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Engines of Inequality: Class, Race, and Family Structure

AMY L. WAX*

I. Introduction

Among those concerned with our country's future, there is sharp disagreement over what form of the family is best—for men, women, children, and society as a whole. This divide finds expression in competing visions of marriage, sexuality and the family's place in social life. Although views run the gamut, the chief positions on these issues may be characterized as “traditionalist” and “pluralist.”¹

Traditionalists seek to maintain the institution of marriage as it has conventionally been defined: a life-long, sexually exclusive relationship between one man and one woman. They regard this relationship as the preferred setting for bearing and raising children. On this view, the conventional nuclear family—consisting of children residing with their shared, biological, opposite-sex married parents—should be upheld, in law and custom, as the ideal model to which most people should aspire.

The pluralist camp, in contrast, is committed to a wider diversity of family types. Individuals should be free to construct families as they see fit, and established structures should be neither idealized nor favored. In the words of a leading proponent of pluralism, Judith Stacey, there are “few limits on the kinds of marriage and kinship patterns people might wish to devise.”² For pluralists, “[t]he meaning and quality of intimate bonds” are far more important than “their customary forms.” On this approach, marriage is just one option among many—one setting in which

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1. See Amy L. Wax, *Traditionalism, Pluralism, and Same-Sex Marriage*, 59 RUTGERS L. REV. 377 (2007).

2. See JUDITH STACEY, IN THE NAME OF THE FAMILY 127 (1996).

citizens can choose to establish relationships, bear children, and live their lives. Pluralists see no reason to preserve marriage as conventionally defined. Many see no problem in dispensing with marriage altogether.

A powerful assumption within this camp is that happiness, welfare, and wide-ranging freedom of choice can coexist in the realm of family life. On this view, established family forms are no better than others and there is nothing intrinsic to particular kinds of families that is more conducive to the well-being of adults and children. In the right circumstances, a variety of family types can function equally well. The effort to foster a broader range of possibilities has been directed, in particular, at expanding options for personal relationships between men and women beyond the form that has traditionally been identified as the most desirable for such relationships—which is marriage. This effort has been identified with what David Blankenhorn, in his recent book *The Future of Marriage*,³ terms deinstitutionalization—the effort to demote marriage from its place as the central paradigm for male-female relations and for raising children.⁴

Is this pluralist vision a blueprint for the future? In fact, that future has already arrived. A grand experiment in living is now underway in our society and the deinstitutionalization of marriage is proceeding apace. However, not all sectors of society have participated equally in the experiment. Among some groups, conventional marriage and the traditional nuclear family are as strong as ever. In others, they have declined or virtually disappeared.

A picture has now emerged of a growing divergence in family life by social class, income, education, and race. Professional demographers have known about these trends for some time, and awareness has increased among social scientists generally. Sara McLanahan, as president of the Population Association of America, called attention to these developments in a landmark article in *Demography* in 2004.⁵ Much work in the social sciences literature is now addressed to documenting these patterns, with efforts directed at understanding the causes as well as exploring the

3. DAVID BLANKENHORN, *THE FUTURE OF MARRIAGE* (2007).

4. For a classic statement of the pluralist, or diversity, model of the family see the AMERICAN LAW INSTITUTE'S *PRINCIPLES OF THE LAW OF FAMILY DISSOLUTION: ANALYSIS AND RECOMMENDATIONS* (2002). For critiques of family pluralism, see the following examples: JANE LEWIS, *THE END OF MARRIAGE? INDIVIDUALISM AND INTIMATE RELATIONS* (2003); ROBIN FRETWELL WILSON, *RE-CONCEIVING THE FAMILY: CRITIQUE ON THE AMERICAN LAW INSTITUTE'S PRINCIPLES OF THE LAW OF FAMILY DISSOLUTION* (2006). For a review of different conceptions of the family, see Amy L. Wax, *The Conservative's Dilemma: Traditional Institutions, Social Change, and Same-Sex Marriage*, 42 *SAN DIEGO L. REV.* 1059 (2005).

5. Sara S. McLanahan, *Diverging Destinies: How Children Are Faring Under the Second Demographic Transition*, 41 *DEMOGRAPHY* 607, 607 (2004). See also, Sara S. McLanahan & Lynn Casper, *Growing Diversity and Inequality in the American Family*, in 2 *STATE OF THE UNION: AMERICA IN THE 1990S*, 1, 7 (Reynolds Farley ed., 1995).

implications of emerging family structure disparities along lines of class and race.⁶ Legal scholars, in contrast, have paid relatively little attention to these developments, and few have probed the implications for family law and policy.⁷

The segmentation of family forms by class and race is the product of three interrelated trends. The first is a differential shift in the patterns of marriage, including its timing and prevalence. The second concerns the incidence of divorce and remarriage. The third bears on patterns of child-bearing and child rearing, which determine whether children are born within marriage or outside it, and are raised by both their biological parents, by a single parent, or by some other combination of adults.

The changes in behavior related to marriage and procreation converge to produce a complex landscape. The selective weakening of customary forms and practices has generated new permutations, with the rise of novel combinations and relationships. The number of single-parent families, whether formed through divorce or extramarital childbearing, has increased sharply and is on the rise. Many more children are now growing up in fatherless homes. Blended families—that is, families in which only one adult in the home is biologically related to the child—are also more commonplace. Likewise, there has been a surge in multipartnered fertility, by which individuals produce children—either inside or outside of marriage—with more than one partner.

These patterns now vary dramatically by sociodemographic status, and the differences are growing. Despite misconceptions to the contrary, affluent and well-educated whites—society’s most privileged group—still marry at very high rates and bear children predominantly within marriage.⁸ Although the incidence of divorce increased across the board starting in the 1960s, marriages among the affluent and educated have always been more stable, and divorce has dramatically declined among this group recently. Family “diversity”—and disarray—are now most common among minorities. The traditional family is also declining among less educated whites, including those without a college degree. As summarized recently in a review of family demographics by two economists, “the fam-

6. See, e.g., Lynn White & Stacy J. Rogers, *Economic Circumstances and Family Outcomes: A Review of the 1990s*, 62 J. MARRIAGE & FAM. 1035, 1040 (2000); David T. Ellwood & Christopher Jencks, *The Spread of Single Parent Families in the United States Since 1960*, in *THE FUTURE OF THE FAMILY*, 25–65 (Daniel P. Moynihan, Timothy M. Smeeding & Lee Rainwater eds., 2004); Shelly Lundberg & Robert Pollak, *The American Family and Family Economics*, 21 J. ECON. PERSPECTIVES 3 (2007).

7. One notable exception is Marsha Garrison. See Marsha Garrison, *Reviving Marriage: Should We? Could We?* 1, 6 (Brooklyn Law School Legal Studies Research Papers Working Paper Series, Research Paper No. 43 2005).

8. McLanahan, *supra* note 5; Lundberg & Pollak, *supra* note 6.

ily trajectories of college graduates have deviated little from the family trajectories of midcentury: almost all children are born within legal marriages, and these marriages are relatively stable. Nonmarital fertility and multipartnered fertility is concentrated among women in the bottom third of the income/education distribution, and the marriages that do take place are relatively early and relatively unstable.”⁹

This essay addresses the class and race dimensions of this new family diversity. In attempting to understand the emerging trends and investigate their implications, it poses these questions: What is the current distribution of family structure, including patterns of marriage, divorce, child-bearing, and child rearing? Specifically, what is the prevalence of the traditional nuclear family as opposed to alternative forms, such as single parent and fatherless families, across different sociodemographic groups? Second, why should we care about the distribution of family structure? More specifically, how and to what extent might these trends contribute to racial and economic inequality within American society today? What are the possible explanations for the emergence of these patterns? Finally, what, if anything, should and can be done about them?

II. Marriage

Marriage has long been the foundation for family and child rearing in the United States. Until recently, in all social classes, “[f]amilies headed by a couple in their first marriage. . . have [] been the dominant family form.”¹⁰ For example, “more than [ninety] percent of the women in every birth cohort on record (records extend back to the mid-1800s) have eventually married.”¹¹ Nonetheless, new patterns—called by some demographers the “second transition”—began to emerge “around 1960.”¹² One important element of this transition was a change in marital behavior. Age of marriage began to climb for both men and women, and there was a slow but steady decrease in the number of people entering into marriage in all sociodemographic groups.

These overall patterns, however, mask profound differences by race and class—differences that have intensified recently. The relationship of marriage to class has shifted over time. For example, “[h]alf a century ago, Americans, whether poor or well-to-do, all married at roughly the

9. Lundberg & Pollak, *supra* note 6, at 8.

10. ANDREW J. CHERLIN, MARRIAGE, DIVORCE, REMARRIAGE 70 (rev. ed. 1992) (1983).

11. *Id.* at 10. In addition, “[t]hroughout the twentieth century, about nine out of ten Americans eventually married, although in some eras people tended to marry earlier than in others. Those who married earliest were the men and women who were born in the depression and the war years.” *Id.* at 9.

12. McLanahan, *supra* note 5.

same rate.”¹³ This uniformity, with some minor variations, continued through this century and into the post-World-War-II period. By the mid-1980s, however, marriage rates began to diverge, with poor women only about three-quarters as likely to marry as more privileged women by the end of that decade. The decline in marriage among the disadvantaged has continued, with poor men and women in 2005 “only about half as likely to be married as those with incomes at three or more times the poverty level.”¹⁴

The precipitous decline in marriage among those with less education and income contrasts with a stabilization, followed by an increase, in marriage rates for women with more education. Although, for many decades, women with a college degree were somewhat less likely to marry than those with only a high-school education or some college, women with a bachelor’s or graduate degree surpassed all other groups in the 1990s and are now more likely to marry than those with less education.¹⁵ Economic status and education have long correlated with marriage rates for men, with higher-earning and better-educated men more likely to marry. As with women, class differences for men have also widened since the early 1980s, with affluent, well-educated men (those with a college degree or more) marrying at steadily higher rates than men with less education and lower income.¹⁶

Marital patterns have also diverged by race, with long-standing differences becoming more pronounced recently despite the decline in marriage among all groups. Because the well-being of blacks is of great national concern, black family structure has always received attention. The acceleration of family fragmentation has caused that attention to intensify. Over the past fifty years, marriage rates have declined precipitously among blacks, with the percentage of adults married, or ever married, now by far the lowest among major American groups.¹⁷ For example, sixty percent of black women twenty-five to twenty-nine years old were

13. Kathryn Edin & Joanna M. Reed, *Why Don't They Just Get Married? Barriers to Marriage Among the Disadvantaged* in 15 THE FUTURE OF CHILDREN 117, 118 (Fall 2005).

