children from program to program: the Three-Year-Old Journey, the Harlem Gems prekindergarten program, the Promise Academy kindergarten, and then through the Promise Academy school system to high school graduation.³⁴ At each stage, HCZ works with parents to improve family functioning by encouraging parents to get involved in school and also by addressing the other needs of parents, such as crisis counseling and debt-relief management.³⁵ Early studies on the results of HCZ are promising.³⁶

Despite the effectiveness of these types of programs, they remain largely on the periphery of government efforts to improve family functioning. Part of the reason is that the costs of these programs accrue immediately whereas the benefits and savings accrue over time.³⁷ Additionally, the costs can be borne by one agency or level of government and the savings reaped by a different agency or level of government.³⁸ These rational explanations, however, mask a deeper reason for opposition. Generating this kind of support—particularly for lower-income families—is an enormous political challenge and is deeply divisive.

B. Culturally Scripted Resistance

The political challenge is that family support is the issue most likely to get distorted in the red-blue divide that Cahn and Carbone identify. Red and blue is not just about family values and family practices. It is also about a vision of the family-state relationship, and here this vision differs markedly from red to blue states. Cahn and Carbone do not separately analyze state support as one of the battles in the culture wars, but it surely is a battle, with its own inflamed and culturally divisive history of “welfare queens” and oversexualized mothers.³⁹ Too often, any form of support for struggling families is likened to welfare—a clear death sentence.⁴⁰ Conservatives detest

33. See PAUL TOUGH, *WHATEVER IT TAKES: GEOFFREY CANADA'S QUEST TO CHANGE HARLEM AND AMERICA* 194 (2008).

34. *Id.* at 195–96.

35. See *id.* at 194–95; Harlem Children's Zone, Family, Community, and Health, <http://www.hcz.org/programs/family-community-a-health> (last visited Aug. 21, 2010) (describing the various programs for families).

36. E.g., Will Dobbie & Roland G. Fryer, Jr., *Are High Quality Schools Enough to Close the Achievement Gap? Evidence from a Social Experiment in Harlem* 1–3 (Nat'l Bureau of Econ. Research, Working Paper No. 15473, 2009), available at <http://www.nber.org/papers/w15473> (analyzing data to find that the combination of high-quality schools, such as the Promise Academy, and community investments, such as Baby College and Harlem Gems, work together to decrease—and in some instances eliminate—the achievement gap between white and African American school children in specified grades).

37. E.g., LYNN A. KAROLY ET AL., *INVESTING IN OUR CHILDREN* xviii (1998).

38. See, e.g., *id.* at xix.

39. See generally DOROTHY ROBERTS, *KILLING THE BLACK BODY* 202–45 (1997).

40. See JOEL F. HANDLER & YEHESEKEL HASENFELD, *BLAME WELFARE, IGNORE POVERTY AND INEQUALITY* 7 (2007) (“Instead of addressing poverty and inequality, we have demonized

what are perceived as state handouts,⁴¹ whereas liberals believe supportive programs are the foundation of a just society.⁴²

Two cultural scripts about state support flow from the red-blue divide. In red states, the government is the “Nanny State.” In this script, the state intrudes into what is rightly the private domain of the family, telling parents how to raise their children, weighing in on every matter, from how much television children watch to what they eat and how to discipline them. The state, rather than the parent, makes these important parenting decisions for the family and the parent has no choice but to comply. In this cultural script, parents know best, but the state imposes its own view, displacing the parent.

In blue states, the government is a “Helping Hand.” In this cultural script, the state is simply helping parents raise their children by providing the necessary support. Parents are well-intentioned but not necessarily capable of raising their children without additional help. As with all cultural scripts, these are stylized, but they help us see, if only with broad brushstrokes, the forces shaping the political landscape.

The irony is that the red states, with their abundance of fragile families, would most benefit from more active support from the state. And yet the ideology of these states creates opposition to supportive programs due to a confluence of antigovernment sentiment and family values that embrace the Nanny State understanding of the family-state relationship.

