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Willis, Burke, and Glasberg / Societies Without Borders 16:1 (2022) 48-73

The State, the UDHR, and the Social Construction of Family in Human Rights: The Case of the Scarborough 11

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Abstract

The Universal Declaration of Human Rights (UDHR) (UN 1947:34) declares in Article 16(3) that “the family is the natural and fundamental group unit of society and is entitled to the full protection by society and the state.” However, the UDHR does not define family, but rather presumes it is defined by traditional heteronormative marriage in a nuclear family. The failure of the UDHR to consider a more expansive view of family leaves the definition of family centrally in the hands of the state, and affects the ability of all but traditional nuclear family forms to access other human rights. We add to the scholarship on the role of the state in defining and maintaining family and family inequality through an examination of the case of the Scarborough 11, an intentional family sued by the city of Hartford, CT for violations of residential zoning ordinance based on family. This case challenges hegemonic constructions of family and illustrates the limits of the UDHR to protect all families. The case demonstrates the importance of the related questions: 1) how legal definitions of family create the capacity for local residents to understand non-nuclear families living among them, 2) whether the end-goal of this problem should be to expand the state’s definition of family or remove that power from the state in total (a question of reform vs. abolition) and, 3) what might a case concerning white middle-class professionals’ struggles to thrive tell us about boundary maintenance and the struggles of the poor to survive?

Keywords

Human Rights, Family, Critical Legal Studies, The State, Policy

INTRODUCTION: THE MEANING OF FAMILY

The Universal Declaration of Human Rights (UDHR) (1947:34) declares in Article 16(3) that “the family is the natural and fundamental group unit of society and is entitled to the full protection by society and the state.” However, the UDHR does not define what a family is; instead, as demonstrated in Article 16(1), it presumes a heteronormative nuclear family, headed by a married couple. This narrow definition of family—heteronormative, racialized, and class-based—is also reflected in state policies and practices related to families, households, and housing. How does this presumption of a nuclear family affect both the legibility of other

Willis, Burke, and Glasberg / Societies Without Borders 16:1 (2022) 48-73

family forms and their ability to access human rights afforded to families and family members?

We explore this question and its implications through an examination of the case study of a self-defined intentional family in Hartford, Connecticut, which came to be dubbed “the Scarborough 11” during their legal battles with the city and the media coverage that surrounded it. The Scarborough 11 are a self-defined intentional family, originally consisting of two single adults, two married adult couples, one engaged adult couple, and three children (two from one of the married couples, and one from another of the married couples). After purchasing and subsequently settling into a foreclosed mansion in Hartford, they were sued by the city (October 2014) because the home is in a single-family zone and their family did not conform to the city’s definition of such a family.

While scholars have explored the state’s investment in the heteronormative nuclear family through explorations of racist, ethnocentric, heterosexist, and monosexist marriage and family laws (e.g., Berger and Carlson 2020; Dryden 2015; Hull and Ortyl 2019; King 2010; McLanahan and Percheski 2008; Polikoff 2008; Taylor 2002), less attention has been paid to the ways the state regulates human intimacy and bonds via zoning laws in particular. The zoning ordinance we explore here is specific to Hartford, and in fact to one section of the city in particular. However, similar zoning ordinances can be found throughout the United States. Thus, this case serves as a case study in how zoning ordinances function as a tool of state in defining family and shaping which families are and are not deemed worthy. As a group of primarily white, middle-class professionals, the Scarborough 11’s experiences diverge in important ways from the struggles of poor and working-class families. While their struggles with the city and the state are certainly not the same as the struggles of more economically marginalized families and households, their case does suggest important ways that dominant conceptualizations of family, class, and race, and the boundary-maintenance tactics used to preserve and protect them, have significant effects on the ability of both the poor and the middle-class to access related rights. Among such compromised rights are questions about who has a right to children (e.g., in custody battles, adoption, or in cases of separated families at the border), who has a right to determine medical decisions for others and education decisions for children, who has a right to housing, and who has a right to government economic supports (e.g., pandemic-era federal stimulus checks to families, Temporary Assistance to Needy Families, etc.).

Most state policies and practices relevant to the concept of family are predicated on the assumption that family is defined as one adult or two heterosexual married adults and their legal biological or adopted children living in the same residence. Similarly, the conventional heteronormative nuclear family is the working definition of family embedded in the

UDHR's assumptions. These approaches resonate in many ways with the conventional sociological concept of family, rooted in Murdock's (1949: 1) definition as "a social group characterized by common residence, economic cooperation, and reproduction." Murdock's (1949: 1) definition, derived from his study of over 500 societies and which he believed to be universally applicable to all societies, stated that a family consisted of "adults of both sexes, at least two of whom maintain a socially approved sexual relationship, and one or more children, own or adopted, of the sexually cohabitating adults." Many sociologists have long accepted this definition, although it has increasingly come under challenge (e.g., Fraser 2009; King 2010; Powell et al. 2016; Smith 1993; Stacey 1996; Yarbrough, Jones, and DeFilippis 2018; Yeatman 1986). While Murdock's definition may reflect an understanding of family widely accepted in policy and practice, it ignores a wide range of contemporary family forms (e.g., Berger and Carlson 2020), including but not limited to: single-parent families, married different-gender couples without children, similar-gender couples (with or without children), multigenerational families without sexual relationships, polyamorous/nonmonogamous families, blended families, child-free elderly couples, and a multitude of groupings of people who organize their lives around each other but may not be connected through normative romantic and/or sexual partnership (e.g., single people who have intimate and familial bonds but who are not necessarily "romantically" or "sexually" bonded). It also excludes cohabitating couples, regardless of sexual orientation.

