
THE OTHER MARRIAGE EQUALITY PROBLEM

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I. INTRODUCING THE *OTHER* MARRIAGE EQUALITY PROBLEM

What is “the other marriage equality problem”? A helpful point of departure for answering this question is a July 15, 2012, front-page story in the *New York Times* entitled *Two Classes, Divided by ‘I Do’* and accompanied by the explanatory sub-caption: “Marriage, for Richer; Single Motherhood, for Poorer.”¹ This lengthy article by Jason DeParle contrasted the lives of two “friendly white women from modest Midwestern backgrounds who left for college with conventional hopes of marriage, motherhood and career.”² Jessica Schairer, a single mother who left college after becoming pregnant and cohabited with, but did not marry, her children’s now-absent father, bears alone “the challenges and responsibilities of raising three children.”³ Jessica is an employee of a married mother of two, Chris Faulkner, who “did standard things in standard order: high school, college, marriage and children.”⁴ DeParle asserts that what most separates these two women are not things like “the impact of globalization on their wages but a 6-foot-8-inch man named Kevin,” Chris’s husband.⁵ Chris and Kevin have “strength in numbers”: two incomes yield more resources and two parents yield more time for actively engaging in parenting and the extracurricular activities that “can enhance academic performance.”⁶ Using this portrait of two women’s lives to sound a cautionary note about family inequality, DeParle draws on sociologist Sara McLanahan’s warning (sounded in 2004) “that family structure increasingly consigns children to ‘diverging destinies.’”⁷

The article doubtlessly secured its prime spot on the front page of the Sunday *New York Times* with the news that it is “white women with some postsecondary schooling but not a full college degree” who account for the greatest increase in non-marital births and single-parent households.⁸ The article caught my eye in part because its author, Jason DeParle, penned so many significant news stories during the protracted Congressional debates over welfare reform in the mid-1990s⁹ and, more recently, wrote an acclaimed book

¹ Jason DeParle, *Two Classes, Divided by ‘I Do,’* N.Y. TIMES, July 15, 2012, at A1.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* (stressing Kevin’s involvement in the Boy Scouts and his sons’ other activities).

⁷ *Id.* (quoting Sara McLanahan, *Diverging Destinies: How Children Are Faring Under the Second Demographic Transition*, 41 DEMOGRAPHY 607 (2004)).

⁸ *Id.*

⁹ See, e.g., Jason DeParle, *Get to Work; the New Contract with America’s Poor*, N.Y. TIMES, July 28, 1996, § 4, at 1; Jason DeParle, *Sharp Increase Along the Borders of Poverty*, N.Y. TIMES, March 31, 1994, at A18.

about the impact of welfare reform on three African American women in an extended family.¹⁰ It also reminded me of the warnings sounded by Charles Murray during those welfare debates in his provocative *Wall Street Journal* article, *The Coming White Underclass*.¹¹ Indeed, DeParle's article even mentions Murray's newest book, *Coming Apart: The State of White America, 1960-2010*.¹²

DeParle's story, which warns that family inequality is growing and that wealth separates the married from the unmarried, also drew my attention because it contrasted sharply with another type of media story about the future of marriage. Several months earlier, in January 2012, a vivacious and smiling woman graced the cover of *Boston* magazine in the story *Single by Choice*.¹³ The article's caption read: "This is Terri. She's successful, happy, and at 38, just fine with *never getting married. Ever.*"¹⁴ The synopsis of the story read:

When it comes to getting hitched, more Americans than ever before are saying "I don't." Singles now make up nearly half the adult population in this country, and new research suggests they're happier, more social, and more active in the community than many of their wedded counterparts. Now if only their friends and family (oh, and while we're at it, coworkers, benefits providers, and the federal government) would get off their back.¹⁵

The magazine story profiled several happy women living seemingly full and fun lives, including Alice Stern, a fifty-two-year-old "spinner" – not, she "defiantly" says, a "spinster" – who is planning a "knitting cruise to Nova Scotia" with her knitting friends.¹⁶ The various researchers surveyed confirmed that it is time to "rethink singledom" as simply a "stop on the way toward the happy ending," and to stop emphasizing "the value of the marital bond above all others" and viewing marriage as a unique pillar of civil society.¹⁷ When "more of us than ever before are going it alone" – by choice, the story admonishes – it is time to question the cultural messages that tell us that "happiness and success come through our partnerships."¹⁸

¹⁰ See generally JASON DEPARLE, AMERICAN DREAM: THREE WOMEN, TEN KIDS, AND A NATION'S DRIVE TO END WELFARE (2004).

