The Hon. John G. Roberts's DRE Criminal Policy,
DRE Crime, DRE Criminal Policy Making Fraud, and the DRE Criminal Cover Up

1. The Hon. John G. Roberts, Jr. (Roberts) authorizing the use of the "*domestic relations [and domestic violence] exception [DRE] to federal subject matter jurisdiction."* It is axiomatic that the DRE is a criminal act under US law, an act of criminal indifference to civil rights that authorizes states to commit crimes against Americans and authorize fraudulent and crime conduct by the federal judge to protect the DRE is US Courts. Roberts is responsible for the DRE and all of the sinister acts committed in America against Americans as a result of the DRE's existence and Roberts authorization to use the DRE in the DRE Proceedings at the US District Court for the Southern District of New York, the Judicial Council for the Second Circuit, and the Judicial Conference of the US (Conference) (DRE Conduct Proceedings). **Note i** Roberts has been captured "red handed" engaged in criminal conduct to cover up his criminal conduct in fabricating a DRE policy and using the DRE to abrogated US citizens' rights under Constitution and US law in family, religious, speech, private property and political matters in federal trial and appeal courts.

2. The DRE **[Note ii]** has no foundation in the Article III jurisdiction or the equitable powers given to any federal judge including the entire US Supreme Court. The DRE is an illegal act on its face; it lacks any foundation under federalism **[Note iii],** the Constitution **[Note iv]** or law **[Note v].** The DRE is a violation of the Federal Rules of Civil Procedure's Rule 1 and 28 U.S. Code Chapter 131 Section 2072 **[Note vi]** that are the most comprehensive and material rules of law and justice, and strictest restriction on federal judges' conduct and rulings. The DRE abrogates Americans' rights under Article III that Americans require to protect their rights under the Constitution and Bill of Rights **[Note vii]** and the First[1], Fifth, and Tenth Amendments **[Note viii]** in domestic relations matters. The DRE denies Americans' liberties that have been ruled to be "*far more precious than property rights*" **[Note ix]** The DRE leaves American without unassailable liberties and freedoms are rights that government cannot legitimately regulate *"at all, no matter what process is provided"* **[Note x]** These are American liberties *with which neither public power nor majoritarian views can interfere*—these are liberties that cannot be codified under neutral principles.[2] Thus, neither judges nor legitimate law can govern them **[Note xi]** These are sacred private American privileges **[Note xii]** that belong exclusively to individual Americans. They are liberties that are far beyond the legitimate powers of government to regulate **[Note xiii]**.

1. Denial of access to US courts under the First Amendment denies Americans the right to protect themselves from states infringement of their right to exercise of their religious beliefs and freedom of speech, and their right to petition the government for a redress of grievances

2. The neutrality principle "forbids courts to 'mak[e] law or policy out of whole cloth, [or] . . . to impose substantive judicial judgments on disputes not capable of resolution through the application of neutral principles to sharply defined sets of facts.'" Richard H. Fallon, Jr., *Reflections on the Hart and Wechsler Paradigm,* 47 V and. L. Rev. 953,976 (1994).

3. Roberts has done this deliberately and malicious, without the most remote authority of any kind. Roberts has no jurisdiction, right, power, discretion, or legitimate purpose to even discuss or consider the notion of a DRE policy, much less use the DRE to govern the American people directly behind their backs, and the backs of Congress and the President with the DRE.

4. Roberts has refused to abrogate the DRE and pay the prize for having used it against the American people. Instead, Roberts is attempting a cover up. Unlike President Richard M. Nixon, Roberts is a judge using his limited statutory executive power to make sure that American seeking to discipline the federal judges under the Judicial Conduct Act and its rules can do so with delay, burden or fear of

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i. Manuel P. Asensio and his daughter, Eva Asensio, are the plaintiffs in the nation's first federal civil rights case against the DRE and the federal judicial conduct actions against the Hon. John G. Roberts, Jr. (Roberts), chief justice of the United States and presiding justice of the Judicial Conference of the United States (Conference), as identified below.