14. *Id.*

15. Garrison, *supra* note 7; see also Lundberg & Pollak, *supra* note 6, at 10–11; McLanahan, *Diverging Destinies*, *supra* note 5, at 612; Diane K. McLaughlin & Daniel T. Lichter, *Poverty and the Marital Behavior of Young Women*, 59 J. MARRIAGE & FAM. 582, 591 (1997) (“Completing high school and completing college increased the probability of marriage by 1.5 and 1.7 times, respectively, compared with women who had not completed high school.”). *Id.* at 589 (“[P]oor women were about 72% as likely to marry in a given year as women who were not poor.”).

16. See Lundberg & Pollak, *supra* note 6, at 10–11; White & Rogers, *supra* note 6, at 1041; Timothy J. Nelson, *Low-Income Fathers*, 30 ANN. REV. SOC. 427, 436 (2004).

17. Joy Jones, *Marriage Is for White People*, WASH. POST, Mar. 26, 2006, at B1:

The marriage rate for African Americans has been dropping since the 1960s, and today [African

married in 1960, but only thirty-two percent in the mid-1980s. In contrast, the percentage of white women of the same age who were married went from 83% to 62% during this period. Similar trends have also been observed among black men, with this population achieving markedly lower rates of marriage than men in other major American groups.¹⁸ These disparities are observed even among men with similar levels of education and income.¹⁹

III. Divorce

Class and race have become more strongly correlated not just with the incidence of marriage but also with its persistence. In short, class now predicts marital stability, with more educated persons enjoying longer-lasting relationships.

The correlation between high levels of education and marital longevity has not always been so strong. The incidence of divorce increased generally after World War II, with women at all levels of education ending their marriages in the 1960s and 1970s at about the same rate.²⁰ Beginning around 1980, however, the incidence of divorce began to diverge. The divorce rate for women without an undergraduate college degree has remained about the same, which is about thirty-five percent. "But for college graduates, the divorce rate in the first [ten] years of marriage has plummeted to just over 16[%] of those married between 1990 and 1994 from 27[%] of those married between 1975 and 1979."²¹ Divorce risk has

Americans] have the lowest marriage rate of any racial group in the United States. In 2001, according to the U.S. Census, 43.3 percent of black men and 41.9 percent of black women in America had never been married, in contrast to 27.4 percent and 20.7 percent respectively for whites.

See also R. Kelly Raley, *Recent Trends and Differentials in Marriage and Cohabitation: The United States*, in *THE TIES THAT BIND: PERSPECTIVES ON MARRIAGE AND COHABITATION*, 19, 23 (Linda J. Waite et al. eds., 2000) ("Since the 1950s, black women's marriage rates have declined much more steeply than white women's."); Robert D. Mare & Christopher Winship, *Socioeconomic Change and the Decline of Marriage for Blacks and Whites*, in *THE URBAN UNDERCLASS* 175, 175 (Christopher Jencks & Paul E. Peterson eds., 1991); David T. Ellwood & Jonathan Crane, *Family Change Among Black Americans: What Do We Know?*, 4 *J. ECON. PERSPECTIVES* 65, 68-69 (1990).

18. *See* Jones, *supra* note 17, at B1.

19. Ellwood & Crane, *supra* note 17.

20. Dan Hurley, *Divorce Rate: It's Not as High As You Think*, *N.Y. TIMES*, Apr. 19, 2005, at F7:

As overall divorce rates shot up from the early 1960's through the late 1970's, . . . the divorce rate for women with college degrees and those without moved lockstep, with graduates consistently having about one-third to one-fourth the divorce rate of nongraduates.

Ellwood & Jencks, *supra* note 6, at 13 (" . . .the percentage of previously married mothers who were divorced also rose for every education group between the early 1960s and the early 1980s.").

21. *See* Hurley, *supra* note 20 (summarizing data from various researchers in the field). Hurley also notes that, because most divorces occur within the first ten years of marriage, "the

become more sensitive to men's education level as well, with more years of schooling now significantly reducing the odds of divorce.²² Although better-educated men and women tend to marry later, their reduced divorce risk is only partly explained by the positive association between later marriage and marital stability.²³

Just as with other demographic trends in marriage and the family over the last fifty years, divorce rates have diverged by race and ethnicity. Blacks have always divorced more often than whites, but blacks have seen a steeper increase since the mid-1980s.²⁴ As demographers Megan Sweeney and Julie Philips observe, ". . . divorce rates for white women continued to increase during the late 1970s, reaching a peak in 1969, and then stabilized (and even declined somewhat) during the 1980s."²⁵ In contrast, "[b]eginning in the mid to late 1980s . . . crude divorce rates for blacks appear to drift upward . . . Indeed the smoothed divorce rate among white women was 9% lower than that of black women in 1980, but by 1993, this difference had expanded to 29%."²⁶ Although the decline in black marriage rates in recent decades would be expected to decrease the risk of divorce as the population entering into marriage became more selective, in fact the trend has been in the opposite direction. Large differences in the divorce rates of blacks and whites have persisted through the 1990s and into this decade.²⁷

divorce rate for college graduates who married between 1990 and 1994 would end up at only about 25 percent, compared to well over 50 percent for those without a four-year college degree." For a summary of statistics on divorce and social class, see especially Steven P. Martin, *Trends in Marital Dissolution by Women's Education in the United States*, 15 DEMOGRAPHIC RESEARCH 537–60 (2006). In summarizing Martin's findings, Sarah McLanahan explains that

[I]n his examination of divorce rates for marriage cohorts of college-educated and non-college-educated women, [Steve] Martin found that divorce rates increased for both groups (although slightly more for less-well-educated women) from the early 1960s through the late 1970s. After 1980, however, the trends diverged, with divorce rates *falling* among college-educated women and continuing to rise among less well-educated women.

McLanahan, *Diverging Destinies*, *supra* note 5, at 612.

22. White & Rogers, *supra* note 6, at 1043.

23. See Martin, *supra* note 21 (noting a significant socio-educational disparity in divorce even when controlling for age of marriage).

24. Megan M. Sweeney & Julie A. Phillips, *Understanding Racial Differences in Marital Disruption: Recent Trends and Explanations*, 66 J. MARRIAGE & FAM. 639, 643 (2004).

25. *Id.*

26. *Id.* (noting that "[o]ur results suggest that the increases in rates of marital disruption since the mid-1970s have been steeper among blacks than among Whites. Although the disruption rate appeared to level off for Whites in the post-1980 period, it began to rise for blacks beginning in the mid-1980s.").

27. See Ellwood & Jencks, *supra* note 6, at 42.

IV. Childbearing

In the past fifty years, more frequent decoupling of marriage and childbearing has marked women's reproductive behavior. Since the mid-1970s (when fertility in the United States reached an all-time low), birth rates—as measured by the number of children born to woman of childbearing age—have modestly increased overall. At the same time, however, the number of children born to unmarried mothers has soared. “Collectively, these trends yield a particularly striking increase in the ratio of unmarried births to total births”²⁸ In the early 1950s, “only about 4% of children were born outside marriage”²⁹ and many of the mothers married immediately following these births.³⁰ In contrast, more than one third of all births were to unmarried mothers by the end of the twentieth century, with the most recent data putting the figure at 36%.³¹ Although extramarital childbearing increased in all classes,³² the incidence diverged widely by mother's education and economic status, with the proportion of children born outside of marriage significantly greater for mothers with less education and lower family income. The most important behavioral divide that has emerged is between women with a college degree or more, and everyone else. As Ellwood and Jencks note, the significant increase in extramarital childbearing “is not confined to the least educated. Quite the contrary. The increase has been about as steep among women with twelve to fifteen years of school as among those with less. Only college graduates seem largely

28. Joanna Gray et al., *The Rising Share of Nonmarital Births: Fertility Choice or Marriage Behavior?* 43 *DEMOGRAPHY* 241, 241 (2006). Likewise, although teen pregnancy and childbirth rates (births per 1,000 adolescent females) have dropped in the past fifteen years, those trends reflect declining fertility rates generally. In contrast with the situation at midcentury, however, most births to women under age 20 take place outside marriage. The extramarital birthrate has continued its steady rise among all women of childbearing age. See *Positive Trends Recorded in U.S. Data on Teenagers*, N.Y. TIMES, July 13, 2007.

29. Andrew J. Cherlin, *The Deinstitutionalization of Marriage*, 66 *J. MARRIAGE & FAM.* 848, 852 (2004).

30. See David T. Ellwood & Christopher Jencks, *The Uneven Spread of Single-Parent Families: What Do We Know? Where Do We Look for Answers?* in *SOCIAL INEQUALITY* 3-77 (Kathryn M. Neckerman ed.; Ellwood & Jencks, *supra* note 6, at 24-65).

31. McLanahan, *Diverging Destinies*, *supra* note 5, at 611. See also Leah Ward Sears, *A Case for Strengthening Marriage*, WASH. POST, Oct. 30, 2006, A17 (citing Center for Disease Control and Prevention data showing that “almost 36[%] of all births are [now] the result of unmarried childbearing, the highest percentage ever recorded.”).