¹¹ Charles Murray, *The Coming White Underclass*, WALL ST. J., Oct. 29, 1993, at A14. I have written at length elsewhere about Murray's article and the 1990s debates over welfare reform. See Linda C. McClain, "Irresponsible" Reproduction, 47 HASTINGS L.J. 339 (1996).

¹² DeParle, *supra* note 1 (citing CHARLES MURRAY, COMING APART: THE STATE OF WHITE AMERICA, 1960-2010 (2012)).

¹³ Janelle Nanos, *Single by Choice*, BOSTON, Jan. 2012, at 46.

¹⁴ *Id.* (caption appearing on the magazine's cover).

¹⁵ *Id.* at 46.

¹⁶ *Id.* at 51.

¹⁷ *Id.* at 50, 78, 80.

¹⁸ *Id.* at 49.

These two contrasting stories about what is happening to marriage invite attention to the “other marriage equality problem.” To examine that problem, I will use two recent books as foils, Hanna Rosin’s *The End of Men: And the Rise of Women*¹⁹ (the anchor for this Symposium) and Charles Murray’s *Coming Apart*.²⁰ By using the phrase, the “other marriage equality problem,” I mean to invite attention to issues about marital equality and inequality beyond that of gay men and lesbians’ access to the institution of civil marriage. *That* marriage equality problem is one, in my view, of basic fairness, justice, and rights, and I have written in support of such equality.²¹ In this Article, however, my concern is with the marriage equality problem that is captured in warnings about the growing class-based marriage divide and the “diverging destinies” of children that flow from these emerging patterns of family life.²² Sara McLanahan and Christine Percheski powerfully capture this concern over the impact of class-based marriage inequality upon children with the phrase “the reproduction of inequalities.”²³ Other scholars refer to the “intergenerational transmission” of advantage and disadvantage.²⁴ Because Rosin’s and Murray’s books both address the class-based marriage divide, evaluating their books in tandem with one another, while also acknowledging their differences and limitations, helps to examine this other marriage equality problem. Murray’s book deliberately focuses on the fate of a growing slice of “white America” to provide evidence that America is “coming apart at the seams . . . of class.”²⁵ Rosin’s book does not explicitly articulate such a focus, but the men and women she profiles appear to be primarily white.²⁶ Moreover, she draws explicit parallels between the so-called “new American matriarchy” flowing from men’s job loss in the middle class and the prior emergence of a “virtual matriarchy” in poor black communities due to black men’s loss of factory jobs.²⁷ By comparison, the literature on the growing class divide in family forms, which I also discuss in this Article, is more inclusive and does

¹⁹ HANNA ROSIN, *THE END OF MEN: AND THE RISE OF WOMEN* (2012).

²⁰ MURRAY, *supra* note 12.

²¹ See, e.g., JAMES E. FLEMING & LINDA C. MCCLAIN, *ORDERED LIBERTY: RIGHTS, RESPONSIBILITIES, AND VIRTUES* 177-236 (2013); LINDA C. MCCLAIN, *THE PLACE OF FAMILIES: FOSTERING CAPACITY, EQUALITY, AND RESPONSIBILITY* 155-90 (2006).

²² See McLanahan, *supra* note 7, at 614-15.

²³ Sara McLanahan & Christine Percheski, *Family Structure and the Reproduction of Inequalities*, 34 ANN. REV. SOC. 257 (2008).

²⁴ See Molly A. Martin, *Family Structure and the Intergenerational Transmission of Educational Advantage*, 41 SOC. SCI. RES. 33 (2012).

²⁵ MURRAY, *supra* note 12, at 12-13.

²⁶ See, e.g., ROSIN, *supra* note 19, at 70-88.