The DRE case has two parts: the court cases in US District Court and the judicial conduct complaints in the Judicial Council for the Second Circuit and Conference before Roberts, and the members of the Conference who are not subjects of the judicial conduct complaints.

There are two district court cases, the first against the New York State judges and politicians who acted under the protection of the DRE and the federal judges who criminally fabricated the DRE. The second action was filed after Roberts became directly involved in the action against the New York State judges and politicians.

The district courts cases are titled Asensio et al. v. DiFiore et al., 18 CV-10933 (Ronnie Abrams) and Asensio et al. v. Roberts et al., 19 CV-03384 (Katherine Polk Failla).

There are five separate DRE judicial misconduct actions filed under the "Judicial Council Reform and Judicial Conduct and Disability Act of 1980." These are docketed at the Judicial Council for the Second Circuit and at the US Judicial Conference under two numbers, 02-19-90052-jm and 02-19-90053-jm.

The parties in the DRE US court cases are the following:

Manuel P. Asensio, individually and as the parent of Eva Asensio, a minor child, plaintiffs, against the Hon. John G. Roberts, Jr., chief justice of the United States and presiding justice of the Judicial Conference of the United States; the Hon. Robert A. Katzmann, the chief judge of the United States Court of Appeals for the Second Circuit; and the Hon. Ronnie Abrams, a judge of the US District Court for the Southern District of New York, defendants.

Manuel P. Asensio, individually and as the parent of Eva Asensio, a minor child, plaintiffs, against Janet DiFiore, chief judge of New York State; Barbara Underwood, attorney general of New York State; Andrew M. Cuomo, governor of New York State; Adetokunbo O. Fasanya, New York County Family Court magistrate; and Emilie Marie Bosak, individually, defendants.

The parties in the DRE US court cases are the following:

Hon. John G. Roberts, Jr., chief justice of the United States and presiding justice of the Judicial Conference of the United States; the Hon. Anthony J. Scirica, a Senior United States Circuit Judge of the United States Court of Appeals for the Third Circuit and Chair of the Conference Committee on Judicial Conduct; the Hon. Robert A. Katzmann, the chief judge of the United States Court of Appeals for the Second Circuit and the Judicial Council for

the Second Circuit, and member of the Conference's ; and the Hon. Ronnie Abrams and Katherine Polk Failla, judges in the US District Court for the Southern District of New York State.

ii. The predicate that the "*domestic relations [and domestic violence] exception [DRE] to federal subject matter jurisdiction is a legitimate judicial doctrine of deference to federalism in family law*" is absolutely false.

The DRE is an illegal act executed in clear absence of jurisdiction, and outside of the legitimate authority of the judicial and legislative branches. Further, as shown below, DRE sanctions the federal and state judges to assert jurisdiction (without an iota of authorized) over unassailable American rights, liberties, and freedoms, and sanctions deliberate and malicious judicial misconduct in US and state courts against them. The DRE demoralizes all Americans who have done no wrong, violated no law nor imposed themselves on any other person's rights.

Yet in private without notice or authority, Roberts has deceived and connived Congress into tacitly approving the use of the DRE in US courts.

To protect himself, Roberts shamelessly uses the DRE to abrogate Americans' Article III rights in all 50 states. This leaves Americans without recourse or ability to obtain relief or redress against Roberts or the state where they reside.

The above overt acts constitute criminal use of Roberts's absolute control (as shown below) of the US Judicial Conference, the Administrative Office of the US Courts, the Federal Judiciary Center, and the Federal Judiciary Center Foundation.

The DRE violates Article III of the US Constitution that established Americans' right to access to US judicial power; First Amendment's prohibition of laws infringing on the exercise of religious beliefs and that protects freedom of speech and the right to petition the Government for a redress of grievances; the Due Process Clause of the Fifth Amendment, and the Ninth and Tenth Amendment limitations the federal government's powers to those granted in the US Constitution and reserves all other power to the States (under the protection afforded to freedom and liberty by the Constitution and its Bill of Rights) and the people, and the Equal Protection Clause of the Fourteenth Amendment.