32. MAGGIE GALLAGHER, *THE ABOLITION OF MARRIAGE: HOW WE DESTROY LASTING LOVE* 85 (1996). Gallagher states that “[b]etween 1982 and 1992 the proportion of single women with some college education who bore out-of-wedlock children more than doubled, from 5.5 to 11.3[%].” By way of contrast she notes that, despite their low rates of extramarital childbearing relative to other sociodemographic groups, “college-educated women today are more likely to become unwed mothers than women as a whole were in 1960. They are even more likely to approve of other women doing so.”

exempt.”³³ As a consequence of this “exemption,” the percentage of children born to the most educated segment of the female population (those with a four-year college degree or postgraduate education) has remained in the single digits, the lowest the incidence for white women in this group. In contrast, for women with a high-school degree or less, out-of-wedlock birth rates have soared and now exceed 40%.³⁴

Although extramarital childbearing among blacks also varies by education and income, births outside marriage are far more common among black than white women at all levels of education and income. Because white, female college graduates so rarely have children outside of marriage, the disparity is particularly striking for well-educated black women, with the percentage of black, female college graduates giving birth out of wedlock almost 20% higher than for non-Hispanic Caucasian women of the same educational class.³⁵ Although extramarital childbearing rates for blacks at all socioeconomic levels exceed that for other racial groups, the rate of increase in extramarital births is now greatest among Hispanic women. At the current juncture, “[f]orty-five percent of all Hispanic births occur outside of marriage, compared with 24 percent for whites and 15 percent for Asians. Only the percentage for blacks—68 percent—is higher.”³⁶

Finally, demographers have documented a rise in so-called multipartnered fertility—that is, the pattern of men fathering children (often extramaritally) by more than one woman, with a corresponding increase in women bearing children outside of marriage by more than one man.³⁷ Once again, the evidence suggests significant variation by race and social class, with multipartnered fertility far more common among persons with less education and income, and also more prevalent among blacks.³⁸

33. Ellwood & Jencks, *supra* note 6, at 10.

34. See McLanahan, *Diverging Destinies*, *supra* note 5, at 612; White & Rogers, *supra* note 6, at 1047; Edin & Reed, *supra* note 13, at 118.

35. GALLAGHER, *supra* note 32, at 119 (noting that “[o]ver the past twenty years . . . the illegitimacy rate among black female high school dropouts has roughly doubled. Among black female college graduates, the illegitimacy rate has tripled.”).

36. Heather MacDonald, *Surge in Birth Rate Among Unwed Hispanics Creating New U.S. Underclass*, DALLAS MORNING NEWS, Jan. 21, 2007 at 1.

37. See, e.g., Cassandra Logan et al., *Men Who Father Children with More Than One Woman: A Contemporary Portrait of Multiple Partner Fertility*, CHILDREN TRENDS PUBLICATION #2006-10, 2006. See also Maria Cancian & Daniel R. Meyer, *The Economic Circumstances of Fathers with Children on W-2*, FOCUS 22, 19, 21–23 (Sum. 2002); The Fragile Families Research Brief, June 2002, No. 8, available at <http://crcw.princeton.edu/briefs/research-brief8.pdf> (Aug. 8, 2006); Ronald B. Mincy, *Who Should Marry Whom?: Multiple Partner Fertility Among New Parents*, Center for Research on Child Wellbeing Working Paper #02-03-FF, Feb. 2002, 1, 14 available at <http://crcw.princeton.edu/workingpapers/WP02-03-FF-Mincy.pdf> (accessed Aug. 8, 2006); Karen B. Guzzo & Frank F. Furstenberg, Jr., *Multipartnered Fertility Among American Men*, 44 DEMOGRAPHY 583–601 (Aug. 2007).

38. See Logan, *supra* note 37 (finding that black men in her sample of low-income males

V. Child rearing

What are the implications of these patterns of marriage, divorce, and reproduction for the setting in which children grow up? Overall, many fewer children are being reared in traditional nuclear families, defined as those consisting of two married parents and their shared biological children. More children are growing up in single-parent households and in a range of blended-family types—that is, those that include only one of the child’s biological parents (usually the mother) and an adult (usually male) biologically unrelated to the child. Once again, the incidence of children raised in traditional nuclear families, as compared to alternative-family types, varies widely by social class. By 2002, nearly half of all children with less educated mothers (those with four or fewer years of high school) were living without their biological fathers,³⁹ either with their single mother, or with their mother and an unrelated male adult. Many were also residing with half-siblings or with children to whom they were biologically unrelated.

In contrast, fatherless or blended households are much less common for women who have completed four years of college or more, and those women are also more likely to be married to the father of their children.⁴⁰ This means that children of well-educated mothers more often grow up with a man present, and that man is usually the biological father. Indeed, “virtually all—92%—of children whose parents make over \$75,000 per year are living with both [biological] parents.”⁴¹ Because marriage rates are high within this group, the children’s parents tend to be married to each other.

Not surprisingly, there are also marked differences in children’s living situation by race. Quite simply, fatherless households are the norm among blacks and are common at all education levels within that group. As Harknett and McLanahan observe, “[b]ecause African-Americans have higher rates of nonmarital childbearing and divorce than the general population, African-American children spend substantially more time in sin-

were twice as likely as white men to have children by more than one woman). *See also* Guzzo & Furstenberg, *supra* note 37 (finding relatively high rates of multipartnered fertility for low income and black men); *Baby Fathers and American Family Formation: Low-Income, Never Married Parents in Louisiana before Katrina*, Ronald Mincy and Hillard Pouncy, eds., *An Essay in the FUTURE OF THE BLACK FAMILY* series, Center for Marriage and Families at the Institute for American Values (2007) (showing a high incidence of multi-partnered fertility in a Louisiana sample of poor parents that is more than 80% black).

39. *See, e.g.*, Ellwood & Jencks, *supra* note 6, at 37. *See also* McLanahan, *Diverging Destinies*, *supra* note 5, at 612; Ellwood & Jencks, *supra* note 30, at 14.

40. Ellwood & Jencks, *supra* note 30, at 13–14.

41. KAY HYMOWITZ, *MARRIAGE AND CASTE IN AMERICA* 22 (2006).

gle-parent households than white or Hispanic children.”⁴² Indeed, “black children are eight times more likely than white children to live with an unwed mother.”⁴³ For black children under age six, “the most common arrangement—applying to 42 percent. . .—was to live with a never-married mother.”⁴⁴ Another consequence of low marriage rates and high divorce rates among blacks is that more black than white children live in blended families. As a result, more black children are raised in households with an unrelated adult male.

VI. Why Do We Care?

Why should class and race disparities in family structure and reproductive behavior elicit concern? These patterns have important consequences because family structure is linked to the well-being of both adults and children. A growing body of research shows that children who grow up with single or unmarried parents are less well off on many measures. This is partly because single-parent families having fewer resources. Just as marriage brings financial benefits to both parties, it also alleviates economic hardship for children.⁴⁵ Not surprisingly, poverty rates for children of never-married mothers are substantially higher than for children of divorced mothers or from intact families.⁴⁶ In recent decades, poverty has increasingly become concentrated in the growing number of households maintained by unmarried mothers.⁴⁷ The poverty rates for individuals living in married two-parent households is about seven percent, but “[a]mong individuals in families with an unmarried head and children present (five-sixths of whom are female unmarried heads), the poverty rate [is] 40.3 percent.”⁴⁸ The problem is especially acute for black children. A

42. Kristen Harknett & Sara S. McLanahan, *Racial and Ethnic Differences in Marriage After the Birth of a Child*, 69 AM. SOC. REV. 790, 790 (2004).

43. GALLAGHER, *supra* note 32, at 117.

44. *Id.*

45. See, e.g., Robert I. Lerman, *How Do Marriage, Cohabitation, and Single Parenthood Affect the Material Hardships of Families with Children?* 9–10 (Urban Institute and American University, July 2002) (Lerman 2002a).

46. Zenchao Qian et al., *Out-of-Wedlock Childbearing, Marital Prospects and Mate Selection* 84 SOC. FORCES 473, 487 (2005).

47. CHERLIN, *supra* note 10, at 91. Indeed,

[t]he child born outside of marriage is thirty times more likely to live in persistent poverty than is the child whose parents got married and stayed married. Sixty percent of children whose mothers never married will be poor for most of their childhoods, compared to just 2 percent of children whose parents got married and stay married.

GALLAGHER, *supra* note 32, at 32. Similarly, Ellwood & Crane state that

...even among single-parent families, those headed by never-married mothers (as opposed to women who were previously married) are the most disadvantaged. Never-married mothers have far longer welfare stays than other women, even after controlling for race, education, and work experience.

Ellwood & Crane, *supra* note 17, at 70.

48. Hilary Hoynes et al, *Poverty in America: Trends and Explanations*, 20, J. ECON.

recent survey reveals that, regardless of race, nearly sixty percent of children under age six in mother-headed families were in poverty.⁴⁹ Indeed, it has been estimated that the failure of the child poverty rate to decline between 1967 and 2003, despite significant increases in female labor-force participation, can be traced to the dramatic growth in extramarital births and fatherless families.⁵⁰ Child support has not alleviated this situation, as it is not always available, is difficult to collect, and is rarely sufficient to make up for the father's absence.⁵¹

Although its economic effects are not as severe as for extramarital births, divorce also undermines the well-being of children. While women's standard of living often declines after a marriage dissolves, men's usually gains.⁵² Since most children live with their mothers after divorce, women's economic difficulties translate into more financial stress and fewer economic resources available to others in the household. Finally, living with married parents is advantageous not just because a father's presence in the home is an important hedge against poverty, but also because marriage boosts men's earnings.⁵³ Thus, children who live with their married biological parents will tend to have more resources available to finance their upbringing.

Economic deprivation is not the only negative consequence of living with a single parent. Noneconomic factors are also critical. Children living apart from their fathers enjoy less parental attention and personal investment in their upbringing. They suffer more disorder and uncertainty in

PERSPECTIVES, 47–68, at 49 (2006).

49. White & Rogers, *supra* note 6, at 1036. *See also id.* at 1038:

The link between family structure and family income grew during the 1990s. . . . Until relatively recently, the economic advantage of married-couple families stemmed from their having access to male earnings, which were much higher than female earnings. During the 1980s and continuing through the 1990s, however, their advantage was increasingly due to the presence of two earners.

50. Hoynes et al, *supra* note 48, at 49.

51. According to the most recent data, about 74% of nonresidential fathers do not pay child support at all, and low-income fathers are particularly unlikely to pay. Nelson, *supra* note 16, at 439–40. *See, e.g.,* CHERLIN, *supra* note 10.

52. *See id.* at 73:

In the Panel Study of Income Dynamics (PSID), a national study of families who were interviewed annually beginning in 1968, separated and divorced women suffered an average drop of about 30 percent in their standard of living in the year following a marital break-up. Men, in contrast, experienced a rise of 10 to 15[%] because they no longer fully supported their wives and children.