²⁷ *Id.* at 88. In discussing men’s unemployment problems in Alexander City, Alabama, Rosin states that “[t]his script has played out once before in American culture,” referring to the exodus of black men from factory jobs, beginning in the 1970s, and the negative consequences for nuclear families and social institutions. *Id.* (citing WILLIAM JULIUS WILSON, *WHEN WORK DISAPPEARS: THE WORLD OF THE NEW URBAN POOR* (1996)).

not suggest, as Murray's work seems to, that the marriage equality problem only warrants concern when it affects white Americans.²⁸

Warnings about growing family inequality and the "intergenerational transmission" or "reproduction" of that inequality warrant attention. We should care about the relationship between the family and the polity, as well as the role of civil society, more generally, in generating and sustaining the American experiment in "ordered liberty."²⁹ The urgent tone of Murray's book stems in part from his concern about a class-based falling away among "white America" from the nation's "founding virtues," including the "bedrock" role of marriage in sustaining society.³⁰ Although Rosin does not speak the language of civil society or of founding virtues, the portraits of modern relationships that she offers to illustrate that "[o]ur nation is splitting into two divergent societies, each with their own particular marriage patterns," offer glimmerings of the toll the growing marriage divide takes on communities and families.³¹ In our political and constitutional order, families are a crucial place of social reproduction. They nurture children and prepare them for capable and responsible lives as good persons and good citizens.³² As I argue elsewhere, families share responsibility with other institutions of civil society and with government in a "formative project" of fostering the capacity for personal and democratic self-government.³³ This formative project includes fostering the healthy development of and protecting children as "immature citizens" and preparing them for eventual full participation and cooperation as members of their communities and the polity.³⁴

At the same time, the *Single by Choice* story poses a different challenge to the place of marriage in society by asking: Who needs marriage? Who says that a stable, well-ordered society needs most people to marry? What if the unmarried – the single by choice – can and do contribute to civil society and civic virtue, perhaps even to a greater extent than the married?³⁵ Moreover,

²⁸ To be fair to Murray, although his book focuses on whites as a means of making his case that the trends he warns about "exist independently of ethnic heritage," he does include a chapter near the end where he attempts to "broaden the picture to include everyone." MURRAY, *supra* note 12, at 13, 269-77.

²⁹ On this relationship, see FLEMING & MCCLAIN, *supra* note 21, at 81-111; MARY ANN GLENDON, RIGHTS TALK: THE IMPOVERISHMENT OF POLITICAL DISCOURSE 115-17 (1991); and MCCLAIN, *supra* note 21, at 50-56.

³⁰ MURRAY, *supra* note 12, at 134, 270-72.

³¹ See, e.g., ROSIN, *supra* note 19, at 79-112.

³² See generally MCCLAIN, *supra* note 21.

³³ *Id.* at 4-11.

³⁴ See FLEMING & MCCLAIN, *supra* note 21, at 118-45; MCCLAIN, *supra* note 21, at 64-68. For the term "immature citizens," see Vivian E. Hamilton, *Immature Citizens and the State*, 2010 B.Y.U. L. REV. 1055.

³⁵ See Nanos, *supra* note 13, at 78 (referencing sociologist Eric Klinenberg's view that single people "have social capital in spades"); *id.* (reporting that "it's actually married people who have become increasingly isolated," which has "resulted in a 'short-circuiting of

what if those affluent and successful Americans who remain single by choice also remain childless? If not only marriage but also parenthood are rejected by more and more of the most successful, then what happens to the literal reproduction on which society depends and to the social reproduction of those virtues, skills, and traits of character that support self-government in a constitutional democracy? The “who needs marriage” story, however, ultimately seems in tension with the marriage inequality story: the latter stresses that marriage, and parenting within marriage, are increasingly matters of class privilege, while the former casts doubt on the place of marriage, and children, in the lives of the more affluent.

This Article also examines the relevance of gender roles and gender equality to the other marriage equality problem. This equality issue is not about equality among families and between generations, but about equality within marriage and between unmarried men and women. This gender dimension is evident in Rosin’s vignettes of contemporary “upended gender dynamics” on both sides of the marriage divide.³⁶ The elite, she contends, negotiate the “seesaw marriage,” while the less affluent contend with “the new American matriarchy” among the married and unmarried alike.³⁷ This gender analysis, however imperfect, is one of the most intriguing parts of her exposition of the “end of men.”