Like Murdock's definition of family, many contemporary approaches conflate the notion of "family" (defined by a set of principles determining relatedness) with "household" (a common residential unit in which related and nonrelated individuals may live) (Andersen 1990; Edwards, McCarthy, and Gillies 2012; Ferree 1990; Sweeting and Seaman 2005). This can be seen, for example, in the use of U.S. Census data for statistical analyses related to family research. However, a family and a household are not necessarily the same thing. For example, in pre-Civil War United States, while slaves contributed to a slave owner's family as an economic unit, and were often considered part of the household, they were not accepted as legitimate family members according to the conventional definition (Jones 1987). Consider, too, the case of children of a divorce: They may live in a separate household with only one of their parents who maintains primary custody, but they often still consider both parents to be their family.

Scholars who accept Murdock's functional definition of family might account for the possibility of various family types; however, this often manifests as solely accounting for differentiation on the basis of relationship origins. For example, families of orientation are the families into which individuals are born or adopted, while families of procreation are those into which individuals marry and in which they often produce

Willis, Burke, and Glasberg / Societies Without Borders 16:1 (2022) 48-73

their own offspring. This differentiation of family by the seemingly “biological” role it plays for the individual assumes that most individuals will marry into a heterosexual relationship that will likely produce offspring. Another assumption occurring under this logic is that family is most centrally about biological and social reproduction. In other words, with the addition of adoption, there is no longer the bloodline assumption, the heterosexual assumption, or even the married assumption (though all three assumptions maintain residual strength), but the assumption that families are made up of parents and children strongly remains. However, many people enter into cohabitation relationships and a growing and significant number of couples, both married and cohabitating, are choosing not to have children, as well choosing to organize their familial or household lives around loved ones who they are not necessarily involved with on a “romantic” or sexual level (but rather on the levels of friendship, etc.).

For example, LGBTQ+ individuals, historically excluded from the institution of marriage and often rejected by their families of origin, have forged families of choice with their partners, their partners’ relatives, and friends, reflecting a family form not defined by either “biology” or marriage (Cody and Welch 1997; Hull and Ortyl 2019; Shilo, Cohen and Gavriel-Fried 2016; Stiers 2000; Weeks 2007; Weston 1991). In this form, family is defined by stable voluntary relationships based on shared economic and emotional ties in one or more households.

Further complicating the social construction of family are the wide variety of structures typifying families and family households, most conventionally nuclear (two parents and their offspring) and extended (the nuclear family plus other kin, which as a concept conflates family and household) (e.g., Tillman and Nam 2008). However, many observers acknowledge that these conventional conceptualizations of family structure are linked to social class. The nuclear family is commonly seen to typify the middle class and the affluent, because the breadwinner is more likely to earn sufficient income to support the family without the financial help of other family and household members. The extended family is more commonly found among the working class and poor, since economic necessity is one important reason why several generations or members of the same generation may live together and pool resources. Such a differentiation of family forms continues to conflate households with families. It is also historically inaccurate: while the so-called traditional nuclear family is most typically associated with the post-WW II period of the 1950s, many middle-class families in the 1950s and 1960s in the United States lived in some form of extended family (particularly those including two married members, their children, and one or more grandparents) (Litwak 1965). Many still do today, and their numbers are growing, owing in part to a struggling economy and skyrocketing housing costs (McLanahan and Percheski 2008), the rising astronomical cost of

assisted living and nursing care facilities, and the increasing average life span. Family Caregiver Alliance (2012) estimates that one-fourth of all U.S. households are caring for an elderly family member.

Research also indicates some racial and ethnic differences in the prevalence of extended families. Although most families in the U.S., regardless of racial/ethnic group, are “maintained by a married couple or by a single parent with children” (Taylor 2002: 25), Black people living in the U.S. are twice as likely as white people to live in extended families that “transcend and link several different households” (Farley and Allen 1987: 168; Gerstel 2011; Kane 2000; Stewart 2007). Similarly, Latinx (Carrasquillo 2002; Perez 2002), Native American (Yellowbird and Snipp 2002), and Asian American families (Nakano Glenn and Yap 2002; Takagi 2002) are more likely than white families to be structured as extended families. There are clearly diverse ethnicities within each of these socially-constructed racialized categories, but one thing they have in common is the likelihood that extended family structure derives, in part, from cultural histories and experiences, including racism, immigration, resettlement, internment, and exclusion in the United States. But far from being dysfunctional, these extended family forms often manifest strong family-centered values and norms, egalitarian domestic divisions of labor, and adaptable family roles (Kane 2000). Extended families may thus operate as structures that reflect resilience of the family in the face of institutional challenges (Taylor 2002).

Cultural familial norms may encourage extended families. For example, Native American, Latinx, and Asian American cultural norms often define adult children as responsible for the care of aging parents (Phua, Kaufman, and Park 2001; Tam, Findlay, and Kohen 2017). The wider community becomes part of the familial network of kin and non-kin, thereby contributing in part to the greater likelihood of extended family structures. Extended family forms may also be a response to the economy (Aaron et al. 1999; Glick and Van Hook 2011). While white families’ household income tends to derive primarily from the incomes of one or both partners of a marriage, Black families’ income is more likely to be based on the combined incomes of both partners, adult children, and extended relatives (Taylor 2002). Given the lower average annual earnings of Black people living in the U.S. compared with those of white people, there are clear economic pressures to pool relatively limited financial resources.

The economic pressures contributing to a general resurgence of extended families in the United States has produced a sandwich generation of adults caring for both elders and children. In the United States, one in seven adults is caring for elderly parents and simultaneously raising children (Cravey and Mitra 2011; De Los Santos 2013). Furthermore, we are witnessing the increasing prevalence of a boomerang generation: As housing costs soar and shifts in the economy make decent-paying jobs

Willis, Burke, and Glasberg / Societies Without Borders 16:1 (2022) 48-73

scarce even for college graduates, an increasing number of middle-class children return home as adults to live with their parents (Dey and Pierret 2014; Veevers, Gee, and Wister 1996; Zhu, Yang, and Xiaodong 2002;). The COVID-19 pandemic has intensified these patterns, as adult offspring returned to their parents' home to quarantine and extended family members may have moved in together because of the combination of job loss and rising housing costs (along with rising evictions) (e.g., Puddu, 2020).