As shown below, this is a monumental crime that only the chief justice (Roberts), not the president and not Congress, has the opportunity to commit. It is a unique crime and quite possibly highest possible form of treason against the Constitution by any US official in America's constitutional democratic government.

https://www.archives.gov/founding-docs/bill-of-rights-transcript#toc-amendment-i

Amendment I. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment V. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment IX. The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment X. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people

Amendment XIV. Section 1. 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.

Amendment XIV. Section 5. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

[iii] iii. "Federalism is one of several structural devices designed and established by the Founders to prevent and restrain tyranny. The Founders embraced 'the common Whig fear of political power. '**Absolute power** should never to trusted to man,' wrote Benjamin Rush in 1777 in terms no good Whig could deny. 'It has perverted the wisest heads, and corrupted the best hearts in the world.' Doctor Rush urged that 'the sovereign power should be watched with a jealous eye, and every abuse of it, which infringes the right of the subject, instantly opposed.' The Whigs had generally equated tyranny with abuses of liberty inflicted by a strong monarch. However, the term 'tyranny' took on a variety of new meanings for the Founders of the American republic, as they recognized threats to their liberties from branches, agencies, and other forms of government power that were new or unique to the American circumstances. For example, one writer explained in 1777: 'We have been so long habituated to a jealousy of tyranny from monarchy and aristocracy…that we have yet to learn the dangers of it from democracy.' Similarly, Madison exclaimed that '[t]he accumulation of all powers, legislative, executive and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.' As historian Gordon S. Wood notes, 'Under the pressure of this transformation of political thought old words and concepts shifted in emphasis and took on new meanings. Tyranny was now seen as the abuse of power by any branch of the government, even, and for some especially, by the traditional representatives of the people.'"

. . .

"The Federalist Papers are peppered with references to tyranny as justification for both the new (1787) Constitution and for specific constitutional provisions, especially the principles of federalism and separation of powers. Strong interest-backed structural restraints such as federalism were necessary, Madison warned, because 'a mere demarcation on parchment of the constitutional limits of the several departments is not a sufficient guard against those encroachments which lead to a tyrannical concentration of all the power of government in the same hands.'

. . .

The Founders transformed the Whig notion of unitary sovereignty into their invented and unprecedented form of federalism in order to check tyranny. As Bernard Bailyn put it: '[T]he federalist tradition, boom in the colonists' efforts to state in constitutional language the qualification of Parliament's authority they had known-to comprehend, systematize, and generalize the unplanned circumstances of colonial life-nevertheless survived, and remains, to justify the distribution of absolute power among governments... to keep the central government from amassing 'a degree of energy, in order to sustain itself, dangerous to the liberties of the people.'"

. . .

"Evidence of the survival and vitality of the principle of federalism in family law are the many constitutional amendment proposals that were introduced after the Civil War for the purpose of giving to the national government authority to regulate some aspect of family law. These proposals indicate that even after the Reconstruction Amendments were adopted, it was the common understanding that the national government still lacked authority to generally regulate family law. These amendment proposals were introduced to change that situation and give such power to the national government."

Lynn D. Wardle, Tyranny, Federalism, and the Federal Marriage Amendment, 17 Yale J.L. & Feminism (2005)

"In 1970, Justice John Marshall Harlan explained that 'We are most reluctant to assume Congress has closed the avenue of effective judicial review to those individuals most directly affected by the administration of its program.' Courts, he noted, should avoid reading federal statutes in ways that make them 'a futile, hollow, and, indeed, a deceptive gesture.'"

Sylvia Law, *Families & Federalism*, 4 Wash. U.J.L. & Pol'Y 194 (2000)

One may question the continued vitality of the domestic relations exception **[DRE]** given the vast amount of federal court involvement in family law matters. For example, in the recent landmark case Obergefell v. Hodges, the Supreme Court held that same-sex individuals have a fundamental right to marry.11 Moreover, under its Commerce, Full Faith and Credit, and Spending Clause powers, Congress has passed many laws in the area of domestic relations. 12 Of course, being that it is the federal judiciary's "province and duty" to say what the law is,13 federal courts routinely review these laws. Yet despite the large quantity of family law activity in the federal sphere, the domestic relations exception survives, albeit inconsistently applied in federal courts across the country. . . . The diverse inter- and intra-circuit treatment of the domestic relations exception stems from the different weight courts place on the exception's underlying values: stare decisis, federalism, and access to courts. Some federal courts only apply the exception because it has long been a part of precedent; otherwise, they would overrule it. Other courts apply the exception rigorously, concluding that family law matters are properly left to state courts, elevating federalism ideas. Even still, there are courts that recognize and apply the exception, but believe federalism should always take a back seat to a litigant's right to access a federal forum.