Gender dynamics are also a focus of Murray’s book. Notably, both Murray and Rosin suggest that a basic problem with respect to the growing marriage divide lies in male irresponsibility.³⁸ To be sure, Rosin is more attentive to structural and economic factors affecting men than Murray, who stresses men’s falling away from the founding virtues.³⁹ Working within a heterosexual frame, their work presents the following questions: When economic and social factors force a change in roles within the family and the workplace, how do men and women cope? If women and men aspire to an egalitarian marriage, how well does that work? Are men ready for such equality? Are women? McLanahan’s thesis about “diverging destinies” is instructive on such gender dynamics since she identified class-based differences not only in men’s and women’s relative bargaining power in intimate relationships but also in the belief in and availability of egalitarian marriage.⁴⁰

In Part II my exposition of the other marriage equality problem begins with McLanahan’s diagnosis of the “diverging destinies” of children as class

community ties’ within contemporary society” (quoting NATALIA SARKISIAN & NAOMI GERSTEL, *NUCLEAR FAMILY VALUES, EXTENDED FAMILY LIVES: THE POWER OF RACE, CLASS, AND GENDER* 40 (2012))).

³⁶ ROSIN, *supra* note 19, at 91.

³⁷ *See id.* at 47-77, 79-112.

³⁸ MURRAY, *supra* note 12, at 155-56, 216; ROSIN, *supra* note 19, at 91.

³⁹ *Compare* ROSIN, *supra* note 19, at 8-10, *with* MURRAY, *supra* note 12, at 134-37.

⁴⁰ *See* McLanahan, *supra* note 7. I undertake a discussion of these gender dynamics *infra* Part II.A.

disparities widen. I then look back to the late 1990s and early 2000s to discuss how the low rate of marriage among low-income parents, as well as an evident gap between their marital aspirations and their marital practices – the same gap detailed in the work by McLanahan and her colleagues on “fragile families” – preoccupied federal lawmakers debating welfare reform and welfare reauthorization. Recent studies, I then show, view “Middle America”⁴¹ as increasingly part of the marriage “have nots,” individuals who fail to achieve their marital aspirations and decouple parenthood from marriage. In Part III, I examine how Rosin’s book and related writing present the marriage divide and the related issue of gender dynamics. In Part IV, I turn to Murray’s analysis of the gap between the “new upper class,” in which marriage and other founding virtues remain intact and the “new lower class,” in which marriage is no longer the norm. More so than Rosin, Murray addresses implications of the marriage divide for children and society. I end the Article by offering some conclusions about the other marriage equality problem.

II. WHAT IS THE OTHER MARRIAGE EQUALITY PROBLEM AND WHY SHOULD SOCIETY CARE?

In this Part I will explicate the other marriage equality problem. My primary sources are Sara McLanahan’s influential 2004 article⁴² as well as other work by McLanahan and her colleagues on the Fragile Families and Child Wellbeing Study;⁴³ a 2010 Pew Research Center report;⁴⁴ and recent *State of Our Unions* reports, produced by the National Marriage Project, which sound alarms about the decline of marriage in Middle America and the rise of “fragile families.”⁴⁵ My goal here is not to offer a thorough review of the extensive literature on class and family formation. My co-panelists Naomi Cahn and June Carbone

⁴¹ For use of this term, see NAT’L MARRIAGE PROJECT & INST. FOR AM. VALUES, *THE STATE OF OUR UNIONS: MARRIAGE IN AMERICA 2012: THE PRESIDENT’S MARRIAGE AGENDA* (2012) [hereinafter *STATE OF OUR UNIONS 2012*]. This report describes “Middle America” as “the nearly 60 percent of Americans aged 26 to 60 who have a high school but not a four-year college degree.” *Id.* at 2.

⁴² See McLanahan, *supra* note 7.

⁴³ See Christina M. Gibson-Davis et al., *High Hopes but Even Higher Expectations: The Retreat from Marriage Among Low-Income Couples*, 67 J. MARRIAGE & FAM. 1301 (2005). See generally *About the Fragile Families and Child Wellbeing Study*, FRAGILE FAMILIES & CHILD WELLBEING STUDY, <http://www.fragilefamilies.princeton.edu/about.asp> (last visited May 12, 2013).

⁴⁴ PEW RESEARCH CTR., *THE DECLINE OF MARRIAGE AND RISE OF NEW FAMILIES* (2010), available at <http://www.pewsocialtrends.org/files/2010/11/pew-social-trends-2010-families.pdf>.