53. *See* Avner Ahituv & Robert I. Lerman, *How Do Marital Status, Work Effort, and Wage Rates Interact?* 44 DEMOGRAPHY 623–47 (2007) (analyzing data from a The National Longitudinal Survey of Youth, a large demographic sample, to conclude that “being married and having high earnings reinforce each other over time”). *See also* Sanders Korenman & David Neumark, *Does Marriage Really Make Men More Productive*, 26 J. HUMAN RES. 282–307 (1990). As Korenman and Neumark show, married men's higher average earnings is not just a matter of a “selection” effect—that is, of the greater propensity of men with desirable attributes and earning power to marry. Rather, marriage actually induces men to earn more.

family life and relationships. The absence of consistent male guidance is thought to contribute to the difficulties experienced by children from single-mother homes.⁵⁴

Both economic and noneconomic deprivations take their toll. Social scientists have documented that children from nontraditional families have an enhanced risk of problems with life-long repercussions.⁵⁵ Children growing up with one parent are significantly more likely to drop out of school and have an out-of-wedlock child themselves.⁵⁶ They also have “lower educational attainment, poorer mental health, and more family instability when they grow up.”⁵⁷ Recent research reveals that children raised in blended or stepparent families experience similar types of problems. In addition to having lower educational achievement and completing fewer years of schooling, these children experience relatively more behavioral and psychological problems throughout life and have less stable adult relationships.⁵⁸ Indeed, children from blended families fare no better than children raised by single or divorced parents.⁵⁹ Although, as with single-parent families, this is partly due to blended families’ lower average socioeconomic status, significant adverse effects are also observed even when families are matched for available income and parental education.

In sum, data from a variety of studies now strongly suggests that children growing up in settings other than traditional families are at a disadvantage.⁶⁰ Being raised by one’s married biological parents does indeed appear to produce superior outcomes. Thus, a picture has gradually

54. See Kristin Anderson Moore et al., *Marriage from a Child’s Perspective: How Does Family Structure Affect Children and What Can We Do About It?*, Child Trends Research Brief (June 2002).

55. *Id.*

56. Ellwood & Crane, *supra* note 17, at 70 (“This result reflects both an impact due to reduced income and a separate component attributed to family structure itself.”).

57. McLanahan, *Diverging Destinies*, *supra* note 5, at 611. There is also a documented relationship between family structure and employment, at least in young black men. See Ellwood & Crane, *supra* note 17, at 70.

58. See Moore et al., *supra* note 54; Wendy Sigle-Rushton & Sara McLanahan, *Father Absence and Child Well-Being: A Critical Review*, in THE FUTURE OF THE FAMILY, 116–55 (2004); ABIGAIL THERNSTROM & STEPHEN THERNSTROM, NO EXCUSES: CLOSING THE RACIAL GAP IN LEARNING, 132 (2003); McLanahan, *Diverging Destinies*, *supra* note 5, at 627.

59. See discussion of blended families, *infra*. See also KATHRYN EDIN & MARIA KEFALAS, PROMISES I CAN KEEP: WHY POOR WOMEN PUT MOTHERHOOD BEFORE MARRIAGE, 215 (2005) (noting that “living apart from either biological parent at any point during childhood is what seems to hurt children.” (emphasis in original)). See also Donna K. Ginther & Robert A. Pollak, *Family Structure and Children’s Educational Outcomes: Blended Families, Stylized Facts, and Descriptive Regressions*, 41 DEMOGRAPHY 671, 696 (2004); Sandra Hofferth, *Residential Father Family Type and Child Well-Being: Investment Versus Selection*, 43 DEMOGRAPHY 53, 77 (2006).

60. McLanahan, *Diverging Destinies*, *supra* note 5, at 627.

emerged from the social science literature of the traditional family as the “gold standard”—the most desirable setting for raising children. A research brief by *Child Trends* sums up the scholarly consensus:

[R]esearch clearly demonstrates that family structure matters for children, and the family structure that helps them most is a family headed by two biological parents in a low conflict marriage. Children in single parent families, children born to unmarried mothers, and children in step-families or cohabiting relationships face higher risks of poor outcomes.⁶¹

The relative paucity of “gold standard” families among blacks and people with less education and income has important implications for the future distribution of resources and well-being in our society. Economic inequality in the United States has recently become more pronounced. This trend has generated growing attention and concern, with economists and others attempting to identify the causes and cures for accelerating economic disparities.⁶² Such factors as globalization of capital and labor, the decline of labor unions, growing returns to skill and education, and higher costs for basics like housing, education, and health care, are all thought to contribute to these patterns. In the myriad articles bemoaning and exploring the potential causes of rising inequality, relatively little stress is placed on family structure. Yet that factor clearly contributes to socioeconomic polarization and continues to grow in importance.

The family has remained strong for the most educated segment of the population, especially among whites. Assortative mating—with individuals marrying others with similar levels of education and potential earning power—further enhances the fortunes of the most privileged group. In contrast, black families and those with less education infrequently reap the benefits of two incomes. In addition, personal attention from parents is thought by many developmental experts to be a potent source of human capital.⁶³ Sustained parental oversight and the consistent investment of

61. Moore et al., *supra* note 54, at 6. See also Amy L. Wax, *Traditionalism, Pluralism, and Same-Sex Marriage*, 59 RUTGERS L. REV. 377, 402–12. (2007).

62. See, e.g., Joel Kotkin & David Friedman, *Rebuilding the Middle Class*, L.A. TIMES, Dec. 3, 2006, at M6; Thomas Lemieux, *Increasing Residual Wage Inequality: Composition Effects, Noisy Data, or Rising Demand for Skill?*, 96 AM. ECON. REV. 461 (2006); Thomas Piketty & Emmanuel Saez, *The Evolution of Top Incomes: A Historical and International Perspective*, (Nat’l Bureau of Econ. Research, Working Paper No. 11955, 2006); Arloc Sherman & Aviva Aron-Dine, *New CBO Data Show Income Inequality Continues to Widen: After-Tax-Income for Top 1 Percent Rose by \$146,000 in 2004*, Center on Budget and Policy Priorities, Jan. 23, 2007, <http://www.cbpp.org/1-23-07inc.htm>. See also Robert Frank, *Falling Behind: How Inequality Harms the Middle Class* (2007) (documenting growing economic inequality in the United States).

63. For controversy on the degree to which parenting matters, however, see Amy L. Wax, *Unique, Like Everyone Else*, 138 POL’Y REV. (Aug./Sept. 2006).

parents' time and effort are believed critical to the development of productive citizens. If children with educated parents or from economically well-off groups more often grow up in families that perform these functions well, existing inequalities will grow.

Given current demographic realities, children from less-affluent families will tend to receive less parental attention and private support. Given very high overall extramarital birth rates, the same is true for black children at all levels of income. In particular, the absence of fathers significantly reduces the amount of adult investment in children's development. Unmarried and divorced fathers usually do not reside with their children. Fathers who live in separate households or are not married to their children's mother are less firmly attached to their offspring, with many contributing to their children's welfare only occasionally or intermittently. A far larger number of poor, nonwhite, and less-educated fathers are absent or unmarried, so their children are frequently shortchanged.

Yet another way in which class divides in family structure and reproductive patterns exert a potentially detrimental influence on children's upbringing is by selectively weakening neighborhoods and communities. Residential segregation by race and class means that fatherless and single-parent families will tend to cluster together geographically, with traditional two-parent families in relatively short supply. A paucity of responsible, married fathers undermines the supervision and proper socialization of children. The balance of married and unmarried men also has implications for the incidence of antisocial behavior. Single adult males create a potentially disruptive presence because they are more likely to engage in criminal activities or to be unemployed.⁶⁴ Crime and male idleness make neighborhoods unsafe, put stress on family life, and undermine men's ability to contribute to their children's upbringing, both personally and financially. The benefits of a strong marriage culture thus "radiate outward into the commonweal."⁶⁵

In sum, disparities in father absence between well-off children and the less privileged have widened in recent decades and are growing. The gaps in family structure between blacks and whites, especially among educated families, are also pronounced. Class and race differences in family type affect individual children and the wider community. These disparities

64. Robert W. Sampson, Stephen W. Roudenbush & Felton Earls, *Neighborhoods and Violent Crime: A Multilevel Study of Collective Efficacy*, 277 *SCIENCE* 918, 924 (Aug. 15, 1997); John Laub & Robert Sampson, *Shared Beginnings, Divergent Lives* (2003); Robert Sampson et al., *Does Marriage Reduce Crime? A Counterfactual Approach to Within-Individual Causal Effects*, 44 *CRIMINOLOGY* 465 (2006).

65. Brad Wilcox, *Marriage, the Poor, and the Commonweal*, in *THE MEANING OF MARRIAGE*, 244 (Robert George & Jean Bethke Elshtain eds., 2006).

systematically undermine attempts to create equal opportunity across lines of class and race.⁶⁶

VII. What Is to Be Done?

What should be done about these changes in the family? Should we attempt to reverse these developments? Are we able to do so? If not, can we compensate for detrimental effects and counter resulting inequalities between groups?

How these questions are resolved depends on whether the growing diversity of family structure and the resulting differentials by race and class are seen as undesirable or as problems in need of solution. Traditionalists are clearly troubled by these trends. They point out that conventional families have intrinsic strengths. And many note that, although government programs can try to ease the difficulties of nontraditional families, they can never entirely eliminate the advantages that conventional nuclear families enjoy nor close the gaps between different family types. Pluralists, in contrast, are skeptical of efforts to restore longstanding family forms. They deny that good or bad outcomes are intrinsic to any family type and believe that observed differences can be eliminated by providing outside assistance and resources or changing policies to make life easier for fragmented families.

Assuming one would want to restore the traditional family, is that project feasible? One way to approach this question is to investigate the causal roots of observed patterns. Why has the family changed, and why have these changes not been uniform by class and race? In particular, why do people at different levels of education and income now behave so differently? Likewise, what is the source of the dramatic black–white disparity in family structure, and why has it failed to yield to greater opportunities and improved economic and social conditions for blacks? Demographers have long wrestled with these issues. The chief theories point to three main sources of influence: economics, technology, and culture.

