

Publius Huldah -- Parental Rights: God-given and Unalienable? Or, Government-granted and Revocable?

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PARENTAL RIGHTS: GOD-GIVEN AND *UNALIENABLE?* OR, GOVERNMENT-GRANTED AND *REVOCABLE?*

By Publius Huldah
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Our Declaration of Independence says:

*We hold these truths to be self-evident, that all men are created equal, **that they are endowed by their Creator with certain unalienable Rights**, that among these are Life, Liberty and the pursuit of Happiness. -- **That to secure these rights, governments are instituted among Men**, deriving their just powers from the consent of the governed, --That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it... (2ndpara) [emphasis mine]*

So! Rights come from God; they are unalienable; the purpose of government is to secure the rights God gave us; and when government takes away our God given rights, it's time to "throw off such Government."

That is *our* Founding Principle.

Let us now compare *our* Founding Principle with the U.N.'s [Universal Declaration of Human Rights](#). It enumerates 30 some "rights", among which are:

Article 8 *Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.*

Article 21 ... 3. *The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections ...*

Article 29 ... 2. *In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.*

3. *These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations. [all boldface mine]*

So! **Rights are enumerated**; they come from man [constitutions or laws]; governments may do whatever a majority of people want them to do [instead of securing rights **God** gave us]; and rights may be limited by law & are subject to the will of the United Nations [**not God**].

Now, let's look at the Parental Rights Amendment (PRA) from the website of parentalrights.org and compare it with the U.N.'s Universal Declaration of Human Rights:[1]

“SECTION 1

*The liberty of parents to direct the upbringing, education, and care of their children is a **fundamental right**.*

SECTION 2

*The parental right to direct education **includes** the right to choose public, private, religious, or home schools, and the right to make **reasonable choices with in** public schools for one's child.*

SECTION 3

Neither the United States nor any State shall infringe these rights without demonstrating that its governmental interest as applied to the person is of the highest order and not otherwise served.

SECTION 4

***This article shall not be construed to apply to a parental action or decision that would end life.** [all boldface mine]*

SECTION 5

No treaty may be adopted nor shall any source of international law be employed to supersede, modify, interpret, or apply to the rights guaranteed by this article.”

So! Under the PRA, parental rights come from the Constitution – not God. They are only “fundamental” rights, not unalienable rights. They are enumerated rights, the extent of which will be decided by federal judges.[2] And these “fundamental” rights may be infringed by law when the government has a good reason for infringing them.

And even though parentalrights.org uses the U.N. Declaration on the Rights of the Child to terrorize parents into supporting the PRA;[3] **the PRA itself is the repudiation of our Founding Principles** that Rights come from God and are **unalienable**, and that the sole purpose of civil government is to secure the rights GOD gave us; **and adoption of the U.N. theory that rights come from the State, will be determined by the State, and are revocable at the will of the State.**

Let's turn to Michael Farris' paper posted [July 9, 2013 in Freedom Outpost](#). His paper followed [my initial paper where I addressed, Section by Section, the PRA](#) of which Farris is principal author. He is also Executive Director of parentalrights.org

1. Mr. Farris' rationale for the PRA: Scalia's Dissent in Troxel v. Granville (2000)

Farris cites Scalia's dissent to support his own perverse theory that unless a right is enumerated in the federal Constitution, judges can't enforce it, and the right can't be protected.

But Farris **ignores the majority's holding in Troxel, and misstates the gist of Scalia's dissent**. I'll show you.

This case originated in the State of Washington, and involved a *State Statute* (§26.10.160(3)) addressing visitation rights by persons who were not parents. Two grandparents filed an action under this *State Statute* wanting increased visitation of their grandchildren. The mother (Granville) was willing to permit some visitation, but not as much as the grandparents wanted.

This State family law case got to *the U.S. supreme Court* on the ground that the “due process clause” of the 14th Amendment was at stake.