⁴⁵ *STATE OF OUR UNIONS 2012*, *supra* note 41, at xi-xiii; *id.* at 89-90 (discussing a substantial decline in the “percentage of children under age 18 living with two married parents”); NAT’L MARRIAGE PROJECT & INST. FOR AM. VALUES, *THE STATE OF OUR UNIONS: MARRIAGE IN AMERICA 2010: WHEN MARRIAGE DISAPPEARS: THE NEW MIDDLE AMERICA* (2010) [hereinafter *STATE OF OUR UNIONS 2010*].

have done much to bring this topic (and literature) into family law and policy discussions.⁴⁶ Instead, I want to get the basic outline of the problem on the table so readers will be able to consider Rosin's and Murray's analyses in light of this sociological backdrop. One aim of my exposition is to show the migration from a focus on the disappearance of marriage among low-income parents to a concern that the marriage divide affects a growing swath of Americans.

A. *Diverging Destinies and the Marriage Divide*

One reason the class-based marriage-inequality problem garners such acute attention is the impact the growing divide has on children. Thus, the subtitle of McLanahan's influential 2004 article explains *whose* destinies are diverging: "How *Children* Are Faring Under the Second Demographic Transition."⁴⁷ McLanahan explains that the first demographic transition took place from the early 1880s through the early 1900s, when "mortality and fertility declined and investment in child quality grew" in western industrialized countries.⁴⁸ Both rich and poor children, she observes, benefited from this increased investment in children. In the 1950s children "were more likely than those growing up 100 years earlier to live in traditional nuclear families, to be in good health, and to attend school."⁴⁹ The second demographic transition, McLanahan explains, "began around 1960" and includes such trends as "delays in fertility and marriage; increases in cohabitation, divorce, and nonmarital childbearing; and increases in maternal employment."⁵⁰ "How children are faring" under this transition, she asserts, "is less certain," since "[s]ome of these trends, like delays in childbearing, imply gains in parental resources"; "others, like divorce and nonmarital childbearing, imply losses"; and "others, like increased maternal employment, suggest both."⁵¹

One purpose of McLanahan's article was to challenge the public's impression that it is "highly educated women" – like the television character Murphy Brown, whom Vice President Dan Quayle criticized in 1992 for becoming a single mother⁵² – who are driving "changes in family formation,"

⁴⁶ See NAOMI CAHN & JUNE CARBONE, *FAMILY CLASSES* (forthcoming 2013) (on file with author) [hereinafter CAHN & CARBONE, *FAMILY CLASSES*]; NAOMI CAHN & JUNE CARBONE, *RED FAMILIES V. BLUE FAMILIES: LEGAL POLARIZATION AND THE CREATION OF CULTURE* 118 (2010) [hereinafter CAHN & CARBONE, *RED FAMILIES V. BLUE FAMILIES*] ("[T]he ability to marry has become an even greater marker of class."); June Carbone & Naomi Cahn, *The End of Men or the Rebirth of Class?*, 93 B.U. L. REV. 871, 878-80 (2013).

⁴⁷ McLanahan, *supra* note 7 (emphasis added).

⁴⁸ *Id.* at 607.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² See, e.g., Peter Johnson, *Murphy No Role Model*, USA TODAY, May 20, 1992, at 1A (quoting Vice President Quayle: "It doesn't help matters when primetime TV has Murphy

such as the increased number of nonmarital births.⁵³ Instead, she reports, “college-educated women are more likely to marry than other women” and “less likely to divorce.”⁵⁴ As a result, “trends in marriage, divorce, and single motherhood all contradict the argument that the most economically independent women are choosing single motherhood over marriage.”⁵⁵ McLanahan contends that “the forces that are driving the transition are leading to two different trajectories – with different implications for children. One trajectory – the one associated with delays in childbearing and increases in maternal employment – reflects gains in resources, while the other – the one associated with divorce and nonmarital childbearing – reflects losses.”⁵⁶ These differing trajectories lead to “widening social-class disparities in children’s resources”: children born to “mothers from the most-advantaged backgrounds are making substantial gains in resources,” while “children born to mothers from the most disadvantaged backgrounds are making small gains and, in some instances, even losing parental resources.”⁵⁷

The comparative role of fathers is pertinent. Children of the most advantaged mothers are “born into stable unions and are spending more time with their fathers”; for those children born to the most disadvantaged mothers, by comparison, “their parents’ relationships are unstable, and for many, support from their biological father is minimal.”⁵⁸ How does marriage factor into this story? When researchers look at fathers, they find that “although fathers’ involvement [with their children] has increased since 1965,”⁵⁹ there are contemporary gaps. Since the 1980s married college-educated fathers spend the most time with their children as compared to (in order of decreasing child-parent contact) unmarried college-educated fathers, married fathers who