In addition, nearly half of all marriages end in divorce, and yet many people still remarry (Polikoff 2008). Since many remarriages involve partners with children from previous marriages, there are an increasing number of blended families consisting of two new partners and their respective children. When these new marriages produce children as well, they create a family consisting of stepsiblings, half-siblings, stepparents, and parents. Joint-custody arrangements between divorced parents can mean that marriage to a new partner does not necessarily sever the relationship between a parent and their children. Moreover, not all divorced parents marry the partners with whom they cohabit: unmarried cohabiting partner households have been steadily increasing for several decades (Galvin 2006; Simmons and O'Neill 2001), such that as many as 63 percent of children residing in households of cohabiting adults are living with one of their original ("biological" or adoptive) parents and that parent's partner (Manning 2006; National Center for Health Statistics 2010). Whether the cohabiting adults forming these arrangements are married or not, they still function as blended families; indeed, members of cohabiting blended families in which the adults are not married tend to conceptualize their relationship as a family (Braithwaite et al. 2001; Ganon and Coleman 2000). Thus, the children may live primarily with one parent but also remain part of the other parent's household. The blended family, like the new extended family, challenges the conventional definition of family since it often involves several households.

Divorce has also created a new challenge to the meaning of household and family. In cases in which the separating couple is a nonmarital union, the definition of what is a family can significantly affect custody determinations (Holtzman 2011). In other instances, some divorced couples engage in "nesting," in which the children remain in the home previously inhabited by them and their married parents and each parent cycles in and out of that household for their custodial time with the children, rather than having the children rotate between their parents' individual residences (Silverman and Higgins 2003). Such an arrangement often requires an amicable divorce, and a fair amount of income to maintain essentially three households, which is one reason why so few divorced couples do this. In fact, the arrangement is frequently temporary while the parents try to sell the home or await the end of the school year (Cross-Barnet, Cherlin, and Burton 2011; Silverman and Higgins 2003). But

that some do attempt nesting remains a challenge to the definition of family: Is this a family, even if it is split over several households?

How, then, can “family” be defined and still capture the wide diversity of forms which constitute that institution? Many sociologists increasingly refer to a concept of “families” to capture the reality of the wide diversity of structures and relationships (e.g., Morgan 2011). However, this does not fundamentally change the fact that the institution of family is still largely prefaced on a relatively particular concept of what does and does not constitute a family. A critical definition based on that offered by Carol D. Stack (1974: 31) can be useful because it reflects a variety of situations, including those contoured by race, class, and gender: Family is an organized, ongoing network of kin and non-kin who interact daily, sharing economic and household responsibilities and obligations, providing for domestic, emotional, physical, and financial needs of all members, and ensuring their survival. The family network may span several households that may be based on biology or on choice.

However, a broad definition of family is a different end-goal than advocating for the state to abandon the enterprise of defining family. Some cities, like Hartford, CT, have switched from defining family to defining household, but it functions as a semantic shift in form rather than a substantial shift in content. We will explore the tension between these two possibilities—one involving reforms to state definitions of family and household and one involving a sort of abolition of state-based definitions—throughout the rest of this paper. Whether we grapple with the definition of family over household or with the notion of delinking the form from the state altogether, the conceptualization of family still matters.

Why does the conceptualization of the family matter? First, the adoption of a particular conceptualization by state policy and practice shapes the meaning of the “normal” family, thereby establishing access or denial of access to rights, privileges, and resources. This is similarly true in the context of international policy and doctrine, as is the case with the UDHR, an international agreement that serves as a guide to the norms of protection, rights, and privileges, but which fails to acknowledge or protect families whose nontraditional structures do not conform to the narrow, heteronormative construction of the family embodied in the document (e.g., King 2010). The case of the Scarborough 11 in Hartford, CT challenges both the heteronormative construction of family and, in essence, the denial of their human rights and the consequent access to resources and protections based on that construction.

CASE AND METHODS

The Scarborough 11, as they are popularly known, are a self-defined intentional family living in Hartford, Connecticut. The family originally consisted of two single adults (Hannah and Kevin), two married

Willis, Burke, and Glasberg / Societies Without Borders 16:1 (2022) 48-73

adult couples (Laura and Dave; and Julia and Josh), one engaged adult couple (Maureen and Simon), and three children (two from one of the married couples, and one from another of the married couples). Since moving into the Scarborough house, Kevin, one of the single adults, and only person who never planned to remain a permanent member of the household, married and moved out to a nearby residence. Maureen and Simon, the engaged couple, were married in the backyard of the Scarborough house, and one adult child of one of the married adult's previous relationships moved into the home. It is relevant to note that members of this intentional family are neither non-monogamous or involved in polyamorous relationships with each other; rather, they consist of three married couples in exclusive romantic pairings, their children, and one unmarried adult.

The Scarborough 11 describe themselves as an intentional family: they share household responsibilities such as cleaning, cooking, childcare, and grocery shopping, and they share all household financial expenses. They eat meals together in their shared kitchen and dining areas and have regular meetings to discuss household issues and needs. The members decided years prior that they purposefully did not want to live or raise children in nuclear family formations. They originally considered themselves an affinity group who desired to live together as household members and likewise desired to acquire a home that could house them all comfortably.

Prior to moving in together on Scarborough St., five members of the family lived in different units within the same building in downtown Hartford, a residential building with public common areas that served as a hub and meeting space for various local movement organizations and initiatives from 2008-2014. In 2014, six members moved into a smaller rental residence in Hartford that contained several apartments in the same building, but on a much smaller scale than their previous housing. This allowed the members to live near and with each other, but did not allow them to fully cohabitate (a shared kitchen and living room, for example) as they hoped. When a nearby, foreclosed mansion had its price reduced drastically and became affordable, the members finally found a large enough living space to house everyone comfortably. In 2014, all members moved into the Scarborough St residence. The two members with the best credit took out the mortgage on the house, but all adult members created and signed onto an agreement in regards to equity and responsibility with the property, as is typical with intentional communities and families sharing property.