And what did [the supreme Court say in Troxel v. Granville?](#)

*“...In light of this extensive precedent, it cannot now be doubted that **the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children...**”*

*“...We therefore hold that the application of §26.10.160(3) to Granville and her family violated **her due process right** to make decisions concerning the care, custody, and control of her daughters.” [all boldface mine]*

Do you see? The supreme Court has already “discovered”, in Sec. 1 of the 14th Amendment, **a parental right to make decisions about the care, custody, and control of children.**

Now! In order to understand [Scalia’s dissent](#), one must first learn:

- *That the powers of the federal courts are enumerated and strictly defined; and*
- *The original intent of Sec. 1 of the 14th Amendment, and how the supreme Court perverted it.*

These are explained in detail here: [Judicial Abuse of the Fourteenth Amendment: Abortion, Sexual Orientation, & Gay Marriage](#). In a nutshell, the linked paper shows that federal courts may lawfully hear **only** cases falling within the categories enumerated at Art. III, Sec. 2, cl. 1, U.S. Constitution. One of these categories is cases:

“...arising under this Constitution...”

In [Federalist Paper No. 80](#) (2ndpara), Alexander Hamilton says that before a case can properly be said to “arise under the Constitution”, it must:

*“...concern the execution of **the provisions expressly contained** in the articles of Union...” [emphasis added]*

So! Does our federal Constitution “expressly contain” provisions about abortion? Homosexual sex? Homosexual marriage? Parental rights? No, it does not.

Since these matters are not delegated to the federal government, they are reserved to the States and The People (10th Amendment). **The federal government has no lawful authority over these issues.**

Well, then, how did the supreme Court overturn State Statutes criminalizing abortion and homosexual sex, and *State Statutes* addressing parental rights?

They used the “due process” clause of Sec. 1 of the 14th Amendment to usurp power over these issues. Section 1 says:

*“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; **nor shall any State deprive any person of life, liberty, or property, without due process of law**; nor deny to any person within its jurisdiction the equal protection of the laws.” [boldface mine]*

Professor Raoul Berger **proves** in his book, [Government by Judiciary: The Transformation of the Fourteenth Amendment](#), that **the purpose of the 14th Amendment was to extend citizenship to freed slaves and protect them from southern Black Codes which denied them basic rights of citizenship.**

Professor Berger also shows (Ch. 11) that “due process” is a term with a “precise technical import” going back to the Magna Charta. It means that a person’s life, liberty or property can’t be taken away from him *except by the judgment of his peers pursuant to a fair trial!*

Professor Berger stresses that “due process of law” refers only to *trials*- to judicial proceedings in courts of justice. **It does not involve judicial power to override State Statutes!**

Justice Scalia understands this.

And now, you can understand [Scalia's dissent](#). What he actually says is:

- Parental rights are “unalienable” and come from God (Declaration of Independence). They are among the retained rights of the people (9th Amendment). [Parental rights don't come from the 14th Amendment!]
- The Declaration of Independence does not delegate powers to federal courts. It is the federal Constitution which delegates powers to federal courts.
- **It is for State Legislators and candidates for that office to argue that the State has no power to interfere with parents' God-given authority over the rearing of their children, and to act accordingly. [The People need to elect State Legislators who understand that the State may not properly *infringe* God given parental rights.]**
- The federal Constitution does not authorize judges to come up with their own lists of what “rights” people have^[4] and use their lists to overturn State statutes. [That is what the supreme Court did when they fabricated “liberty rights” to abortion and homosexual sex, and overturned State Statutes criminalizing these acts.]
- The federal Constitution does not mention “parental rights” - such cases do not “arise under the Constitution”. So federal courts have no “judicial power” over such cases.

In his closing, **Scalia warns against turning family law over to the federal government:**

“...If we embrace this unenumerated right ... we will be ushering in a new regime of judicially prescribed, and federally prescribed, family law. I have no reason to believe that federal judges will be better at this than state legislatures; and state legislatures have the great advantages of doing harm in a more circumscribed area, of being able to correct their mistakes in a flash, and of being removable by the people.” [emphasis mine]

Do you see? “Parental rights” is a state matter; and parents need to replace bad State legislators.

But the PRA delegates power over “parental rights” to the federal government and makes it an enumerated power.