Economic explanations look mainly to monetary factors and to the incentives created by the availability of resources. Traditional economic models identify four principal influences on choices regarding marriage and family: male earnings and employment, female earnings, the sex ratio

66. See Steven P. Martin, *Growing Evidence for a "Divorce Divide"?: Education and Marital Dissolution Rates in the U.S. Since the 1970s*, *supra*:

Educational divergence in divorce rates might be considered a benign sort of inequality, in that the advantaged group is doing better but the disadvantaged group is doing no worse. The divergence in stable married families with children, however, is such that families with highly educated mothers and families with less educated mothers are clearly moving in opposite directions, and the disadvantaged group is doing worse.

of marriageable individuals, and the availability of public assistance. Economists have developed a number of basic assumptions about the role of these factors. Men with higher earnings are more likely to marry and stay married because they are viewed as more desirable mates. Likewise, women who work and have high earnings will be less eager to marry because they have less need for male resources. Public assistance for single-parent families will discourage marriage, especially if husbands' earnings are low or higher income leads to a loss of benefits. A paucity of marriageable men—through incarceration, premature death, low earnings, or low employment—will lead to lower marriage rates, both because too few men will be available or considered suitable husband material and because more desirable men will have more opportunity to “play the field.”⁶⁷

The literature that discusses and analyzes the economic model is extensive and complex. A consensus has developed that economic factors, although perhaps exerting some influence, fail consistently to explain patterns and trends in family structure.⁶⁸ The notion that high male earnings encourage marriage and high female earning potential and workforce participation undermine it is based on a model of family economics that views men's and women's roles as divergent and complementary.⁶⁹ However, under current patterns of assortative mating, men and women with equal earning power are more likely to marry each other. This is more consistent with a model that stresses gains from mutuality, cooperation, and consumption rather than a strict sexual division of labor. This pattern also highlights the importance of noneconomic and cultural factors, such as similarity in attitudes, values, outlook, and tastes.⁷⁰ Nevertheless, the benefits of these companionate marriages seem to be going disproportionately to the upper classes, which are increasingly more likely to marry and stay married than others. Why less-educated persons do not seem as eager to join forces, despite the decline in sharp marital division of labor, is not well understood.

The prevalence of marriage among the more educated and affluent is sometimes attributed to the economic advantages women perceive from marriage. Well-educated husbands are more desirable because they earn more. Only well-educated women have the ability and opportunity to snag a prosperous husband. However because it slights other economic factors that point in a different direction, this explanation grounded in female

67. See Lundberg & Pollak, *supra* note 6. See also Harknett & McLanahan, *supra* note 42, at 792–93.

68. See, e.g., Ellman & Jencks, *supra* note 6, at 47.

69. See GARY BECKER, *A TREATISE ON THE FAMILY* (1981).

70. See Lundberg & Pollak, *supra* note 6.

preference fails fully to account for upper-class women's propensity for marriage. Educated men bring more economic resources to a marriage, but, as elaborated more fully below, less-affluent women can still significantly improve their standard of living by marrying men of their own class, despite these men's relatively modest earning power.⁷¹ Thus, female economic self-interest cannot explain the observed class divergence.

In addition, although there are advantages to marrying well, motherhood is often viewed as an important goal. Privileged women are still far better equipped, economically and otherwise, to go the single-motherhood route than their less-educated counterparts. Yet unlike women with fewer resources, high-status women still insist upon marriage before children. It is unclear why upper-class women tend to forgo motherhood if unable to find suitable mates. The key question is why they choose this outcome when their poorer sisters do not.

Second, the focus on women's preferences also does not explain why well-educated men agree to marry their female counterparts. The answer cannot be the desire to have children. Affluent men could adopt the patterns more commonplace among those less well off, which is to have children by women (and sometimes more than one) without marrying them. If the goal is to reproduce at least cost, this strategy makes sense. Given the realities of weak child support enforcement and the demands of domestic life, absentee fatherhood is far cheaper and entails less financial sacrifice than taking the obligations of matrimony and married fatherhood seriously. However, the financial costs are only part of the story. Resident fathers devote far more personal time and attention to their children's upbringing.⁷² Why are educated and high-earning fathers more willing to invest in their children in every way? Economic theories seem unable to explain why these men voluntarily agree to assume these considerable burdens and why absentee fatherhood has failed to catch on among the most educated segments of the population.

In the same vein, the notion that the marriage rates of unskilled men have plummeted because their economic and employment situation has seriously deteriorated is unpersuasive because it fails to comport with the evidence. Although income differentials for men by education have increased dramatically over time, this divergence has been driven primarily by rising returns to college and graduate education. Men with high school degrees or less, and men at the bottom of the wage scale, have seen

71. See page 581–82 *infra*.

72. See McLanahan, *Diverging Destinies*, *supra* note 5; Liana C. Sayer, Suzanne M. Bianchi, & John P. Robinson, *Are Parents Investing Less in Children? Trends in Mothers' and Fathers' Time with Children*, 110 *AM. J. SOC.* 1, 43 (2004) (showing that higher-income, married fathers spend the most time with their children).

their earnings stagnate or, in some cases, decrease slightly.⁷³ Nonetheless, male high-school graduates and dropouts do not earn significantly less than comparably educated men in past decades. The resources these men bring into a marriage are therefore not dissimilar to what working-class men had to offer decades ago, when marriage rates were far higher across the board and family-structure differences by social class were far smaller. In sum, the data on male earnings simply cannot explain the longitudinal changes in marriage patterns and propensity by social and educational class over time.⁷⁴

The decrease in marriage among less educated persons is even more puzzling because the evidence suggests that marriage still carries significant economic advantages, even for persons of modest skills, earning power, and economic prospects. These advantages hold, regardless of race, and are more pronounced for blacks than whites.⁷⁵ Studies indicate that “adults who begin adulthood in poverty are sixty-six percent less likely to remain poor if they get and stay married; that low-income married families are less than half as likely to experience material hardship—missing a meal or failing to pay bills—than are cohabiting or single parents; and that single mothers who marry shortly after a nonmarital birth experience an increase of more than fifty percent in their standard of living relative to single parents and twenty percent relative to cohabiting families.”⁷⁶

That well-functioning married couples can achieve greater economic well-being, regardless of social class, stands to reason. Marriage creates efficiencies and economies of scale and opens up opportunities for sustained cooperation in child rearing and other joint ventures that build economic and social capital. In addition, as noted, there is evidence that marriage causes men to work harder and earn more.⁷⁷ Although higher-earning men obviously bring more resources into marriage, even men with modest earning power can contribute significantly to a household’s economic position. Indeed, it can be argued that lower-income women

73. For statistics on trends in male earnings by education and class, see LAWRENCE MISHEL, JARED BERNSTEIN & SYLVIA ALLEGRETTO, *THE STATE OF WORKING AMERICA 2006/2007*, 121, 151 (2007). See also EDIN & KEFALAS, *supra* note 59.

74. See, e.g., Robert G. Wood, *Marriage Rates and Marriageable Men: A Test of the Wilson Hypothesis*, 30 *J. HUMAN RES.* 163 (1995).

75. Robert Lerman, *Effects of Marriage on Family Economic Well-Being* (Urban Institute and American University, July 2002); Lerman, *supra* note 45 (citing data indicating that “married-couple households were much more likely to avoid poverty than all other types of households” and noting that “the highest advantage for married couples in reduced poverty was among black households. Relative to poverty levels of married couple households, the percentage in poverty among black single parents was 20–40 percentage points higher; for whites, the gap was only 8–20 percentage points.”).

76. Brad Wilcox, *Marriage, the Poor, and the Commonwealth*.

77. See discussion page 578 & note 53, *supra*.

have a greater incentive to marry than women with more earning capacity. According to basic principles governing the marginal utility of money, each additional dollar brought into a family has greater value at lower rather than higher incomes.⁷⁸ Thus, a working husband's earnings, even if modest, can provide an important boost to purchasing power and can significantly elevate the entire family's standard of living. This effect is especially important in its potential to lift the lowest earning families out of poverty.

Consider, for example, a single mother with two children earning \$7.00 per hour—a sum not much above the current federal minimum wage of \$5.85. For full-time, year-round work (forty hours per week for fifty weeks per year), her total yearly pretax income would be \$14,000. Suppose she marries a man with the same earning power. Two workers at this wage can together earn a pretax income of \$28,000. That couple would also be eligible for the Earned Income Tax Credit, which would abate federal taxes and improve their net earnings. Although that benefit would have somewhat lower value to the couple (due to their higher income) than to the mother living alone with her children, it would still increase the pair's total effective earnings by several thousand dollars.⁷⁹ More importantly, marriage would elevate this family (including the two children) well above the poverty line and significantly enhance the couple's net financial position.

All told, marrying a person of equal earning capacity, regardless of skill level, can be an effective way for men and women to raise their family income and improve their standard of living. Although such a family would be far from rich, its members would still be better off than if each adult in the couple lived separately. Reaping those gains, however, depends on hard work, consistent employment, active cooperation, and the careful and sustained application of both spouse's earnings to the common enterprise. These are big "ifs:" there is no guarantee that the potential for cooperation and harmonious sharing will be realized. If the "downside" of marriage is sufficiently large for either spouse—in loss of independence, increased domestic workload, abuse, conflict, or unhappiness—then economic advantages will fail to hold sway. This balance of costs and benefits is not solely a matter of economics because lack of marital cooperation is not properly regarded as an economic problem. Rather, it is a matter of attitudes, values, commitment, socialization and behavior.

78. See ARTHUR OKUN, *EQUALITY AND EFFICIENCY: THE BIG TRADEOFF* (1975).

79. On the problem of the marriage penalty in some benefits programs, see the discussion of poor relief programs and marginal tax rates, *infra*. On the current structure of the Earned Income Tax Credit, which illustrates the problem of the phase-out and the marriage penalty, see Leslie Book, *Preventing the Hybrid from Backfiring: Delivery of Benefits to the Working Poor Through the Tax System*, WIS. L. REV. 1103,1110–11 (2006).

The decline in marriage despite its potential to make people financially and personally better off is a cultural problem, not an economic one.