Soon after they settled into their home, they were sued by the City of Hartford (October 2014) because the home is in a single-family zone. The City of Hartford defined a family *at the time* as:

Willis, Burke, and Glasberg / Societies Without Borders 16:1 (2022) 48-73

[O]ne (1) person; a group of two (2) or more persons living together and interrelated by consanguinity, marriage, civil union, or legal adoption; or a group of not more than two (2) persons who need not be so related, occupying the whole or part of a dwelling unit as a separate housekeeping unit with a common set of cooking facilities. The persons constituting a family may also include foster children; the number of which shall be in accordance with general statutes as amended and live-in domestic employees. For the purposes of determining density, a roomer, boarder or lodger shall not be considered a member of a family (Rozza et al. 2015).

Because the municipality retains the power to define “family” or “household,” its definition serves as a filter (Glasberg, Willis, and Shannon 2018) for which groups of people are allowed to claim familial ties and the citizenship rights which accompany such a claim. Under the same zoning laws and city definitions of family, if a wage-labor relationship mediated the household members (e.g., if one of the members was a butler, another a nanny, another a groundskeeper, etc.), then the 11 household members would be allowed to legally cohabit at the residence. This provision made it clear that the notion of ‘family’ was used as a cloak for maintenance of class-based (and by extension race-based) residential boundaries.

As a direct result of the tensions and politics around the initial lawsuit, the city made some changes to the definition of family. Specifically, the city removed reference to “family,” replacing it with “household unit,” which they defined as:

[A] collection of individuals occupying the entire dwelling unit, sharing a household budget and expenses, preparing food and eating together regularly, sharing in the work to maintain the premises, and legally sharing in the ownership or possession of the premises,” wherein a household consists of “up to 3 persons all of whom are not necessarily related to each other...

While an important change, this definition did not accommodate the Scarborough St. arrangement, as they are more than three individuals not related by blood or marriage.

Near the end of 2016, the city officially ended its lawsuit, citing reasons such as the cost of the lawsuit becoming “too expensive” for the city and that the city had better fights to wage. This means, however, that the Scarborough 11 could be re-sued at any point and once again face daily fines and threat of eviction (technically they are facing a \$100 fine per day

and that could be enforced if the city chooses to do so, and this is in addition to hundreds of dollars in legal fees).

The case of the Scarborough 11 generated media coverage, local and national, and court and legal documents and records, which were collected and examined throughout the period of legal proceedings. The data for this paper, however, is drawn specifically from in-depth group interviews with the 7 current adult members of the Scarborough 11. Semi-structured interviews were conducted in two groups of two members and one group of three members. This was done to accommodate the differing work schedules of the adults, as well as provide a space for interactional conversation, similarly found in focus groups dynamics (e.g., Rubin and Rubin 1995: 140).

The interactional nature of group interviewing can stimulate respondents' memories and feelings (e.g., Fontana and Frey 2000: 651). Rubin and Rubin (1995: 40) argue that the goal of group interviewing is, "to let people spark off one another, suggesting dimensions and nuances of the original problem that any one individual might not have thought of. Sometimes a totally different understanding of a problem emerges from the group discussion." Likewise, participants have the ability to build on each other's comments, which can lead to richer data (Fontana and Frey 2000: 652). One of the main challenges of group interviewing is when one member dominates the conversation (Fontana and Frey 2000: 652). Both interviewers were prepared to deal with this challenge in case it arose, but we ultimately found all participants equally added to the conversation and shared the interview space with each other thoughtfully.

Each interview lasted sixty to ninety minutes and was transcribed by one of the authors. Using an inductive approach, transcriptions were coded and revealed the emerging themes of: 1) evidence of the group's lived experiences as a family; 2) evidence of discrimination from neighbors and the city writ large and, 3) differing strategic positions on how to handle the group's situation and its relationship to similar struggles experienced by families and households in other sections of the city.

ANALYSIS

The Scarborough 11

While the Scarborough 11 are not recognized as a single family or household in their city of residence, this would not be the case across all states and municipalities in the U.S. For example, Bellevue, Washington defines family as:

Not more than four adult persons, unless all are related by blood, marriage, or legal adoption, living together as a single housekeeping unit. A group of related persons living in a household shall be considered a single housekeeping unit. Provided: a group of more than four

Willis, Burke, and Glasberg / Societies Without Borders 16:1 (2022) 48-73

unrelated adult persons living together in a dwelling unit may also be included within the definition of “family” if they demonstrate to the Director that they operate in a manner that is functionally equivalent to a family (Rozza et al. 2015).

If living in Bellevue, Washington, the Scarborough 11 would have no problem claiming a legal status as family or household. These different legal definitions of family demonstrate that the state has immense juridico-legal power to define family, and thus to control whether families are able to live together, claim each other as dependents, or visit each other in the hospital, to name a few examples. In this sense, the struggle of the Scarborough 11 has points in common with other nonnormative family formations, including people in non-nuclear households such as those in non-monogamous and polyamorous relationships (Dryden 2015; Pallotta-Chiarolli 2010; Sheff 2011, 2014, 2015). However, while scholars have explored the state’s investment in the heteronormative nuclear family through explorations of racist, ethnocentric, heterosexist, and monosexist marriage and family laws, less attention has been paid to the ways the state regulates human intimacy and bonds via zoning laws in particular.