So! When Farris says:

4. "The Parental Rights Amendment does not give the Judiciary legislative power but constrains the judiciary's exercise of its existing power."

His words are false. The PRA transforms what is now a usurped power over parental rights seized by the supreme Court by perverting Sec. 1 of the 14th Amendment [the majority opinion in *Troxel* illustrates this], to an *enumerated power* of the federal government.

2. The PRA expressly delegates to the federal and State governments power to infringe God-given parental rights!

Mr. Farris asserts that the PRA gives no power to Congress over children because he – the principal author of the PRA – purposefully left out the language which appears in other amendments that “Congress shall have power to enforce this article by appropriate legislation.”

So! *What did Farris put in his PRA?* Look at his SECTION 3:

“Neither the United States nor any State shall infringe these rights without demonstrating that its governmental interest as applied to the person is of the highest order and not otherwise served.” [emphasis mine]

The wording assumes the federal and State governments will be making laws “infringing” parental rights! And because of the PRA, such laws will be constitutional![5]

The only issue will be whether such acts of Congress [the Legislative Branch of the federal government] “serve the government’s interest”. And who will decide? The federal courts [the Judicial Branch of the federal government] will decide.

The same goes for State Statutes and State courts.

Furthermore, Acts of Congress or State Statutes need only recite the boilerplate language that the law “serves the government’s interest, etc.”, and it *will go to the courts clothed with a presumption of correctness.*

3. The PRA is not “just like” the Second Amendment

Mr. Farris says the PRA is

“... just like the Second Amendment in this regard. The Second Amendment gives no level of government the power to regulate guns. (Any such power comes from some other provision of the Constitution [state or federal]). And the Second Amendment is a limitation on the exercise of such powers.”

Rubbish!

WE THE PEOPLE did not delegate to the federal government power to restrict our arms.

The 2nd Amendment shows that WE THE PEOPLE really meant it when we declined to give the federal government enumerated power to restrict our arms.

So! As shown here, all federal laws and rules of the BATF pertaining to background checks, dealer licensing, banning sawed off shotguns, etc., are unconstitutional as outside the scope of the enumerated powers delegated to the federal government, and as in violation of the 2nd Amendment.

The PRA is not “just like” the 2nd Amendment **because the PRA is an express delegation of power over children and parental rights to the federal and State governments!**

4. Pen Names

Publius is the pen name used by Alexander Hamilton, James Madison, and John Jay when, during 1787 and 1788, they wrote The Federalist Papers to explain the proposed Constitution and induce The People to ratify it.

Huldah is the prophet at 2 Kings 22. The Book of the Law had been lost for a long time. When it was found, it was taken to Huldah who gave guidance about it to the king and his priests.

Do you see? And it’s about Our Country – not my personal glory, fame, and fundraising.

My qualifications? My work speaks for itself.

5. Learn the Constitution and understand the PRA? Or put your trust in Farris?

My previous paper is about the PRA and our Constitution. It isn't about Mr. Farris.

But Farris' response is about persons: 429 of his 2,044 words are devoted to his illustrious self; 170 words are spent to disparage PubliusHuldah.

I teach the original intent of our Constitution so that our People can become what Alexander Hamilton expected them to be:

"... a people enlightened enough to distinguish between a legal exercise and an illegal usurpation of authority..." [Federalist Paper No. 16](#) (next to last para)

To that end, I have published some 50 papers proving that original intent, using The Federalist Papers as [the best evidence of that original intent](#). [Several are posted here](#).

We must all do our civic duty and learn our Founding Principles and Constitution so that we can learn **to think** for ourselves and help restore our Constitutional Republic.

But Farris says you should **believe** in ... *him*. He says:

6. *"Who are you going to believe—a trusted advocate for parental rights or an anonymous blogger?"*

He doesn't ask you to learn and think – he asks you **to believe ... in him**.