The work of psychologist Jonathan Haidt is particularly helpful in understanding what is at stake in these two cultural scripts. Haidt is interested in the moral foundations of political ideology, asking what motivates people to vote the way they do, even when their voting preferences might seem at odds with their own immediate self-interests.⁴³ Haidt contends that there are five foundations of morality—concern about harm, fairness, loyalty, authority, and purity.⁴⁴ In his own research, he has found that liberals and conservatives both embrace a concern for harm and fairness as essential to society, but only conservatives view the other three foundations—loyalty, authority, and purity—as necessary components as well. Liberals reject these foundations as bases for state action and communal life.

What liberals fail to understand, according to Haidt, is that the conservative embrace of loyalty, authority, and purity is based on a view that “morality is not just about how we treat each other (as most liberals think); it is also about binding groups together, supporting essential institutions, and living in a sanctified and noble way.”⁴⁵ And loyalty, authority, and pu-

welfare, the program for poor single mothers and their families, and we continue our incredibly long history of blaming the victim.”).

41. See, e.g., CHARLES MURRAY, *LOSING GROUND* 154–66 (1984).

42. See, e.g., Barbara Vobejda & Judith Havemann, 2 *HHS Officials Quit Over Welfare Changes*, WASH. POST, Sept. 12, 1996, at A01 (describing the resignation of Peter Edelman and Mary Jo Bane over the 1996 welfare reform, a “rare” public protest in the federal government).

43. E.g., Jonathan Haidt, *What Makes People Vote Republican?*, 256 *EDGE*, Sept. 9, 2008, http://www.edge.org/3rd_culture/haidt08/haidt08_index.html (2008).

44. *Id.*

45. *Id.* (emphasis omitted).

rity, with their clear rules on who belongs and how groups should operate, are the ties that bind.

Translating this insight into debates over the proper role of government in supporting families, it is apparent that the cultural scripts of the Nanny State and the Helping Hand embody liberal and conservative worldviews. For “traditionalists,” to use the term of Cahn and Carbone, family autonomy is an important value. It is the idea and ideal that a stark line separates the state and the family, and it resonates on cultural, political, and emotional registers.⁴⁶ This narrative is both easy to convey to an audience—“the state cannot tell you how to raise your child”—and fits within a widely accepted vision of the all-powerful, intrusive state that must be kept at arm’s length. The rhetorical appeal of family autonomy thus echoes in the peculiarly American iconography of self-sufficiency: families are and should be autonomous from the state. State support then symbolizes an important step away from family autonomy, thus threatening the family and its role in society.

By contrast, “modernists” generally do not feel threatened by state support because their worldview is not predicated on the state as authority figure, but rather on the state as supportive sibling, or nurturant parent, to return to the Lakoff metaphor. State support, then, does not threaten the family.⁴⁷ Rather it is the absence of state support that threatens the future of children.

The work of Cahn and Carbone helps us identify these two cultural scripts and their accompanying worldviews. To understand how political backing for state support might be built, however, requires attention to greater nuance. It is helpful to disaggregate the various reasons why people favor or oppose programs. Given the relative lack of political clout the recipients of state support wield, the future of any program will turn on its ability to attract broader support. On the pro-support side, there are several different types of people: humanitarians, who act out of empathy; social insurers, who support programs that they think they might use one day; redistributivists, who prefer a broad-scale reallocation of wealth; instrumentalists, who want to avoid negative externalities that flow from a lack of support, such as increased crime; and liberal expressivists, who want to enact programs to send a message about the value of supporting lower-income families.⁴⁸ On the anti-support side, instrumentalists are concerned that programs erode incentives to marry and work, fiscal conservatives prefer less government

46. Cf., e.g., Nancy Fraser & Linda Gordon, *A Genealogy of Dependency: Tracing a Keyword of the U.S. Welfare State*, 19 *SIGNS* 309, 312–14 (1994) (describing how “dependency” came to be a pejorative, rather than simply descriptive, term).

47. Katherine Franke has expressed a contrary viewpoint:

The granting of rights and the recognition of public responsibility for dependency is unlikely to usher in a domain of unrestrained autonomy that some liberal projects promise. Rather, to shift responsibility for dependency outside the family is to exchange one practice of rule—the private family—for another set of regulatory governance practices, those imbued in the state and the market.