Brown – a character who supposedly epitomizes today’s intelligent, highly paid, professional woman – mocking the importance of fathers by bearing a child alone and calling it just another lifestyle choice” (quotation marks omitted). For more on Vice President Quayle’s famous “Murphy Brown” speech and the political aftermath, including the Vice President’s office subsequently praising Brown for showing “pro-life” and “strong family values” because she did not terminate her pregnancy and describing single mothers as “true heroes and inspirations,” see McClain, *supra* note 11, at 349-50, 396.

⁵³ McLanahan, *supra* note 7, at 607-08.

⁵⁴ *Id.* at 612 (emphasis omitted) (citing Joshua R. Goldstein & Catherine T. Kenney, *Marriage Delayed or Marriage Forgone? New Cohort Forecasts of First Marriage for U.S. Women*, 66 AM. SOC. REV. 506, 514 (2001); Steven P. Martin, *Growing Evidence of a Divorce Divide? Education and Marital Rates in the U.S. Since the 1970s*, at 27 tbl.2 (2004) (unpublished manuscript available at http://www.russellsage.org/sites/all/files/u4/Martin_Growing%20Evidence%20for%20a%20Divorce%20Divide.pdf)).

⁵⁵ *Id.*

⁵⁶ *Id.* at 608.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.* at 612.

are not college-educated, and unmarried fathers who are not college educated.⁶⁰

McLanahan posits that second-wave feminism, namely its promotion of “women’s independence and gender equality on multiple fronts,” was among the causes of this second demographic transition.⁶¹ The changes that McLanahan links to feminism warrant mention, given the relevance of these changes to Rosin’s “end of men and rise of women” thesis, generally, and the possibility of egalitarian marriage, in particular. Feminism “provided women with an identity other than ‘wife’ and ‘mother’ and encouraged them to invest in education and careers, criticized the gender-role specialization that was the mainstay of traditional marriages and provided new standards for more-egalitarian marriages, and argued against the stigmatization of single motherhood.”⁶² Feminism, as expressed in political activism, “fought gender discrimination in the labor force and higher education and argued that government should support women’s right to bear children and establish independent households.”⁶³ McLanahan also speculates that feminism made college-educated men more “accepting of women’s demands for more-egalitarian marriages.”⁶⁴

A familiar factor in the second demographic transition is women’s increased ability to control their fertility, due to the pill and legalized abortion.⁶⁵ Strikingly, McLanahan contends that these trends also have made it “easier for men to shirk their paternal responsibilities,” a point that is also pertinent to Murray’s argument. How so? “Before the pill a woman could not afford to have sex with a man without obtaining a promise of marriage.”⁶⁶ The pill reduced the risk of unplanned pregnancy, a deterrent to nonmarital sex, making it unnecessary for men to make such a promise in order to engage in nonmarital sex.⁶⁷ In addition, the increased number of women willing “to engage in sexual relationships without a promise of marriage lowered the bargaining power of women who wanted to marry and have children.”⁶⁸ And “social norms about the acceptability of single motherhood and women’s right to an abortion” reinforced these “changes in bargaining power.”⁶⁹ Conservative theorists, it bears mentioning, speak about this shift in bargaining power in terms of women’s decreasing ability or willingness to serve as the traditional

⁶⁰ *Id.* at 612-14.

⁶¹ *Id.* at 617.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.* (citing George A. Akerlof et al., *An Analysis of Out-of-Wedlock Childbearing in the United States*, 111 Q.J. ECON. 277 (1996)).