Let's Not Throw Out The Baby With The Bathwater: A Uniform Approach To The Domestic Relations Exception
Karla M. Doe, Emory Law Journal

[iv]. "the domestic relations exception to federal jurisdiction **[DRE]** is an archaic, historical remnant that should be overruled by the U.S. Supreme Court, and thus, the Article III federal courts have jurisdiction to hear pure marital status cases despite their domestic nature. We call on the Supreme Court to eliminate the domestic relations exception as to all forms of federal jurisdiction.

Steven G. Calabresi & Genna L. Sinel The Same-Sex Marriage Cases and Federal Jurisdiction: On Third-Party Standing and Why the Domestic Relations Exception to Federal Jurisdiction Should Be Overruled

"The current formulation and application of the domestic relations exception **[DRE]** poses serious problems. From a practical perspective, the domestic relations exception jurisprudence features contradiction, confusion, and inconsistency. From a policy perspective, the domestic relations exception risks foreclosing the invaluable federal forum to family law issues—even fundamental constitutional issues, as in Elk Grove. From the statutory interpretation perspective, the only current, expressly-accepted foundation for the domestic relations exception articulated by the Supreme Court requires people to accept the counterintuitive notion that the unambiguous breadth of the statutory phrase 'all civil actions' should be superseded by Congress's failure to explicitly reject dicta from an 1858 case that provided no reasoning or authority . . .'"

Family Law Is Not "Civil": The Faulty Foundation Of The Domestic Relations Exception To Federal Jurisdiction, Joseph Carroll, winner of the First Place, 2017 Howard C. Schwab Memorial Essay.

Applying the exception to bar federal courts **[DRE]** from jurisdiction over bona fide federal questions would violate Article III, which endows federal courts with jurisdiction over all federal-question case in law or equity. Additionally, the federal-question jurisdiction statute is best read as reflecting a Congressional intent that federal jurisdiction extends to domestic-relations matters that raise questions of federal law. Federal courts have the authority to resolve important and timely questions of federal law. The domestic-relations exception should not be misconstrued to stand in their way."

"Federal Questions and the Domestic-Relations Exception." The Yale Law Journal, Bradley G. Silverman

"Much domestic relations law fails to present a "controversy" within the meaning of Article III; the consensual nature of many status-altering acts (marriage, consensual divorce, adoption) forecloses a federal dispute-

resolution role. But when federal courts hear "cases" arising under federal law, they have full power to exercise both contentious and (what Roman and civil lawyers refer to as) non-contentious jurisdiction. Our non-contentious account explains a range of puzzles, including why Article III courts can issue decrees at the core of the domestic relations exception **[DRE]** when the matter at hand implicates federal law."

A Non-Contentious Account Of Article III's Domestic Relations Exception James E. Pfander & Emily K. Damrau Notre Dame Law Review

"judicial review is necessary as a constitutional guard against state incursions on federal, constitutional rights. Even state regulation of traditionally state matters cannot run afoul of federal, constitutional limits, and this will at least sometimes require the presence of a federal forum to make such determinations. Thus, regardless of the extent of Congress's role in regulating and shaping American families, the federal judicial role in protecting them must remain intact . . . monolithic view of the family as an exclusively local subject is both misguided and unworkable **[DRE]**. Guarding personal autonomy against unwarranted intrusion by the state demands a federal forum to ensure that fundamental rights of the family remain secure. Supporting, empowering, and protecting contemporary families and family members is the joint work of local, state, and federal systems.