Katherine M. Franke, *Taking Care*, 76 *CHI.-KENT L. REV.* 1541, 1544 (2001).

48. Super, *supra* note 22, at 594–98.

spending overall, and conservative expressivists seek to send a message about the proper role of government and the importance of the free market.⁴⁹

Designing programs that appeal to all these groups is probably not possible, but it is possible to appeal to enough of these groups such that there would be sufficiently broad support. The next section describes how to do so.

C. Reframing and Redesigning

Although there may be strong policy arguments in favor of state support, thanks to Cahn and Carbone we know state investment in families is not a rational issue. It is not, for example, a matter of aggregating more data about the effectiveness of certain programs. A person inclined to view state support skeptically is not going to be convinced by a study from the RAND Corporation showing that a program has the desired effect.

To reach consensus, or even have a civil discussion, requires creating a bridge such that red can talk to blue and blue can talk to red. To put the issue in the shorthand of this Review, the question is how to build conservative support for the Nurse-Family Partnership and the Harlem Children's Zone. This involves both reframing the issue and designing a program in a way that appeals to both liberals and conservatives. Reframing differs from changing the subject in that the former is still engaged with the same topic; it just approaches it differently. The changes in subject that Cahn and Carbone describe—from abortion to contraception, for example (p. 171)—change the topic, not just the focus or approach.

Beginning with framing, approaching the issue at a broad level of generality will only provoke responses based on the cultural scripts. For example, if we ask whether the state should support families, one answer will be “no, families should support themselves,” and another answer will be “of course we should.” Instead of focusing on support per se, the frame should be family functioning. The animating idea is that parents are indeed responsible for their children, but some parents need help developing the means and skills to be the parents their children need. The shift in emphasis, then, is from the state to the parents.

This reframing draws upon the moral foundations that register for conservatives: authority (following the rules of a good citizen by not relying on welfare) and purity (being a functional family, not corrupted by substance abuse, child abuse, or neglect). Instead of highlighting the program as state intervention, it can be described as a program that fosters responsible parenting and educational preparedness, for parents and children alike. Thus, to win greater support for the Nurse-Family Partnership, advocates should tie the program not necessarily to the prevention of child abuse and neglect—although this is certainly an additional benefit—but instead to responsible parenthood. Similarly, the HCZ's projects should be understood not to ame-

49. *Id.* at 598–600.

liorate poverty, but rather to cultivate better parenting, in this generation and the next.⁵⁰

A frame of responsible parenthood is far preferable to intellectual arguments about the myth of family autonomy or the dire need for state support.⁵¹ Amassing arguments about the wrongheaded nature of the conservative view is not going to change the minds of conservatives. Instead, as Haidt demonstrates, conservatives will respond that liberals “just don’t get it.”⁵² And indeed liberals do not, because this is not an intellectual debate, but rather a fight about a fundamental understanding of morality. Framing the debate in intellectual terms ignores the underlying concern that state support absolves parents of the responsibility of caring for their families (the authority foundation).

After reframing the issue as one of parental responsibility, the next challenge is to identify the substantive components of a program that will garner the broadest support. The provision of cash assistance will provoke tremendous resistance and is not a viable option. To draw wide support, a program must be mindful of the motivations of the different groups: humanitarians, social insurers, redistributivists, liberal instrumentalists, and liberal expressivists, on the one hand; and conservative instrumentalists, fiscal and economic conservatives, and conservative expressivists, on the other. While it may not be possible to appeal to all of these groups—no program is going to appeal to both the liberal and conservative expressivists, who want to send opposing messages—it is possible to unite other groups, particularly when the issue is framed in a noninflammatory manner.

Thus, programs should focus on delivering in-kind assistance in a way that does not distort market incentives.⁵³ In the context of both the Nurse-Family Partnership and the HCZ, the emphasis should be on preparing parents to raise their children to succeed in the marketplace. The kind of intensive parenting promoted by both programs will encourage a focus on existing children, with no incentive for parents to bear more children. Similarly, both programs promote parental employment.