6. An Alternative Organization: [National Home Education Legal Defense \(NHELD\)](#)

NHELD has [been warning for years about the Parental Rights Amendment](#). NHELD

"...does not believe in blindly following the word of anyone. NHELD ... does not believe in just directing families to act in unison on the basis of an opinion that NHELD ... has formed on its own. NHELD ... believes in an informed, empowered citizenry, who is able to fight for freedom effectively..."

NHELD advises:

"...individuals not to take the word of anyone else about what ... legislation says, but to read the text for themselves ..."

7. How do Governments "secure" our God given Rights?

Our rights must be "secured" from people & civil governments who seek to take them away.

For an illustration of how the enumerated powers delegated to the federal government enable it to "secure" our God given rights to life, liberty & property, see [James Madison Rebukes Nullification Deniers](#) under the subheading, **Our Founding Principles in a Nutshell**. The federal government isn't to secure these rights in all ways – *just in those ways appropriate to the national government of a Federation of Sovereign States*.

The powers reserved by The States and The People enable the States to secure these rights in the ways appropriate to States. States secure our right to life by prosecuting murderers, drunk drivers, quarantining people with infectious deadly diseases, etc. States secure our property rights by prosecuting robbers; by providing courts for recovery for fraud, breach of contract; etc.

Civil governments are controlled by *limiting* their powers.

To delegate to the federal government express power to infringe “parental rights” under the pretext of “protecting” such rights is absurd! But *that* is Farris’ argument.

Parents! Justice Scalia gives excellent advice: elect to your State Legislature people who understand that your responsibilities to your children are determined by God alone.

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We must ***stop looking for the magic pill***, roll up our sleeves, man up, and fix our own States.

Conclusion

The PRA is a radical transformation of our conception of Rights from being unalienable gifts of God to the UN Model where “rights” are granted by government and revocable at the will of government. This is being sold to you as a means of “protecting” your parental rights! But it transfers power over children to the federal and State governments. You are being told to trust the “experts” and “believe” what they tell you. But if the PRA is ratified, the federal and State governments will have constitutional authority to infringe your “parental rights”. And you will have no recourse.

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Endnotes:

1. Craigers61 pointed out that Section 3 of the PRA is a paraphrase of [Article 29] of the UN [Declaration] in which: “... all of the rights “given” by the UN earlier in the document can be taken back if any right goes against the UN’s “mission.” It’s a big finger on the chess piece in which the Political power can take back the right granted at any time they deem...”

...Also, do you see the other problem here? The STATE grants the right to the parents! ... In classical liberalism, the philosophy that founded the USA, all rights are INALIENABLE! They reside in the human being themselves! They cannot be given, they cannot be taken and they cannot be circumscribed by the STATE...”

2. Bob in Florida asks Farris:

“But, what you say we must do - pass the Parental Rights Amendment - to defeat the Scalia argument that there is no legal text to cite to allow parents to have rights to direct their children's education, medical care, etc., requires that we do exactly what the writers of the Constitution did not want to do - enumerate each and every right we have.

Their reason was that this would require that we enumerate each and every right and to leave one out would imply we don't have that right. Their chosen approach was to only define the powers given to the government and all others were reserved to the States or the People. [emphasis mine] Are you not advocating we do exactly what they didn't want to do - enumerate each and every right?”

3. Congress may lawfully ratify only treaties which address enumerated powers. Since “parental rights” & “children” are not enumerated powers, any ratified treaty addressing such would be a proper object of nullification. But if the PRA is ratified, then these will be enumerated powers, and the Senate will have lawful authority to ratify the UN Declaration on the Rights of the Child.

4. It is GOD’s prerogative to decide what Rights we have. Not mans’.

5. Un-anonymous blogger Doug Newman pointed out four years ago that:

“...The PRA actually puts a constitutional blessing on federal intrusion into parenting...”

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Publius Huldah is a retired attorney who now lives in Tennessee. Before getting a law degree, she got a degree in philosophy where she specialized in political philosophy and epistemology (theories of knowledge). She now writes extensively on the U.S. Constitution, using the Federalist Papers to prove its original meaning and intent. She also shows how federal judges and politicians have ignored Our Constitution and replaced it with their personal opinions and beliefs.

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