Is the Family a Federal Question? Meredith Johnson Harbach Washington and Lee Law Review

[v]. Roberts has fabricated a set of elaborate unethical DRE policies, decisions and rules without notice, an iota of authority, or legal foundation. These acts are a blatantly illegal abrogation of all the most important US citizens' constitutional and legal rights. In fact, Roberts's concealed DRE plans and standards are a violation of the first and most important law governing the chief justice's conduct: Title 28, Chapter 131, USC §2072(b) that specifically prohibits federal judges from creating or implementing policies or rules that "abridge, enlarge or modify any substantive right."

"'[T]he domestic-relations exception **[DRE]** encompasses only cases involving the issuance of a divorce, alimony, or child custody decree.' *Ankenbrandt*, 504 U.S. at 704, 112 S.Ct. 2206 ***not*** federal civil rights claims under fundamental liberty, due process or the right to be free from judicial fraud and manufactured crimes. It is not 'compelled by the text of the Constitution or federal statute' but is rather a 'judicially created doctrine' . . . stemming in large measure from ***misty understandings of English legal history***." *Marshall*, 547 U.S. at 299, 126 S.Ct. 1735. [Emphasis added by author]. *Chevalier v. Estate of Barnhart*, 803 F.3d 789, 794 (6th Cir. 2015).

In the 5–4 split opinion of *Barber v. Barber*, the dissent strongly contested, that "[i]t is not in accordance with the design and operation of a [state] Government . . . [to] assume to regulate the domestic relations of society . . . [to take an] inquisitorial authority, [to] enter the habitations and even into the chambers and nurseries of private families, and inquire into and pronounce upon the morals and habits and affections or antipathies of the members of every household. . . . [This is the case] whether [a statute] expressly conferred upon the State courts, or [is] tacitly assumed by them, [and] their example and practice cannot be recognized as sources of authority by the courts of the United States. The origin and the extent of their jurisdiction must be sought in the laws of the United States." See *Barber v. Barber*, 62 US 582 (1858).

In *Cohens v. Virginia*, Chief Justice Marshall famously cautioned: "'It is most true that this Court will not take jurisdiction if it should not: but it is equally true, that it must take jurisdiction if it should... We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given.'" 6 *Wheat* 264, 404, 5 L.Ed. 257 (1821). "**Among longstanding limitations on federal jurisdiction [DRE] otherwise properly exercised are the so-called "domestic relations" and "probate" exceptions. Neither is compelled by the text of the Constitution or federal statute. Both are judicially created doctrines stemming in large measure from misty understandings of English legal history.** See, *e.g.*, *Atwood, Domestic Relations Case in Federal Court: Toward a Principled Exercise of Jurisdiction*, 35 Hastings L.J. 571, 584–588 (1984); *Spindel v. Spindel*, 283 F.Supp. 797, 802 (E.D.N.Y.1968) (collecting case and commentary revealing vulnerability of historical explanation for domestic relations exception); Winkler, The Probate Jurisdiction of the Federal Courts, 14 Probate L.J. 77, 125–126, and n. 256 (1997) **(**describing historical explanation for probate exception as 'an exercise in mythography'"). "In the years following Marshall's 1821 pronouncement, **courts have sometimes lost sight of his admonition and have rendered decisions expansively interpreting the two exceptions**. In *Ankenbrandt v. Richards*, 504 U.S. 689, 112 S.Ct. 2206, 119 L.Ed.2d 468 (1992), this Court reined in the 'domestic relations exception.' Earlier, in *Markham v. Allen*, 326

U.S. 490, 66 S.Ct. 296, 90 L.Ed. 256 (1946), the Court endeavored similarly to curtail the 'probate exception.'" *Marshall v. Marshall*, 547 U.S. 293, 298–99, 126 S. Ct. 1735, 1741, 164 L. Ed. 2d 480 (2006).

vi. The "Rules Enabling Act of 1934" (US Code [USC] Title 28 §§2071 to §2077) **(Rules Act)** Under the authority of the Rules Act, the chief justice promulgates rules that control court procedures including the **RULES OF CIVIL PROCEDURE FOR THE UNITED STATES DISTRICT COURTS** (Effective September 16, 1938, as amended to December 1, 2018) under which the DRE civil rights case is being administrated. The most important of these rules in Rule 1 that requires the federal judges "to secure the just, speedy, and inexpensive determination of every action and proceeding."