In the same vein, poverty and socioeconomic factors do not fully account for observed racial differences in family structure and marital behavior. Falling marriage rates and increasing extramarital birth rates among blacks are of special concern and have elicited a sustained effort to understand these trends. Despite a relative shortage of desirable black men, especially among the best and least educated segments of the population, demographers have concluded that racial differences in mate availability and other factors (such as unemployment) that are thought to bear on marital eligibility explain but a small portion of the steep decline in marriage among blacks over recent decades.⁸⁰ Black men marry far less often than men from other racial and ethnic groups with comparable education and income. Significant numbers of employed black men now remain unmarried, with marriage for African Americans declining even among the upper classes.⁸¹ As one author explains, “African Americans are less likely (60% as likely) to marry than whites, regardless of family culture, economic circumstances, attitudes, welfare receipt, and marriage market conditions.”⁸² In sum, the employment status, education level and income of black men fail to explain their far lower marriage rates. Although blacks’ economic situation plays some role, its contribution is modest at best. Culture, not economics, holds the key to the fragile state of the black family.⁸³

Another explanation cited for demographic shifts in family structure is the pattern of government benefits for the poor. In his famous 1986 book *Losing Ground*, Charles Murray argued that federal welfare payments

80. See White & Rogers, *supra* note 6, at 1041; Jessie M. Tzeng and Robert D. Mare, *Labor Market and Socioeconomic Effects on Marital Stability*, 24 SOC. SCIENCE RES. 329 (1995). See also Mare & Winship, *supra* note 17, at 174–202; Daniel T. Lichter *et al.*, *Local Marriage Markets and the Marital Behavior of Black and White Women*, 96 AM. J. SOC. 843, 867 (1991); Daniel Lichter *et al.*, *Race and the Retreat from Marriage: A Shortage of Marriageable Men?*, 57 AM. SOC. REV. 781, 799 (1992); Ellwood & Crane, *supra* note 17, at 65; Robert Schoen & James R. Kluegel, *The Widening Gap in Black and White Marriage Rates: The Impact of Population Composition and Differential Marriage Propensities*, 53 AM. SOC. REV. 895 (1988). See also JUNE CARBONE, FROM PARTNERS TO PARENTS, 93–94 (2000).

81. See CHERLIN, *supra* note 10, at 105 (Cherlin, 1992, also explains that “[o]ther evidence shows that the deteriorating labor market position of poorly educated black men cannot be the only reason why fewer blacks are marrying. During the 1960s and 1970s, marriage declined nearly as much among better-off blacks as among poor blacks.”). See also Harknett & McLanahan, *supra* note 42, at 792–93 (“Although important, the poor employment prospects of low-skilled African American men cannot entirely explain racial differences in marriage because African Americans are less likely to marry than whites at all socioeconomic levels.”).

82. McLaughlin & Lichter, *supra* note 15, at 589.

83. See discussion of male attitudes and socialization, 589–93 *infra*. For more on this point in the context of race, see Amy L. Wax, *Race, Wrongs, and Remedies: Group Justice in the 21st Century* (forthcoming 2008, Hoover Institution Publications).

under the Aid to Families with Dependent Children program were instrumental in discouraging marriage and encouraging out-of-wedlock child-bearing among low-income women.⁸⁴ Repeated efforts have been made to evaluate this claim in intervening years with equivocal results.⁸⁵ Nonetheless, federal welfare reform legislation in 1996 was motivated in large part to eliminate the perverse incentives generated by the prior regime.⁸⁶ It was believed that time limits and stricter work requirements, which conditioned benefits on participation in work-related activities, would encourage mothers to marry or discourage out-of-wedlock child-bearing altogether. These hopes have not been realized, in part because work support programs still effectively subsidize all types of families, thus providing little added incentive to marry.⁸⁷ In addition, the problem of the decline in marriage and the increase in extramarital childbearing has grown beyond the welfare population. These patterns now dominate among working-class women with too much income to qualify for substantial cash welfare benefits under either the old or the new rules.

Nonetheless, the current system of poor relief continues to provide cause for concern. Most programs are no longer designed to substitute for work but rather to support or supplement earnings for low-income working households. These include the Earned Income Tax Credit, food stamps, Medicaid, state-sponsored health insurance for poor children, housing assistance, child support enforcement, and child care benefits. Most of these programs are means tested. As Daniel Shaviro and others have noted, a family may lose some or all government assistance as their earnings increase—a result that operates like a tax on additional resources coming into the family. Indeed, the combined effect of these programs has the potential to impose very high, effective marginal tax rates on additional income, whatever its source.⁸⁸

84. CHARLES MURRAY, *LOSING GROUND* (1984).

85. Robert Moffitt, *The Effect of Welfare on Marriage and Fertility*, in *WELFARE, THE FAMILY, AND REPRODUCTIVE BEHAVIOR* (Robert Moffitt ed., 1998).

86. See preamble to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. § 601 (2000) (reauthorized by the Deficit Reduction Act of 2005, Pub. L. No. 109-171, Feb. 8, 2006, 120, Stat. 4).

87. See Amy L. Wax, *Welfare Reform Isn't Working*, L.A. TIMES, Oct. 22, 2006; Amy L. Wax, *Too Few Good Men*, 134 POL'Y REV. (Dec. 2005/Jan. 2006).

88. See Daniel Shaviro, *Welfare, Cash Grants, and Marginal Rates*, New York University Law & Economics Working Papers, 2006. See also Mickey Hepner & W. Robert Reed, *The Effect of Welfare on Work and Marriage: A View from the States*, 24 CATO J. 349, 365–70 (Fall 2005) (showing high marginal tax rates on work effort and marriage from the combination of supplemental programs); Stephen D. Holt, *Making Work Really Pay: Income Support & Marginal Effective Tax Rates Among Low-Income Working Households*, presented to the American Tax Policy Institute (Mar. 2005) (noting that available government programs in combination have the potential to produce high, effective marginal rates for eligible families in

One way in which single-mother families can “earn” additional money is through marriage. A husband’s wages can boost family income. But these wages also add to the family’s resources, which can disqualify the family for food stamps and Medicaid, or lead to the phasing out of the refundable Earned Income Tax Credit. Although the evidence suggests that most eligible families do not take advantage of all available programs—and thus do not experience as high effective marginal tax rates on additional earnings as they could⁸⁹—the potential for existing government programs to discourage marriage or work effort among low-income men and women cannot be wholly discounted. Whether people are actually aware of these consequences and are moved by them is an empirical question. The effect of government policies in the wake of welfare reform awaits further evaluation. In the current climate, however, marginal tax effects of government benefits are not believed to be the principal factor driving disparities in family structure.

In sum, the current consensus among demographers who study family decline is that economic factors provide, at best, a partial explanation for the recent disintegration of the family among less-educated and less-privileged persons or for its relative preservation among more well-off populations. Despite the absence of external obstacles to forming stable families and the documented economic and social advantages of married life, men and women with less education now often reject marriage.

In an attempt to better understand the shift in reproductive behavior among the least advantaged members of society, two social scientists, Kathryn Edin and Maria Kefalas, conducted an ethnographic study of 162 single mothers in eight Philadelphia-area low-income neighborhoods.⁹⁰ Through extensive interviews and observations, the authors concluded that most of their subjects had a positive—even idealized—view of marriage. Yet despite expressing a strong desire to marry and regarding extra-marital childbearing as “second best,” almost all the mothers in the sample remained single. The authors offer this explanation: Expectations for marriage have risen across the board. Everyone now regards marriage as a luxury good rather than as a necessity, so they refuse to tie the knot unless they have first achieved economic success. A house, a well-paying job, and enough money for a nice wedding are now needed before considering a trip to the altar. But few of the unskilled can make good on these aspirations because wages at the bottom have stagnated or declined.

Wisconsin, but showing that incomplete utilization of existing programs yields much lower rates in practice).

89. See Holt, *supra* note 88.

90. EDIN & KEFALAS, *supra* note 59.

The authors acknowledge that overall economic prospects for men with a high-school education or less are not significantly worse than in past decades when marriage rates were much higher. According to them, it is not that most unskilled men are less able to support a family than they were decades ago; earnings for this group have always been modest. Rather, the problem is that women—and men—expect far more. In contrast, they conclude that having children does not carry similarly inflated expectations. Childbearing is a fundamental hallmark of female adulthood that is central to poor women's dignity and identity. Affluence and security are not regarded as prerequisites for taking on this responsibility.

Although the idea that the class divergence in family structure can be traced to well-off people's superior ability to meet widely shared economic expectations for marriage seems to make sense, the actual interviews Edin and Kefalas conducted do not support this theory. The women in their study almost never complain about their men's earning power. Rather, the book is replete with evidence that men's antisocial behavior, not unfulfilled economic expectations, is the main obstacle to matrimony. To be sure, these women's accusations have an economic aspect: they accuse the men of being unwilling to grasp opportunities, work steadily, and spend wisely. They find fault with the men's financial profligacy, defiant attitudes, and lack of work discipline. And they claim that what money the men manage to earn is seldom applied to family needs, but is too often dissipated on personal luxuries, indulgences, and vice. The complaints are not focused on low earning potential as such. Rather, they are directed at how well and hard their men work, how they use their money, and their lack of devotion to family life.

These women's most vociferous complaints are reserved for men's chronic criminal behavior, drug use, violence, and, above all, repeated and flagrant sexual infidelity. Most of the men described in this book made no effort to hide their frequent liaisons, which were often carried on simultaneously. More often than not, those relationships produced babies. These men's sexual habits—and women's complicity in them—produced conflict, jealousy, resentment, mistrust and tumultuous personal lives. The connection between these patterns and economic factors is tenuous at best. These tales do not point to rising expectations, economic or otherwise. These women do not hold their men to new and higher standards. Rather, they ask for the basics of responsible male behavior. Women have always expected this from their husbands, but upper-middle-class women now seem to get it far more often. Admittedly, the women in Edin's and Kefalas's sample contribute to the very behaviors to which they object. They are the ones bearing these men's children outside of wedlock. To many of them this seems better than marrying a man who is financially,

personally, and sexually unreliable.

Although Edin and Kefalas focus on a small group of subjects and do not purport to offer a comprehensive or systematic survey of low-income women generally, their book is suggestive of the problems that afflict this group. The overall impression gleaned from their account is that the men these low-income women would potentially marry are not well socialized to the expectations that conventionally apply to responsible husbands and fathers. By implication, better-educated men may more consistently fulfill these requirements. The possibility that the effective socialization of men has declined selectively—or that the differential disintegration of the family may reflect widening disparities in patterns of male behavior by race and class—has received little serious attention. Yet there is some indirect evidence for this.