Drawing on data from interviews with members of the Scarborough 11 family, we examine logics behind both neighborhood opposition to their presence in the community and state investment in upholding the nuclear family as the normal and desired unit to represent a “single family.” We also examine members’ views on future directions for changes to the definition of family, and analyze these issues in the conclusion by applying Rubin’s (1984) concept of the charmed circle, originally focused on sexuality, toward the issue of family and human intimacy more broadly conceived.

Neighborhood Opposition

Neighbor opposition played a vital role in the initial investigation of the Scarborough 11 home; complaints by neighbors of too many cars in the driveway originally brought the attention of the authorities to the home. Members of the house shared their thoughts as to what was driving the opposition. One theme within this opposition centered around issues of wealth, worth, and rules. The neighborhood where the Scarborough 11 resides is located in the wealthiest district of Hartford. Members of the 11 said some of their neighbors likely felt the 11 “cheated the system” because they needed eight adults to pay the mortgage rather than a sole-provider or dual-income home like the other families in the neighborhood. Members of the home clarified that they cannot put words in people’s mouths, but that they heard these sentiments voiced at city hall meetings and that they were even sometimes shared with them directly. Laura describes this sentiment as “We cheated the system. We cheated. We

Willis, Burke, and Glasberg / Societies Without Borders 16:1 (2022) 48-73

cheated.” Maureen, described the critics’ sentiments as, “They worked hard to be two people to have that house...And we didn’t and we still got it. We did not work hard.” Dave concurs, explaining that while some have tried to explain opposition through the idea of the fear of the unknown, he thinks the reasoning is less benign: “[I]t was brought up this whole fear of the unknown. I don’t think it’s a fear of the unknown. I think they *do* know and they think that we are perfectly nice people and I think it comes down to we cheated the system and they want this to be a street for other millionaires...”. Similarly, Josh cites opposition as rooted in “...this bourgeois idea of ‘we worked hard to get here; you didn’t work hard; you’re scam artists; you scammed the system; you should have done it the right way like we did, so get out.’”

The idea of an appropriate route to home ownership in the neighborhood is clearly linked to socioeconomic status and most adult members of the home referenced social class distinction as an underlying force in neighbors’ opposition. Simon sums this connection up in the following excerpt:

I think it’s a way to try and control who can live where. In order to live in this neighborhood, you have to be able to afford it, essentially. There’s a minimum lot size in this neighborhood, where we also have this very strict limit on single-family dwelling. So, you have to be able to afford a giant house on a giant piece of property with large taxes, big insurance, and all that stuff. And you have to be able to do it as a nuclear family. So, I think it’s a sorting mechanism to sort people into different parts of the city. And I think based on some of the letters to the editor written on us, there’s a sense that we were cheating, we were cheating the system by pooling our resources.

Opposition based on ideas about wealth, worth, and rules was frequently expressed in “slippery slope” arguments about the impacts of the Scarborough 11 on the quality and character of the neighborhood. Maureen describes this issue in her explanation of the function of the definition of family codified in the zoning ordinance:

...This definition protects what they call single-family residential. And the intent is that they bought their houses specifically because they didn’t want to live in multi-family neighborhoods...I can’t put words in their mouths. I can’t say why they don’t want to live in multi-family neighborhoods. But our presence here, they seem to feel... by virtue [of] allowing...what they consider to be a multi-family, other properties on the street will become

Willis, Burke, and Glasberg / Societies Without Borders 16:1 (2022) 48-73

multi-family and so we're potentially opening the floodgates.

Other family members also saw opposition as rooted in concerns about changing neighborhood composition, specifically changes that would threaten both the restrictive and exclusionary character of the area and the economic privilege of its residents. Kevin highlights this in the following excerpt:

A city council person ...was arguing against the subdividing of the estates over here, which now are condominiums. And that was a compromise deal. They did not want them to be condos...even though those are high-end condos, one of the quotes he said was, "The last vestige of good housing in the city is in this neighborhood." And then [name of neighbor], who wrote one of the op-eds or one of the letters...he's an attorney who lives on this street, he said something kind of similar in this coded language: "I've seen too many of Hartford's greatest demographics moved out to the suburbs." There's something like the greatest demographics being pushed out of Hartford...Who are the good demographics? Who are the bad demographics? ... You know someone else on the street who was opposing us says that we're a threat to them living on this street. ... I do think that it's an extension of ways to control people...where they can live, who can live where. ... people like us are not supposed to have access to streets like this. I think this is straight up class bias... I don't think it's about family. I think they're using that as their way to appeal to this value of the nuclear family. But I think it's about access and I think it's about class. I think it's about we didn't earn our way in the ways that they did. This is an exclusive neighborhood. The house sold for \$453,000. That alone probably makes them pissed off because they don't want any house on this street to sell for less than one million dollars... I think it's a perception that "this neighborhood is for *us*," those people who are of a certain tier. And I think the family stuff, to be quite honest with you, is just a ruse, or is a way to make them not seem like a bunch of snooty rich people who want to keep their street to themselves... I just think that we're outsiders to their class. ... They'd rather have an empty house and wait and wait and wait until the appropriate type of person buys it rather than have it filled and be a vibrant part of

Willis, Burke, and Glasberg / Societies Without Borders 16:1 (2022) 48-73

the neighborhood. ...The family thing is actually a kind of a way to seem like they're not being elitist.

Dave concurs with this assessment of class elitism influencing opposition, noting, "You hear them talk about this all the time. What Hartford needs is more rich people to move here. So, if we don't have a space for the rich people to isolate themselves, they're not going to want to move here."

Opponents thus claim various zoning changes, including a change to the definition of family or household which would allow for the Scarborough 11 to legally reside in their home, would threaten the quality and character of the neighborhood (a sentiment that made it clear that 'family' was code for class-boundary maintenance). However, members of the family noted that these changes that opponents warn against have already happened. Maureen says:

There's another story underneath it, why they're afraid because our very presence here is not the cause of the neighborhood going to pot, but a *symptom* of it, because the value of this house dropped so precipitously that we were able to buy it. Before 2008, we wouldn't have been able to afford this house because it would have been... over a million dollars.