28 U.S. Code Title 28—JUDICIARY AND JUDICIAL PROCEDURE
Part V. PROCEDURE
28 U.S. Code CHAPTER 131—RULES OF COURTS
Section 2072. Rules of procedure and evidence; power to prescribe

(a) The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases in the United States district courts (including proceedings before magistrate judges thereof) and courts of appeals.
(b) Such rules shall not abridge, enlarge, or modify any substantive right. All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect.
(c) Such rules may define when a ruling of a district court is final for the purposes of appeal under section 1291 of this title**.**

Federal Rules of Civil Procedure
§ 2071.Rule-making power generally
Rule 1. Scope and Purpose. These rules govern the procedure in all civil actions and proceedings in the United States district courts, except as stated in Rule 81. They should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.

vii. The DRE violates:

1. **Article III** of the US Constitution that establishes Americans' rights to access to US Courts
2. **First Amendment's** prohibition of laws on the exercise of religious beliefs
3. **First Amendment's** protection of freedom of speech
4. **First Amendment's** right to petition the Government for a redress of grievances
5. **Fifth Amendment's** Due Process Clause
6. **Fourteenth Amendment's** Equal Protection Clause
7. **Tenth Amendment's** limits the federal government to powers granted in the US Constitution and reserves all other power to the States and the people.

https://www.archives.gov/founding-docs/bill-of-rights-transcript#toc-amendment-i

viii. The DRE violates Article III of the US Constitution that established Americans' right to access to US judicial power; First Amendment's prohibition of laws infringing on the exercise of religious beliefs and that protects freedom of speech and the right to petition the Government for a redress of grievances; the Due Process Clause of the Fifth Amendment, and the Ninth and Tenth Amendment limitations the federal government's powers to those granted in the US Constitution and reserves all other power to the States (under the protection afforded to freedom and liberty by the Constitution and its Bill of Rights) and the people, and the Equal Protection Clause of the Fourteenth Amendment,.

https://www.archives.gov/founding-docs/bill-of-rights-transcript#toc-amendment-i

Amendment I. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment V. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment IX. The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment X. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people

Amendment XIV. Section 1. 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.

Amendment XIV. Section 5. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

ix. "The Court has frequently emphasized the importance of the family. The rights to conceive and to raise one's children have been deemed 'essential,'[1] 'basic civil rights of man,'[2] and **'rights far more precious . . . than property rights**.'[3] 'It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder.'[4] The integrity of the family unit has found protection in the Due Process Clause of the Fourteenth Amendment, the Equal Protection Clause of the Fourteenth Amendment,[2] and the Ninth Amendment." 5 *Stanley v. Illinois*, 405 U.S. 645, 651, 92 S.Ct. 1208, 1212-13, 31 L.Ed. 2d 551 (1972):

1 *Meyer v. Nebraska*, 262 U.S. 390, 399, 43 S.Ct. 625, 626, 67 L.Ed. 1042 (1923)
2 *Skinner v. Oklahoma*, 316 U.S. 535, 541, 62 S.Ct. 111 0, 111 3, 86 L.Ed. 1655 (1942)
3 *May v. Anderson*, 345 U.S. 528, 533, 73 S.Ct. 840, 843, 97 L.Ed. 1221 (1953)
4 *Prince v. Massachusetts*, 321 U.S. 1 58, 1 66, 64 S.Ct. 438, 442, 88 L.Ed. 645 (1944)
5 *Griswold v. Connecticut*, 381 U.S. 479, 496, 85 S.Ct. 1678, 14 L.Ed. 2d 510 (1965)
6 *Stanley v. Illinois*, 405 U.S. 645, 651, 92 S.Ct. 1208, 1 21 2–13, 31 L.Ed. 2d 551 (1972)

