

WebMemo



Published by The Heritage Foundation

No. 2783
January 27, 2010

Marriage, Parentage, and the Constitution of the Family

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The family is a prime institution of civil society. In its origins, it is both natural and pre-political. Family is not the creature of the state but a network of relationships between a man and a woman, their offspring (if any), and the families from which they themselves come and that their union will create.

In the modern era, temptations to experiment with the institutions of marriage and family have multiplied. With less emphasis on the long-term responsibilities of marriage, the consequences of redefining the institution for children and society are subordinated to the desires of adults. Rather than compound these weaknesses, policymakers and citizens should consider and adopt necessary reforms to strengthen families and rebuild civil society as the engine of the greatest human goods.

Marriage as a Natural Institution. The Compact Oxford English Dictionary defines marriage straightforwardly as the “formal union of a man and a woman, by which they become husband and wife.”¹ The United States Census Bureau defines family as a “group of two people or more (one of whom is the householder) related by birth, marriage, or adoption.”² Until recently, the plain meaning of these definitions has been universally recognized.

The underpinnings of sexual differentiation and complementarity have been understood as fixed in natural law. The jurist Joseph Story spoke for this tradition when he wrote, “Marriage is treated by all civilized societies as a peculiar and favored contract. It is in its origin a contract of natural law.”³

The marriage contract derives its strength from its conformity with the truth about the human person. Whether or not spouses in a particular marriage are able or willing to have children, they are themselves the children of one man and one woman. Their coming together is the extension into a new generation of the pairings of men and women. Marriage is not only a conjunction of individuals but the intertwining of family heritages. Marriage is the intragenerational expression of the union of man and woman that results from, and often results in, its intergenerational expression: the child.

The simplicity of this truth accounts for the nearly universal history and expression of marriage across cultures. Despite the enormity of the pressures marriage and family face today, the vast majority of people in American society express the desires to marry, experience a lifelong faithful relationship,⁴ have children,⁵ and raise those children into adulthood where they are able to establish families of their own.

Protecting Marriage Protects Society. The personal benefits of marriage to men and women, their children, and the social benefits to neighborhoods

This paper, in its entirety, can be found at:
www.heritage.org/Research/Family/wm2783.cfm

Produced by the Richard and Helen DeVos
Center for Religion and Civil Society

Published by The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002-4999
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and nations are extensive. Author Michael Novak famously referred to the family unit as the “original Department of Health, Education and Welfare.”

The intact, married family performs best on measure after measure of social outcomes for parents and children alike. For example:

- Married adults have better health, live longer lives, suffer fewer accidents or injuries, experience less depression, and enjoy greater happiness than either single or cohabiting adults.⁶ Health benefits are particularly pronounced for married men.⁷
- Married women experience less domestic violence than single or divorced women, and they are the victims of fewer acts of violent crime overall.⁸
- Children raised in intact, married families with their biological mother and father experience a vast array of benefits that span the age spectrum and persist into their own adulthood, including achieving literacy, avoiding teenage pregnancy and juvenile crime, graduating from high school, and attaining marital success.⁹

The fracturing of a family is not the breaking of a single link in a chain but the opening of a hole in a

protective net. One scholar has referred to five concentric “rings of community” that the family affects: (1) their unborn children, (2) kin or extended family, (3) the neighborhood, (4) the community of faith, and (5) the nation as community.¹⁰ Damage to one of these rings affects all the others.

Marriage is a wealth-creating and wealth-preserving institution. One proximate result of its weakening has been the growth of government as substitute provider. As one prominent economist has remarked, “Deinstitutionalization of marriage will lead to an expansion of the size and scope of the state.”¹¹

Decades of Failed Experiments. Current challenges to the primacy of marriage and family as well-established civil institutions are often premised on the assertion that they will inflict little damage beyond that done by previous changes in law and culture. Those prior experiments, however, bear witness to the unintended consequences of ill-considered changes in public policy.