Both programs already take pains to present their programs in these ways. For example, the Nurse-Family Partnership’s website describes the program as follows: “Through ongoing home visits from registered nurses, low-income, first-time moms receive the care and support they need to have a

50. Both programs already make considerable efforts to “talk purple” in their program design and also marketing materials, which may account for their relative success in garnering additional, if also insufficient, government funding. *See infra* text accompanying notes 54–57.

51. Liberals could craft an explanation for state support that engages with the concept of family autonomy: family autonomy is a myth because the state determines both which groups of individuals constitute a family and also the contours of family life through pervasive, if also largely unperceived, regulation, like mandatory schooling, child labor laws, and so on. This intellectual approach would highlight the amount of support that already exists for all families, from thirteen years of public education to laws protecting parents’ rights.

52. Haidt, *supra* note 43.

53. Super, *supra* note 22, at 608–09.

healthy pregnancy, provide responsible and competent care for their children, and become more economically self-sufficient.”⁵⁴ HCZ uses similar language:

[T]he Harlem Children’s Zone Project is a unique, holistic approach to rebuilding a community so that its children can stay on track through college and go on to the job market. The goal is to create a ‘tipping point’ in the neighborhood so that children are surrounded by an enriching environment of college-oriented peers and supportive adults, a counterweight to ‘the street’ and a toxic popular culture that glorifies misogyny and anti-social behavior.⁵⁵

The recent, more widespread embrace of both programs is some evidence that this approach is working. For example, the health care reform signed into law in March 2010 provides \$1.5 billion in funding over a five-year period for programs similar to the Nurse-Family Partnership.⁵⁶ And President Obama sought \$210 million in his 2010 budget for “Promise Neighborhoods,” modeled on the HCZ.⁵⁷ Although these are important steps in the right direction, \$210 million is not going to meet the needs of the millions of children living in poverty in the United States. More work is needed to build support for these programs such that they are the cornerstones of an antipoverty program replicated throughout the country.

In sum, when building bridges across ideological divides, *Red Families v. Blue Families* is an important guide. As E. L. Doctorow said with regard to the writing process, it is “like driving a car at night. You can only see as far as your headlights, but you can make the whole trip that way.”⁵⁸ *Red Families v. Blue Families* may not show us how to make the entire trip, but the headlights generated by the ideas in the book are indispensable.

CONCLUSION

The quest for purple is a recurring theme in *Red Families v. Blue Families*, with Cahn and Carbone committed to finding a middle ground in the culture wars. The deep emotional resonance of the political and social commitments at stake makes this a more complicated, if also more interesting, endeavor. As demonstrated in Part II, the real contribution of the book is convincing the reader that divisive issues will not be resolved rationally. Developing a deeper understanding of what is at stake for all Americans is an excellent place to start.

54. About Nurse-Family Partnership, *supra* note 29.

55. About Harlem Children’s Zone, <http://www.hcz.org/about-us/the-hcz-project> (last visited Aug. 21, 2010).

56. See Patient Protection and Affordable Care Act, Pub. L. No. 111–148, § 2951, 124 Stat. 119, 334–343 (2010) (to be codified in scattered sections of 42 U.S.C.).

57. Press Release, U.S. Department of Education, President’s Education Budget Signals Bold Changes for ESEA (Feb. 1, 2010), <http://ed.gov/news/pressreleases/2010/02/02012010.html>.

58. Interview with E.L. Doctorow, in *WRITERS AT WORK: THE PARIS REVIEW INTERVIEWS* No. 8, at 299, 305 (George Plimpton ed., 1988).

The solutions proposed in this Review may not work, and Cahn and Carbone ably identify the hurdles to bridging the ideological divide. Learning to talk across this divide, however, is more promising than changing the subject or retreating into family law federalism. *Red Families v. Blue Families* lays the groundwork for efforts to create a programmatic vocabulary in shades of purple and is essential reading for anyone interested in the family or American politics—that is to say, almost all of us.