"Neither decisional rule nor statute can displace a fit parent . . . the courts and the law would, under existing constitutional principles, be powerless to supplant parents except for grievous cause or necessity in which the principle is plainly stated and stressed as more significant than other essential constitutional rights . . . The private interest here, that of a man in the children he has sired and raised, undeniably warrants deference and, absent a powerful countervailing interest, protection. It is plain that the interest of a parent in the companionship, care, custody, and management of his or her children come(s) to this Court with a momentum for respect lacking when appeal is made to liberties which derive merely from shifting economic arrangements . . . It is firmly established . . . that . . .wherever possible, the best interests of a child lie in his being nurtured and guided by both of his natural parents . . . Interference with the relationship between the child and the non-custodial parent is 'an act so inconsistent with the best interest of the child that it raises a strong presumption that the offending parent is unfit to act as custodial parent . . . The custodial parent's anger, hostility and attitude toward the non-custodial parent can substantially interfere with her ability to place the needs of the children before her own in fostering a continued relationship with then on custodial parent . . . Furthermore, the custodial parent's conduct can be so egregious as to warrant a change of custody . . . The fostering of a relationship with the noncustodial parent is an important consideration in a custody determination."

Bennett v. Jeffreys, 40 N.Y.2d 543, 548, 356 N.E.2d 277, 282-83 (1976) Daghirv. Daghir, 92 A.D.2d 191,193,441 N.Y.S.2d 494 (2d Dept. 1981) *Prugh v. Prugh*, 298 A.D.2d 569 (2nd Dept. 2002) *Young v. Young*, 212 A.D.2d 114,

123 (2nd Dept. 1995) *Landau v. Landau*, 214 A.D.2d 541 (2nd Dept. 1995) Matter of *Esterle v. Dellay*, supra, 281 A.D.2d at 726.

"It is firmly established . . . that . . . wherever possible, the best interests of a child lie in his being nurtured and guided by both of his natural parents." *Daghir v. Daghir*, 92 A.D.2d 191,193,441 N.Y.S.2d 494 (2d Dept. 1981).

"Interference with the relationship between the child and the noncustodial parent is 'an act so inconsistent with the best interest of the child that it raises a strong presumption that the offending parent is unfit to act as custodial parent.'" *Prugh v. Prugh*, 298 A.D.2d 569 (2nd Dept. 2002).

"The fostering of a relationship with the noncustodial parent is an important consideration in a custody determination." *Matter of Esterle v. Dellay*, supra, 281 A.D.2d at 726.

"A parent's desire for and right to the companionship, care, custody, and management of his or her children is an important interest that undeniably warrants deference and, absent a powerful countervailing interest, protection… [P]arent's interest in accuracy and justice of decision to terminate parental status is an extremely important one." *Lassiter v. Department of Social Services of Durham County, N.C.*, 452 U.S. 18, 101 S.Ct. 2153, 68 L.Ed. 2d 640 (1981).

"The right to be heard is fundamental to our system of justice . . . [and p]arents have an equally fundamental interest in the liberty, care and control of their children." *In re Jung*, 11 N.Y.3d 365 (N.Y., 2008).

"The right of a parent to the custody and control of a minor child is one of our fundamental rights as United States citizens." *Mark N. v. Runaway Homeless Youth Shelter*, 189 Misc. 2d 245, 733 N.Y.S.2d 566 (Fam.Ct. 2001).

x. Neither Congress nor judges have the power to govern fundamental liberties simply because they cannot be prescribed by law, statute, rule, policies, codes or judged by neutral principles. "The neutrality principle" forbids courts to **"mak[e] law or policy out of whole cloth**, [or] . . . to impose substantive judicial judgments on disputes not capable of resolution through the application of neutral principles to sharply defined sets of facts." Richard H. Fallon, Jr., *Reflections on the Hart and Wechsler Paradigm*, 47 Vand. L. Rev. 953, 976 (1994).