Opponents argued that changes to zoning ordinances would not only change the quality and character of the neighborhood, but would also lower property values, thus threatening the economic well-being of neighborhood residents. But as Maureen and other members of the family point out, property values in the neighborhood have already declined and the neighborhood has already become less desirable for those looking for larger and more expensive homes, which explains not only how the Scarborough 11 family could collectively afford to purchase the house, but also why other residents have been unable to sell their properties. Thus, while opponents' attempts to place blame for decreasing property values on the Scarborough 11 may be spurious, these attempts demonstrate a very real sense of threat to their economic and residential privilege on the part of some residents.

While some Scarborough 11 members, such as Kevin, see neighborhood opposition as primarily rooted in class and economics rather than heteronormative nuclear family ideology, other family members see both issues as playing a role. For example, Maureen notes the ways their family is seen as less valid and less stable due to the presence of more than one pair-bond:

But the idea is that we would disintegrate over time... There was something about our relationship that was

Willis, Burke, and Glasberg / Societies Without Borders 16:1 (2022) 48-73

inherently less stable than an actual family. So, we're like this time bomb ready to happen according to [local resident]. ...it's like a domino effect the way he portrayed it. One of us would break up and then move out. And then someone else would break up and move out. So, you'd be left with like one of the original people and all these new people and so all of the sudden to them... it's like you're less stable in our neighborhood and you're going to keep bringing instability and you're going to be a revolving cast of characters.

In addition to noting ways that the validity of their family was challenged and discredited, members also implicitly referenced heteronormative nuclear family ideology by making various connections between their own struggles and those of other nonnormative family formations. For example, parallels were drawn to the struggles of LGBTQ+-headed households. A number of the family members made a point to discuss the opposition they experienced from lesbian and gay couples in the neighborhood. For example, during one interview, Josh noted, "You know one of the most interesting things that some of our loudest opponents were these two guys right here and then the two women across the street..." and Julia clarified by adding "Both gay couples."

Given same-sex couples' long battle in both Connecticut and, more broadly, the U.S. to be recognized as family, opposition from these couples was both a surprise and a disappointment to Scarborough 11 members. In many ways, this surprise and disappointment was rooted in dismay over the fact that these same-sex couples did not see their struggles as overlapping. In trying to make sense of this opposition, Dave posited a possible explanation related to the use of slippery slope arguments, saying "I can see people using us as... 'See we allowed gay marriage and now this is what is happening and this is what we are facing—the breakdown of the family unit'...". In other words, Dave noted that opposition from gay and lesbian neighbors could have, in part, been rooted in fears about LGBTQ+ rights opponents using the Scarborough 11 as "proof" of the accuracy of their predictions about same-sex marriage as a threat to "family."

Other members also discussed their struggles in the context of discrimination against nonnormative families. Simon discussed this by noting the ways that numerous forms of relationships are made illegible:

[J]ust the idea that there's only two types of valid relationships: marriage, where we have some very complicated rules about how to divide up property, and then anything commercial, and everything else basically doesn't exist in terms of when there's property involved.

Willis, Burke, and Glasberg / Societies Without Borders 16:1 (2022) 48-73

I mean, we own this house. This is big...we are in a property-owning arrangement with each other, but we are sharing it. And that ... doesn't fit into the box, right?

Maureen also addresses the way that certain relationships, specifically those defined by marriage or biology, are privileged over others:

If you have a calling to live this way, but it's not sanctioned, it seems very confusing to people because there's not a name for it. So, [quoting their opponents], "you're either blood related or you're friends, and we are not going to privilege friendship." I would like to know why that is so scary. I feel like it's very frightening. There is this idea, "Well if we privilege that relationship equally, what is that going to lead to?" And I'm not really quite sure. It's like, ok what *would* that lead to?

She also, like Dave, alludes to the slippery-slope fear that is often raised by challenges or changes to definitions of family.

The connection that family members made between their struggles and those of other nonnormative families was also made by others who reached out to the family or lent them support. Polyamory rights groups reached out to them, as did various advocates and scholars focused on nonnormative family forms, including single, same-sex, and polyamorous households. Members of the family as well as their lawyer were also invited to participate in conferences, workshops, and panels about family rights and recognition. For example, in the fall of 2016, Scarborough 11 members participated in the *After Marriage* conference organized by CLAGS (Center for Gay and Lesbian Studies), which addressed new horizons in LGBTQ+ rights, family, and the law after the Obergefell decision legalizing same-sex marriage in the summer of 2015.

Perhaps one of the most notable examples was the support given by Anne Stanback, former director of *Love Makes a Family*, the Connecticut organization that led the fight for second-parent adoption and same-sex marriage in the state. At one event, Stanback offered an apology and explanation for a comment she had made years earlier that seemingly disparaged unions not based on a dyad. In arguing for the right for same-sex couples to marry, LGBTQ+ rights opponents had challenged her with slippery slope logic by asking her why, if the heterosexual aspect of marriage was not sacred, was the couple aspect also up for debate. At the time, Stanback was unable to defend the rights of unions beyond the exclusive couple form for fear of feeding into anti-LGBTQ+ rhetoric, but she now speaks up in support of the Scarborough 11 and draws connections between their fight and the fight for recognition for same-sex couples and LGBTQ+-headed households.

Willis, Burke, and Glasberg / Societies Without Borders 16:1 (2022) 48-73

In addition, addition to the parallels drawn between struggles for LGBTQ+ family recognition and the desire to live where they wish, the case highlighted issues relevant to poor families, families of color, and immigrant families in the city, an issue we discuss in more detail in the next section. The same class- and race-based boundary maintenance strategies in both situations reframe the narrative as one of the *meaning* of family. And that has consequences for both groups for accessing human rights related to that concept.