The detrimental effects of being raised in a single-parent home are greater for boys than girls. Boys raised without fathers are more likely than those from traditional families to become delinquent and commit crimes.⁹¹ These patterns suggest that single-parent families are, on average, less effective in regulating male behavior. This inferior ability to socialize boys could spill over into areas, such as sexual behavior and relations with the opposite sex that require men to exercise restraint, to cooperate with others, and to show responsibility. Unfaithfulness, inconstancy, unreliability, and the refusal to adhere to norms of monogamy are particularly disruptive to harmonious male–female relationships and are known to deter or destabilize marriage. These behaviors are hallmarks of poor socialization.

Nonetheless, race and class differences in these patterns have not been systematically documented. A sustained study of such patterns would be controversial and would pose methodological difficulties. There is a literature on the sexual mores of inner city blacks that suggests some reluctance to adhere to norms of sexual fidelity,⁹² but rigorous comparisons

91. See Sampson, Roudenbush & Earls, *supra* note 64, at 918–24; Laub & Sampson, *supra* note 64; Sampson et al., *supra* note 64, at 465. It has also been suggested that the decline in male college attendance—which has been especially pronounced among those with lower income—might also be traceable to the rise in single-parent families and the lesser ability of those families to inculcate the noncognitive habits and dispositions that make for educational success. See Brian A. Jacob, *Where the Boys Aren't: Non-Cognitive Skills, Returns to School and the Gender Gap in Higher Education*, NBER Working Paper 8964, at 4 (2002) (finding that boys, but not girls, growing up in single-parent households suffer a statistically significant reduction in their likelihood of attending college and also that the difference in noncognitive skills between boys and girls accounts for 40% of the sex gap in college enrollment).

92. See generally ELLIOTT LIEBOW, *TALLEY'S CORNER: A STUDY OF NEGRO STREET CORNER MEN* (2nd ed. 2003); see, e.g., Nathan E. Fosse, *Sex, Self-Worth, and the Inner-City: Procreation and "Boundary Work" Among the Truly Disadvantaged*, unpublished dissertation, Harvard University Sociology Department, on file with author. See also Christopher R. Browning & Lori

with underprivileged individuals from other racial groups or in other cultural settings have not yet been made. Social class differences are even less well-studied. In 1970, Edward Banfield, one of the first social scientists to flesh out the notion of a “culture of poverty,” suggested that economic failure is traceable to a particular cluster of attitudes, dispositions, and understandings. According to Banfield, a reluctance to defer gratification, to anticipate consequences, and to plan for the future, characterize many individuals who fall into poverty. However, even if these observations are valid, surprisingly little is known about whether and how such attitudinal factors translate into conduct relating to sexual behavior or marital success. As with racial differences, class disparities in these aspects of behavior are elusive and difficult to investigate, and there is resistance to the notion that people from one race or socioeconomic group tend to exercise less sexual restraint than others.⁹³

Yet what we know of why marriages endure suggests that sexual behavior is probably an important factor driving class divisions in marriage, divorce, and extramarital childbearing. Women across the board still expect monogamy within marriage, and cheating and its results—including multipartnered fertility—are still potent relationship killers.⁹⁴ It is unlikely that many college-educated white women would tolerate open and flagrant infidelity from their husbands; nor would many remain married if their husbands admitted to fathering children by other women. The relative stability of upper-class marriages—a stability that has increased in recent decades—suggests that better-off men more often honor

A. Burrington, *Racial Differences in Sexual and Fertility Attitudes in an Urban Setting*, 68 J. MARRIAGE & FAM. 236, 251 (2006); HYMOWITZ, *supra* note 41, at 103 (describing results from a University of Chicago study of sexual relations in Chicago that concluded that “transactional” sexual relationships, infidelity, domestic violence, and relationships with “concurrent partners” were significantly more common in a predominantly poor black neighborhood, leading the authors to conclude that polygamy was that neighborhoods’ “dominant structure.”). *See also* ORLANDO PATTERSON, *RITUALS OF BLOOD* (describing sexual aspects of the male inner city “code of the street.”); *Baby Fathers and American Family Formation: Low-Income, Never Married Parents in Louisiana before Katrina*, Ronald Mincy and Hillard Pouncy, eds., *An Essay in the FUTURE OF THE BLACK FAMILY* series, Center for Marriage and Families at the Institute for American Values (2007) 5, 19, 21, (noting that within a Louisiana sample of poor parents that is more than 80% black, 69% of mothers and 65% of fathers agreed that most partners “can’t be trusted to be faithful” in a relationship, and “many men indicated that they did not intend to be faithful to their partner and still considered themselves players in the dating game.”)

93. *See Kathryn Edin & Maria Kefalas, Letter to the Editor*, WALL ST. J., Sept. 12, [2005] A17 (objecting to a statement by this author in an opinion page article that “following the sexual revolution . . . the disparities in family structure suggest that people are not equal in their ability to handle newfound sexual freedom,” on the grounds that “no sound social science research we know of backs up this view.”).

94. *See EDIN & KEFALAS, supra* note 59; N. BELINDA TUCKER, *THE DECLINE IN MARRIAGE AMONG AFRICAN AMERICANS* (1995).

monogamy and strive for sexual fidelity. This doesn't mean they never cheat. But how they cheat, and how often, may make all the difference.

As Jonathan Rauch has noted, discretion and hypocrisy are the hallmarks of middle-class adultery.⁹⁵ Although these norms are in tension with the celebration of honesty and autonomy that characterizes our dominant moral outlook, they remain useful instruments of social control. Occasional or hidden lapses are much less destructive of stable families than notorious liaisons or infidelity as a way of life. Because it is often difficult to maintain secret relationships within the constraints imposed by modern employment and family life, a commitment to discretion puts inherent limits on extramarital adventurism within this milieu.

Likewise, the disruptive practice of multipartnered fertility would seem to be unusual among educated men. The numbers show that well-heeled women do not openly bear "love children," so fathering children simultaneously by multiple women—or becoming an out-of-wedlock father at all—would require privileged men to conduct liaisons across lines of class or race. There is little evidence that such relationships are commonplace. Nonetheless, the very discretion and restraint that make sexual adventurism less destructive of better-off families also make actual behavior harder to document or investigate. Therefore, the evidence on these matters is thin.

A recently published paper by two University of Pennsylvania sociologists supports the inference that the reproductive behavior of well-educated white men differs drastically from that of men with lower socioeconomic status. Of the 300 men who had children by more than one woman in a representative sample of almost 5,000 men aged fifteen to forty-four, only six percent were college graduates, as compared with 44.5% who completed high school and 24.2% who were high-school dropouts.⁹⁶ The paper does not break down information on the marital status of these men or the children's mothers by social class. However, unpublished data gathered by one of the paper's authors sheds light on this question. The author states that, given the high rates of marriage among their most educated fathers (and in contrast to the pattern that data suggests prevails among those with less education) what little multipartnered fertility exists among the college graduates "is most likely entirely marital"—that is, the result of divorce and a subsequent remarriage rather than of multiple out-of-wedlock or extramarital liaisons.⁹⁷ Although this

95. See Jonathan Rauch, *Conventional Wisdom: Rediscovering the Social Norms That Stand Between Law and Libertinism*, 31 REASON 37 (2000); Rauch, *Live and Let Lie*, THE NEW REPUBLIC, Sept 22, 1997, at 25–26.

96. See Guzzo & Furstenberg, *supra* note 37, at 583–601.

97. Personal e-mail communication from Karen Guzzo, Sept. 17, 2007 (adding that "in general, there is fairly little childbearing outside of marriage among college-educated men compared

does not directly reveal the incidence of sexual infidelity among the most elite group, it does indicate that any illicit relationships will not ordinarily result in the birth of children.

In addition to economics and culture, technological change has been identified as an important impetus for the decline in marriage and increase in out-of-wedlock childbearing. In a well-known paper published in 1996, economists Akerlof, Yellin, and Katz,⁹⁸ argue that the invention of the birth control pill in the early 1960s, followed by the legalization of abortion not long after, constituted significant “technological shocks” that unsettled prior conventions and radically shifted patterns of sexual behavior. By reducing the chance of unwanted pregnancy, contraception and abortion dramatically increased the number of women willing to have sex outside of marriage, which made extramarital sex more available to men. This in turn made men less willing to promise marriage in exchange for sex or to follow through on that promise in the event of pregnancy. Because women who became pregnant and wanted to become mothers had less power to induce men to marry them, the extramarital childbearing rate increased.

The problem with this account is that it fails to explain emerging social-class disparities. In the wake of the sexual revolution and the legalization of abortion, premarital sexual activity increased across the board, but extramarital childbearing did not. Less-educated women became more willing to bear children out of wedlock—but well-educated women continued staunchly to resist. Disparities also increased by race.⁹⁹ What stands in need of explanation is why, in the wake of better birth-control technology, the demise of shotgun marriage, and the 1960s shift in mores, some behavioral changes spread throughout society while others penetrated selectively. Specifically, why have privileged and well-educated women, especially among the white population, eschewed

to other groups. In another paper I am working on, college educated men make up only 6% of men with a nonmarital first birth . . .”)

98. George Akerlof, Janet Yellin & Michael Katz, *An Analysis of Out-of-Wedlock Childbearing in the United States*, 111 Q. J. ECON. 279 (1996).

99. The behavior of well-educated whites suggests an interesting disjunction between practice and attitudes. Whereas few married persons from any social class would today urge tolerance of adultery, single motherhood is not uniformly condemned. A recent public opinion poll reveals that a substantial minority of the population (about a third) regards bearing children outside of marriage either as a positive development or as socially harmless. See *Motherhood Today—A Tougher Job, Less Aply Done, As American Women See It* (Survey by Pew Research Center for the People and the Press, released May 9, 1997). Because well-educated individuals have more tolerant social attitudes generally, persons from privileged sociodemographic groups may take an even more sanguine view of family diversity—including single motherhood—than the general population. Yet well-educated women almost uniformly fail to practice what they condone.

out-of-wedlock childbearing and continued to embrace marriage as a prerequisite to motherhood?