"The identification and protection of fundamental *rights"* (see *Obergefell v. Hodges*, 135 S.Ct. 2584, 2597–98, 192 L.Ed. 2d 609 [2015]) and the duty to protect fundamental liberties "deeply rooted in this Nation's history and tradition" (*id.*, at 503, 97 S.Ct., at 1938 [plurality opinion] *Snyder v. Massachusetts*, 291 U.S. 97, 105, 54 S.Ct. 330, 332, 78 L.Ed. 674 [1934]) that are "so rooted in the traditions and conscience of our people as to be ranked as fundamental" and so "implicit in the concept of ordered liberty" that "neither liberty nor justice would exist if they were sacrificed" (*Palko v. Connecticut*, 302 U.S. 319, 325, 326, 58 S.Ct. 149, 152, 82 L.Ed. 288 [1937]) and that neither judges nor Congress can govern, "***at all, no matter what process is provided***" (*Washington v. Glucksberg*, 521 U.S. 702, 719–21, 117 S. Ct. 2258, 2267–68, 138 L. Ed. 2d 772 [1997]).

"The Fourteenth Amendment, as now applied to the States, protects the citizen against the State itself and all of its creatures—Boards of Education not excepted. These have, of course, important, delicate, and highly discretionary functions, but none that they may not perform within the limits of the Bill of Rights. That they are educating the young for citizenship is reason for scrupulous protection of Constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes . . . The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections . . . Nor does our duty to apply the Bill of Rights to assertions of official authority depend upon our possession of marked competence in the field where the invasion of rights occurs. True, the task of translating the majestic generalities of the Bill of Rights, conceived as part of the pattern of liberal government in the eighteenth century, into concrete restraints on officials dealing with the problems of the twentieth century, is one to disturb self-confidence. **These principles grew in soil which also produced a philosophy that the individual was the center of society, that his liberty was attainable through mere absence of governmental restraints, and that government should be entrusted with few controls and only the mildest supervision over men's affairs.** We must transplant these

rights to a soil in which the laissez-faire concept or principle of non-interference has withered…" *W. Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 637, 63 S.Ct. 1178, 1185, 87 L.Ed. 1628 (1943).

Under the Due Process Clause of the Fourteenth Amendment, no state shall "deprive any person of life, liberty, or property, without due process of law." The fundamental liberties protected by this clause include most of the rights enumerated in the Bill of Rights. See *Duncan v. Louisiana*, 391 U.S. 145, 147–149, 88 S.Ct. 1444, 20 L.Ed.2d 491 (1968). In addition, these liberties extend to certain personal choices central to individual dignity and autonomy, including intimate choices that define personal identity and beliefs. See, e.g., *Eisenstadt v. Baird*, 405 U.S. 438, 453, 92 S.Ct. 1029, 31 L.Ed.2d 349 (1972) and *Griswold v. Connecticut*, 381 U.S. 479, 484–486, 85 S.Ct. 1678, 14 L.Ed.2d 510 (1965). **The identification and protection of fundamental rights is an enduring part of the judicial duty to interpret the Constitution.** See *Obergefell v. Hodges*, 135 S.Ct. 2584, 2597–98, 192 L.Ed. 2d 609 (2015).

xi. The due process, rule of law, or any other form of justice cannot exist without neutral principles. The neutrality principle "forbids courts to 'mak[e] law or policy out of whole cloth, [or] . . . to impose substantive judicial judgments on disputes not capable of resolution through the application of neutral principles to sharply defined sets of facts.'" Richard H. Fallon, Jr., *Reflections on the Hart and Wechsler Paradigm,* 47 V and. L. Rev. 953,976 (1994)

xii. US Supreme Court Louis Dembitz Brandeis and his law partner, Samuel D. Warren, published an article in the *Harvard Law Review* in December 1890 titled "**The Right to Privacy**." In this article Justice Brandeis wrote that "to protect Americans in their beliefs, their thoughts, their emotions and their sensations . . . against the Government, the right to be let alone [is] the most comprehensive of rights and the right most valued by civilized men." The DRE is the most violent and intolerable offense on the right to "let alone."

xiii. "The legitimate powers of government extend to such acts only as are injurious to others. But it does me no injury for my neighbor to say there are twenty gods, or no god. It neither picks my pocket nor breaks my leg." Thomas Jefferson, *Notes on the State of Virginia. Query XVII.* Published in English in London in 1787. Published anonymously in Paris in 1785.