All in the Single-Family Unit

While it is clear that members of the Scarborough 11 and their supporters see the current understandings of family and household (as codified in the zoning laws and expressed by their opponents) as discriminatory, what changes do the 11 envision to challenge this inequality? In speaking about future directions for the state's role in defining family, members of the Scarborough 11 spoke about both reform and abolition. They touched upon how a definition of family would never be enough to contain their form or adequately encapsulate the different forms of family and households that exist in the city as a whole. The Scarborough 11 claim a definition of family does seem to be needed for protection in their case, but that their ultimate goal would be an abolition of exclusive protection of whatever is defined as "family" under the state, or in other words, abolition of "the family" as we politically understand, use, and enforce the term.

Defining Family

Members of the Scarborough 11 problematized the state's role and interest in defining family. While some members, such as Simon, think a functional definition of family like the one Bellevue, Washington has would be helpful, other members such as Laura and Dave question the impetus and rationale for privileging family over, for example, individuals in any collectivity. While Simon sees functionality in an expanse of the term, Dave asks why others do not have the same rights as families. Laura responds that even using a functional definition of family would not automatically address the density issue, pointing out that 50 relatives could cohabit as one "family" in the technical sense. Below, Simon explains how a functional definition of family would better accommodate "fluid" associations:

Family is... people who share a household, look out for each other, share history, share some emotional bonds too, which we do in this house. And I think those associations are a lot more fluid and personal than you can capture in a definition of... "family is people related by this or this." I think it's a lot more idiosyncratic. Each

Willis, Burke, and Glasberg / Societies Without Borders 16:1 (2022) 48-73

family is going to have a little different constitution. Who's included in the family and who's not? And are you all biologically related doesn't matter. I think changing to a more functional definition of family would be great.

Dave takes a broader critique and asks why there is a definition of family in the first place. He argued that it is unnecessary for a state entity to define family and when they do so, no matter what the definition is, it privileges families over other forms of social organization:

Why do we privilege families? Why don't we privilege individuals...why don't individuals have the same rights as a family? ...I don't see why we need a definition at all...at the end of the day we're talking about this idea that the city of Hartford wants to privilege... and why is it only here in this neighborhood that it's the strictest? Why isn't it anywhere else? It's not about density, and even if it was, we're talking about living in a house that is meant for as many people living here. We are not crammed in here. I grew up in a two-bedroom house with three other siblings and my mother and father, six of us in a two-bedroom house. That was ok, but this is not.

Likewise, Julia questions the existence of state definition of family, but explains why she thinks one is necessary for immediate and material reasons:

We need a definition of a family for protection... Who should be protected as a family? It's who should be protected period... it's using other states' and cities' language on zoning that our argument is based on the Fourteenth Amendment, which is ultimately right to privacy with the right to choose our own way of living and do that in our own privacy and ...not having anybody infringe on that. So, that's what the case is on, which doesn't go as far as...the declaration [UDHR] does, but it ostensibly protects the same things.

Laura points out that the goal of defining family seems to be to limit density when the definition is applied to maintaining "single family" zones. If the goal is to limit density, then a definition of "family" might sometimes not have that stated effect:

If your end goal is to limit density, saying relation or not...you can have fifty relatives come live in your house

Willis, Burke, and Glasberg / Societies Without Borders 16:1 (2022) 48-73

and that would be ok here. You know. So, that's not a common-sense way to do this.

The interviewees have pointed to a larger concern about the project of defining family at a state level. Rather than simply wishing to be included in the definition of a single family, the Scarborough 11 problematize there being a state-declared definition in the first place and likewise point out that their goal was not to solely broaden the definition of family. Indeed, Kevin noted that the Scarborough 11 did not initially think of themselves as a "family," but rather as an affinity group that desired to organize the entirety of their lives around each other in a permanent sense, coupled with the desire to experience that intimacy in a common dwelling:

There shouldn't be a definition. It should be that people be allowed to determine that they want to share resources, share responsibilities, share whatever. ... even if we weren't living together, we'd still be a family.... But I think that it's really interesting how as adults we choose to define family...I have enough family. There's six people in my family. That's the same with Julia. We come from bigger families. We don't need any extra family if that's what it's really about. But we want it. That's part of who we are. That's part of our identity...

Julia explains that due to increased economic difficulty, that more people are going to look for alternative arrangements to family and household in ways that allow them to "thrive." She explains that this will mean alternative living arrangements to accommodate material struggle, but also to account for how political economy affects how people think of themselves in relation to family and intimacy:

We're taking the opportunity on a broader scale to create new definitions of family... because it's necessary. Our society and economy [is] playing itself out in a way that makes living and working and thriving increasingly difficult for more and more people. And so, we are left to find alternative ways of thriving and this is one of them. And there's many versions of this as well. And so, yeah, if this is a type of communal living, which has been around...Once I remember talking to...I think it was Butch Lewis, he was a [Black] Panther, ... about what to do until the revolution comes. ...he said, "Create new models. You've got to create new models." And that's what this is. We're creating new models. We're creating

Willis, Burke, and Glasberg / Societies Without Borders 16:1 (2022) 48-73

additional models as opposed to the standard capitalist nuclear-family model.

Julia also referred to the role that the definition of family plays in Hartford—as a legal way to racially and economically segregate the city:

What we are going through is a manifestation of the racial politics of Hartford at the turn of the 20th century because zoning is quite literal and explicit in that certain classes of people should exist and thrive in specific areas of a city. And the way that Hartford's zoning manifested was to perpetuate and even harshen the divide and segregation that was already manifesting in the city at that time. And the guy who sort of spearheaded it ... was totally inspired by Jim Crow... he wanted to bring a Southern model to Northern cities, and ... you could do that through the legislative means of the municipality without any controversy whatsoever—we belong here and you belong there.