No-Fault Divorce. Advocates of no-fault divorce assured policymakers that the impact on children would be minimal if not beneficial.¹² National studies of the children of that generation who are now

1. Oxford University Press, “Marriage,” *Compact Oxford English Dictionary*, at http://www.askoxford.com/concise_oed/marriage?view=uk (January 11, 2010).
2. U.S. Census Bureau, “Current Population Survey Definitions and Explanations,” at <http://www.census.gov/population/www/cps/cpsdef.html> (January 11, 2010).
3. Joseph Story, *Commentaries on the Conflict of Laws*, cited in Matthew Spalding, *We Still Hold These Truths: Rediscovering Our Principles, Reclaiming Our Future* (Wilmington, DE: ISI Books, 2009), p. 157.
4. Mindy E. Scott, Erin Schelar, Jennifer Manlove, and Carol Cui, “Young Adult Attitudes About Relationships and Marriage: Times May Have Changed, But Expectations Remain High,” *Child Trends*, July 2009, pp. 4–5, at http://www.childtrends.org/Files/Child_Trends-2009_07_08_RB_YoungAdultAttitudes.pdf (January 8, 2010).
5. Frank Newport, “Desire to Have Children Alive and Well in America,” Gallup.com, August 19, 2003, at <http://www.gallup.com/poll/9091/desire-children-alive-well-america.aspx> (January 11, 2010).
6. Linda Waite and Maggie Gallagher, *The Case for Marriage: Why Married People Are Happier, Healthier, and Better Off Financially* (New York: Broadway, 2000), cited in the Witherspoon Institute, *Marriage and the Public Good* (Princeton, NJ: Witherspoon Institute, 2006), p. 31.
7. Jennifer Steinhauer, “Studies Find Big Benefits in Marriage,” *The New York Times*, April 10, 1995, A10, at <http://www.nytimes.com/1995/04/10/us/studies-find-big-benefits-in-marriage.html?pagewanted=1> (January 8, 2010).
8. Witherspoon Institute, *Marriage and the Public Good*, p. 33.
9. *Ibid.*, pp. 22–29; see also, generally, Patrick F. Fagan, “Special Collection: Mapping America: Marriage, Family and the Common Good,” October 9, 2009, at <http://www.frc.org/get.cfm?i=WX09J01> (January 9, 2010).
10. Allan Carlson, *Conjugal America: On the Public Purposes of America* (New Brunswick, NJ: Transaction Press, 2007), p. 42.
11. Jennifer Roback Morse, “The Limited Government Case for Marriage,” in Jennifer A. Marshall and J. D. Foster, eds., *Indivisible: Social and Economic Foundations of American Liberty* (Washington, D.C.: The Heritage Foundation, 2009), p. 31.

adults provide a clearer picture, as do surveys of divorced adults.

While many marriages are not salvageable (particularly in the presence of abuse, adultery or addiction), a recent University of Texas study of ever-divorced spouses found that only a third of them felt that they had done enough to try to save their marriage.¹³ Moreover, children of divorce disproportionately suffer from such maladies as depression, compromised health, childhood sexual abuse, arrests, and addiction.¹⁴

Welfare. The expanding programs of the Great Society, while well-intentioned and effective in meeting short-term needs for basic necessities, also had long-term and unwelcome effects on intact families.

Until welfare reform in 1996, anti-poverty initiatives in the United States contributed to the self-defeating financing of family breakdown. Marriage remains the primary route out of poverty for low-income couples, and children who grow up in single-parent homes are five times more likely to live in poverty than children in two-parent homes.¹⁵

In each of these instances, experiments with family form and support mechanisms have inade-

quately considered the needs of children. They have spurred calls for reform, frequently from the children themselves as they reach maturity. These calls remind policymakers that no period of family decline has proved inevitable or irreversible.

Go with What Works. The decline in the most fundamental indicators of the health of marriage over the past 40 years is real. Rather than risk further decline in this core institution of civil society through additional experiments with the nature of marriage, policymakers would be wise to turn their attention to reforms that capitalize on the lessons of prior eras.

Blueprints are proliferating for the strengthening of traditional marriage.¹⁶ Attention to these blueprints should be the first concern of policymakers seeking the common good of a marriage-centered and child-focused culture. The well-being of this generation and of generations to come depends on their success.

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12. Elizabeth Marquardt, *Between Two Worlds: The Inner Lives of Children and Divorce* (New York: Crown Publishers, 2005), p. 169.

13. *Ibid.*, Norval Glenn, foreword, p. xxii.

14. *Ibid.*, p. 189.

15. Robert Rector, "Reducing Poverty by Revitalizing Marriage in Low-Income Communities: A Memo to President-elect Obama," Heritage Foundation *Special Report* No. 45, January 13, 2009, at <http://www.heritage.org/Research/Family/sr0045.cfm>.

16. See especially David Blankenhorn and Linda Malone-Colon, *The Marriage Index: A Proposal to Establish Leading Marriage Indicators* (New York and Hampton, VA: Institute for American Values and National Center on African American Marriages and Parenting, 2009), pp. 14–22. The authors offer 101 specific ideas to strengthen the institution of marriage without alteration of its historical terms.