According to Akerlof and his colleagues, the refusal of respectable women prior to the invention of the birth control pill to offer premarital sex with no strings attached created an effective cartel that made extra-marital sex scarce and kept the practice of shotgun marriage in force. That cartel was effectively destroyed by the “technological shock” of effective contraception. Premarital sex became widely available in all sociodemographic groups. However, there is another norm that prevailed before the 1960s that merits separate consideration: a respectable woman would not bear and raise a man’s child unless he agreed to marry her.¹⁰⁰ That norm weakened considerably among less-educated women and blacks in the wake of the sexual revolution, but it survived among upper-middle-class, educated women and continues in force for that group today.

This analysis shows that the cartel that kept the preexisting regime in place consisted of two elements: the refusal to have sex except on an enforceable promise of marriage, and the unwillingness to have children except within marriage. What Akerlof’s model fails to reveal is why, and how, upper-middle-class women continue to insist on the second despite giving up on the first—and why less fortunate women have relinquished both. Likewise, the model fails to explain why upper-middle-class men are compliant or complicit in the second demand, but less-privileged men effectively—and successfully—resist.

These are the very questions that Kay Hymowitz attempts to answer in her recent book analyzing changes in family structure by race and class. According to Hymowitz, educated men and women understand that securing a child’s future educational success and economic well-being in the current climate requires intensive investment in that child’s development. Although effective child-rearing has many components, the presence and day-to-day efforts of two involved parents, and the creation of a stable family life, are central to this “mission.”¹⁰¹ In other words, well-educated people seem implicitly to understand that status reproduction requires marriage and all that goes with it. In the words of sociologist Brad Wilcox, they “recognize that their lifestyle, and the lifestyle of their children, will be markedly better if they form a long-term social and economic partnership—that is, marriage—with one person.”¹⁰² And they seem willing to act on that understanding, despite the considerable effort required.

100. Not only were the rates of out-of-wedlock childbearing prior to 1960 far lower than today, but until roughly the mid-1970s, the vast majority of children born to unmarried mothers were put up for adoption. See DEBORAH FESSLER, *THE GIRLS WHO WENT AWAY* (2006).

101. HYMOWITZ, *supra* note 41, at 82–88.

102. WILCOX, *supra* note 65, at 244.

Can this account help explain observed class differences in marital and reproductive behavior? It can be argued that only the most privileged have both a status worth preserving and the financial means to do so. Perhaps “the Mission is simply too expensive for poor parents to enlist.”¹⁰³ There are reasons to doubt that this is the crux of the problem. What strategies characterize the most successful families? What practices are most effective in developing children’s “human capital?” There are many unknowns here, but the fact that children from modest backgrounds (including, most notably, many recent immigrants) routinely build successful lives, achieve self-sufficiency, and often improve their economic status significantly, suggests that money is not as important as behavior. Talking to children, reading to them, maintaining order and quiet at home, creating effective expectations and consistent discipline, and exemplifying and endorsing constructive values, surely are critical. So, it appears, is sustaining a successful marriage. All these elements require restraint (including sexual restraint), effort, self-control, and an orientation toward the future. These may be personally costly but do not require a high income. Although there is no question that having money makes it easier to educate children and enrich their experience, there is remarkably little evidence that what money can buy actually produces better results. Nor is it clear that the factors that make for success depend on financial resources. High income correlates with high achievement, but correlation is not causation. The literature on child development does not prove a *causal* link between lots of money and successful child-rearing.¹⁰⁴

Middle- and upper-middle-class parents’ willingness to sacrifice in the interest of status reproduction only begs the question of why persons from other sociodemographic groups are relatively reluctant to take similar steps to *improve* their children’s status. Likewise, it is a mystery why so many less privileged individuals, unlike their better off counterparts, fail to recognize the advantages of marriage or to modify their behavior to obtain them. To be sure, there is controversy over whether the poor and working class can really improve their lives, with many questioning the potential for upward mobility. However, data on the economic benefits of marriage, and the experience of groups (including recent immigrants) with a strong family culture, cast aspersions on these doubts. There is

103. HYMOWITZ, *supra* note 41, at 85.

104. One reason that children from affluent families may do better in school is that meritocratic policies have strengthened the link between economic success and intelligence in recent decades. Intelligence is partly heritable so intelligent, high-income parents tend to have children who are also intellectually capable. See, e.g., Charles Murray, *Abolish the SAT*, THE AMERICAN (July 2007). On the tenuous connection between family income and successful outcomes for children see SUSAN S. MAYER, WHAT MONEY CAN’T BUY (1997).

considerable evidence that marriage produces higher earnings, greater economic security, stronger and more peaceful communities, and better behaved and better educated children. Those effects are evident at all levels of education and income. Yet many people seem unmoved by these potential advantages.

As the previous discussion indicates, demographers do not fully understand the origins of recent changes in family structure. The gulfs that have opened up by class and race are getting wider, and our failure to explain them hobbles attempts to reduce disparities, strengthen families, and advance the goals of social and economic equality. After years of research and policy experiments, social scientists have yet to devise effective schemes to reverse family disintegration among the most vulnerable groups in our society.¹⁰⁵

Although social scientists have not figured out how to restore the traditional family, there remains room for disagreement about the proper role of government in alleviating the resulting inequalities and deprivations. Growing numbers of fatherless, broken, and single-parent families have prompted calls for new and better-funded programs to support families in need. These include vigorous child support enforcement, intensive early childhood education, childcare subsidies, free medical care, and other resource-intensive measures. Although such proposals have long been on the table, and implementing them will no doubt improve the lives of many people, there is no reason to believe that such measures can hold people harmless for family disintegration. In particular, it is unrealistic to expect that such interventions will come close to eliminating the *relative* disadvantages suffered by adults and children in nonintact families. Governments cannot easily alleviate the harms that flow from the breakdown of the nuclear family. The strengths of traditional families, and the well-being of individuals within them, are intrinsic to how those families actually function. Those benefits cannot easily be replicated or conferred by outsiders. The government cannot replace absent fathers or protect children from indifferent ones. It cannot reorder the details of family life, nor can it entirely make up for shortcomings of day-to-day relationships. In these matters, there is no substitute for moral revival, cultural change, and behavioral reform.

Evidence that differences in outcomes by family type are not inexorably tied to social class or material resources (and cannot easily be remedied by providing programmatic support or more funds) can be found in the recent literature on blended families. Several researchers have recently found that

105. On the ability of government programs to change behaviors surrounding reproduction and sexuality, see Wax, *supra* note 83.

children growing up in such families experience many of the behavioral problems that beset children from single-parent homes.¹⁰⁶ In seeking to further understand these effects, sociologists have compared conventional two-parent families to a variety of family combinations consisting of an adult biological parent living with or married to an unrelated partner. Although this research is complicated by the plethora of possible arrangements, certain patterns have consistently emerged: as compared with homes consisting of married parents living with their biological children, and regardless of education and income, households that include children living with an unrelated adult are associated with poorer child outcomes and more problems. Differences are found in behaviors such as antisocial conduct, depression, drug use, and educational attainment.¹⁰⁷

What is the explanation for these observations? The answers are currently a matter of speculation. Problems are especially evident for children raised in the presence of an unrelated male or stepfather, and a resident biological father appears to be an important factor enhancing child well-being.¹⁰⁸ These effects may be grounded in men's evolved interest in their biological offspring and the importance of the marital tie to men's constructive involvement with child rearing. Alternatively, some observed effects may reflect selection—that is, possible average differences between coresident biological fathers and stepfathers. Or they may be the product of dynamics peculiar to different family types. There are in fact good reasons to believe that the ecology of blended families may be less conducive to effective child-rearing. Stepparent families tend to present a less harmonious and orderly environment than traditional nuclear families. As this author has previously noted,

Lines of authority and loyalty in blended families are often ambiguous, divided, and vexed. Mothers may feel torn between their biological children and the demands of their new partners, whose interest in the children may not match hers. Alternatively, children may feel little need to respect or obey a step-father or their mother's male partner, especially if they maintain a relationship with a biological father who exists outside the relationship and independently exerts authority over them.¹⁰⁹

All told, family structure matters to children's development. Traditional nuclear families seem to enhance children's well-being overall, with alter-

106. See Ellwood & Jencks, *supra* note 30, at 3–77; Ellwood & Jencks, *supra* note 6, at 25–65.

107. See Hofferth, *supra* note 59, at 53; Ginther & Pollak, *supra* note 59, at 671. See also Wax, *supra* note 1, at 402–12 (reviewing and discussing this literature).

108. See Hofferth, *supra* note 59, at 63 (suggesting, based on her data, that “the achievement story in two-parent families may be simply about having a biological father [in the home].”)

109. See Wax, *supra* note 83, at 406.

native types less successful in producing well-functioning, healthy children. No doubt there are excellent families of many types that function smoothly and raise happy and healthy children. That some families beat the odds, however, does not mean that the odds are uniform. That risk does not always produce harm does not change the fact that family structure correlates with outcomes and that these differences contribute to inequalities between groups.¹¹⁰ Such disparities worsen when nontraditional families come to dominate within particular communities. The resulting erosion of norms and expectations further accelerates family decline and undermines many aspects of community life. What has happened within the black community—where marriage rates are at a historic low and more than two-thirds of all births are outside of marriage—is emblematic of these distressing trends.

Do the success rates of different family types have roots in essential, intransigent aspects of human nature or are they the product of social and cultural conventions that are contingent and manipulable? The answer hardly matters at this point. We simply do not know enough about the sources of these differences to render all families equally effective. Nor is there any evidence that changes in public policy can significantly improve the functioning of fragile families or contribute to their stability. Likewise, there is no reason to believe that government can compensate children and hold them harmless for less than optimal conditions of upbringing, or assuage the uncertainties, conflicts, and dislocations that disproportionately afflict fractured families. Certainly, it is hard to prove that public programs *cannot* accomplish this. That is the challenge, impossible to meet, of proving a negative. Hope springs eternal that what is wrong with broken families can be fixed. That hope is especially strong among pluralists and diversity advocates who favor the deinstitutionalization of conventional marriage and are mistrustful of efforts to buttress, preserve, and protect traditional forms. However, experience has shown that the pluralist position carries potential costs—costs most likely to be visited upon vulnerable members of our society. Disparities in family structure are now adding to other trends that are widening the gap between rich and poor, and between whites and blacks. Family diversity has become a potent engine of inequality. That alone is reason to question our enthusiasm for innovative family forms and to support the revival of marriage and traditional family structures.

110. *Id.* at 385.