Josh expands on the discriminatory aspects of Hartford's definition and how it is bound to forms of institutional power:

Our case ...it pulls back the curtains to reveal that the city has disdain for the vast majority of its residents if it has these kinds of laws on the books... that is the reality of a working-class city, of an immigrant city, of a city of Black and Brown people, and yet we're operating under ordinances that were designed under racialism of the nineteenth century... our white privilege has enabled us to expose this, but we are simply an avenue to expose what is happening to the vast majority of the families because when you have a city where 75% are renters, and the owning class, the rentier class, is able to extract wealth from these people as absentee landlords. It's a powerless class because when they attempt to challenge the owning class, the owners, their only avenue is to go to the city, through ordinances like licenses, inspections, hey they're not emptying the dumpster, hey they're not fixing anything. And the first question the city is going to ask is, "How many people you got in the house? And, so, the ordinances are able to squelch and silence the vast majority of our residents... our case is an extreme one, but it's a way to expose that. And if we win, it's not just

Willis, Burke, and Glasberg / Societies Without Borders 16:1 (2022) 48-73

about us staying here, but it's about creating protections for everyone else, and challenging a century-old idea of how respectable politics could manifest. This is how you're supposed to live, and we're going to live here, and you're going to live there, and we have these invisible zones, and they are hard barriers, and we are not going to do anything that threatens them. And that language is still used today: 'Defend the zone.' ... It's about defending the zone, as if they were barricades of the one percent.

Josh's observations illustrate the intersectionality of racialization and class in the social construction of family, wherein some families, based on class and race privilege, are deemed valid, while others, based on class and racialized marginalization are deemed invalid. When the state engages in policies and practices based on these assumptions and social constructions, it is reproducing inequality of access to resources, rights, and privileges.

CONCLUSION

The Scarborough 11 is but one example of how institutions, in this case, the state via housing and zoning codes, privilege singular romantic pair-bonds and the heteronormative nuclear family while denying recognition and rights to a variety of other intimate bonds and family forms. Building off of Rubin's (1984) foundational work on sexuality and sexual variation, we argue that this represents a broader lack of benign *intimate* variation (Willis 2019). It also illustrates how the language adopted in the UDHR erases families that fall outside the traditional heteronormative nuclear family form, and thereby leaves them out of the conversation involving the rights of families. Moreover, the state's reliance on the limited conceptualization of family masks its class- and race-based, exclusionary boundary maintenance of residential neighborhoods, which in turn reinforces obstacles to accessing related human rights (and this is the case whether the family at the heart of a controversy is white and middle class, or poor, or of color).

The U.S. Census has found that most families do not live in "normal," nuclear households; rather, a diversity of household formations is the norm. Given this, the authors of the *Beyond Marriage* (2006) statement argue, "All families, relationships, and households struggling for stability and economic security will be helped by separating basic forms of legal and economic recognition from the requirement of marital and conjugal relationship." Further, the authors likewise argue, "To have our government define as 'legitimate families' only those households with couples in conjugal relationships does a tremendous disservice to the many other ways in which people actually construct their families, kinship networks, households, and relationships" (*Beyond Marriage* 2006). These

Willis, Burke, and Glasberg / Societies Without Borders 16:1 (2022) 48-73

sentiments mirror arguments made elsewhere (Barrett and McIntosh 2015; Polikoff 2008).

Closely related to the hierarchical categorization of sexuality, as laid out by Rubin (1984), family forms are parsed as “normal” and “abnormal,” “good” and bad,” and “natural” and unnatural.” Rubin’s concept of the “charmed circle” suggests that conventional nuclear families are defined by state policies and practices as natural, good, and “normal” and therefore acceptable and deserving of access to resources, rights, and privileges that are denied to other family structures deemed “abnormal” and thus outside the charmed circle. As some of the Scarborough 11 pointed out, this charmed circle is strongly white and affluent. As Schippers (2016: 7) notes, this is:

An organizing rationale for institutionalized structures of privilege and disadvantage. Legal definitions of family, educational goals and curricula, criminal law, and access to and protections against discrimination in employment, housing, and health care, for instance, systematically confer benefits on those who fall or are perceived to fall within the charmed circle of sexual normalcy while denying those benefits to people who do not.

This relates in some ways to very basic questions about reforming versus revolutionizing (aspects of) society and whether the former can be a means toward the latter, or if, perhaps, it is more complicated. It might be quite simple, for example, under the existing institutions to argue for acting within their confines. That is, after all, one function of ideology and dominant ideologies in particular. Thus, in this case, the expansion of the state’s definition of family could be seen as a form of capture that maintains an institutional role for the state in regulating in-groups and (nonnormative) outgroups.

Abolition, by contrast, requires an advocacy for removing the capacity of states to define and regulate our sexual, romantic, and thus, familial lives (at the very least). In a broad, revolutionary, and expansive sense, it might be a form of argumentation against the state as such and related relations of ruling (Smith 1987) that allow this sort of hierarchical ranking of society. This way of looking at the problem of families requires critical thinking that goes beyond the dominant ideologies that accept and are managed through the lens of states and their rule. Both of these positions can be clearly seen in the above analysis of the positions of members of the Scarborough 11.

The Scarborough 11 represent a dissident family that embodies these issues in the form they have chosen to live and love. Their case illustrates that the concept of “family,” a bedrock of social structure and an entity the UDHR identifies as deserving of rights, is not a universal or

Willis, Burke, and Glasberg / Societies Without Borders 16:1 (2022) 48-73

natural structure. Moreover, it illustrates that the state is not simply responding to a social fact, but rather is a very active participant in constructing that entity through policy and practice. This perspective is echoed in the assumptions embedded in the language of the UDHR. That set of policies and practices of the state as well as the human rights international apparatus as they relate to some notion of “family” intersects with social constructions of class and race to reproduce inequalities of access to a wide range of rights, privileges, and resources.

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Willis, Burke, and Glasberg / *Societies Without Borders* 16:1 (2022) 48-73

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