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

“gatekeepers of sexuality” and use sexual modesty and restraint to bring men to marriage.⁷⁰

Changes in labor market conditions are another factor in the demographic transition, with implications for marriage, women’s choices, and male “shirking.” McLanahan recounts the loss of jobs by low-skilled men during various recessions, which made men “less ‘marriageable’ in the eyes of women.”⁷¹ Growing wage inequality differentiated college-educated from high school-educated men.⁷² These trends, as well as the narrowing of the gendered wage gap, “provided strong incentives for women to get a college education and enter the labor force.”⁷³ These labor market conditions also “affected the family-formation behavior of women” who invested in careers.⁷⁴ Some “decided to forgo motherhood entirely,” while “others delayed fertility until they were well established in their careers.”⁷⁵ When those women were ready to have children, they “were in a much stronger bargaining position relative to men than were women with less education,” because they had “more options outside motherhood” and “were more mature and more knowledgeable about the kind of partnerships they wanted.”⁷⁶ Moreover, “they had a great deal to offer their potential partners in terms of economic resources.”⁷⁷ McLanahan ties those assets and bargaining power to such women’s ability to establish “more-egalitarian” partnerships with men that include features “valued by the feminist movement,” such as “emotional support and help with child rearing.”⁷⁸

Meanwhile, how did these market changes affect less-advantaged women? McLanahan claims that welfare policies for single mothers provide part of the answer. Because of the structure of welfare benefits, including the use of income testing, “when low-income mothers . . . worked or married, most of the money they earned and most of their partners’ income was deducted from their welfare benefits.”⁷⁹ McLanahan argues that “economic theory suggests that

⁷⁰ See McCLAIN, *supra* note 21, at 284-86 (discussing the commentary of David Popenoe on women as gatekeepers and the work of Leon and Amy Kass on the role of female sexual modesty); see also CAHN & CARBONE, FAMILY CLASSES, *supra* note 46 (manuscript at 76) (explaining that the work of “relatively liberal” economists Akerlof, Yellen, and Katz “set the stage” for conservative critiques, like that of Charles Murray, linking “the sexual revolution to the increase in male fecklessness”). McLanahan cites to Akerlof and his colleagues. See *supra* note 66 and accompanying text.

⁷¹ McLanahan, *supra* note 7, at 617-18.

⁷² *Id.* at 618.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

welfare will increase nonmarital childbearing by making it easier for men to shirk their parental responsibilities.”⁸⁰ The empirical literature finds the “effects of welfare receipt on union formation and dissolution” to be “small,” but “not zero.”⁸¹ She contends that “when considered in conjunction with other factors – such as the decline in low-skilled men’s earnings and the reduction in men’s willingness to support children – the effects of welfare are likely to be even larger.”⁸²

McLanahan sums up the change that began in the 1960s thus: “[D]ifferent forces were driving the behavior of women in the top and the bottom strata.”⁸³ For women in the upper strata, “feminism was providing a new identity, advances in birth control technology were providing the capacity, and increases in economic opportunities were providing the incentives to delay marriage and childbearing and to invest in careers.”⁸⁴ By contrast, for women in the bottom strata, “[t]he promise of a new identity and the new birth control technologies . . . were of much less value,” since such women “had little incentive to delay motherhood and pursue a career.”⁸⁵ As for marriage, “changes in the labor market conditions of low-skilled men were making the potential partners of these women less ‘marriageable,’ while changes in norms, bargaining power, and welfare benefits were making it easier for men to shirk their fatherhood responsibilities.”⁸⁶

Is the increase in single motherhood due more, then, to “women’s unwillingness to commit to low-skilled men” or “to men’s unwillingness to commit to women and children”?⁸⁷ McLanahan explains that while we cannot yet answer that question, we do know two pertinent things. First, “the second demographic transition changed both the set of opportunities that men and women face and the balance of power between them.” Second, “men and women with the most education and the most resources appear to have established a new equilibrium that is based on more-equal gender roles.”⁸⁸

The urgent aims of McLanahan’s article are to explain why we should care about these demographic trends and the “growing disparities in children’s resources” and to make a case for the government to do something to “ameliorate” the impact of these changes.⁸⁹ Some of the changes about which she worries concern adults, but many concern children. Focusing on adults, she points out that “inequality may lead to social isolation,” so that the

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.* at 619.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

concentration of marriage among “high-income groups” may make “couples in the bottom part of the distribution . . . come to see it as less attainable for them, thus losing whatever benefits are associated with this universal institution.”⁹⁰ McLanahan relates this possibility to the extensive research done by the Fragile Families and Child Wellbeing Study, which finds that one reason given by unmarried parents for not marrying is that “they are waiting until they can achieve a certain lifestyle that they associate with marriage.”⁹¹ In the words of one unmarried father, “I want to get my little house in Long Island, you know, white-picket fence, and two car garage, me hitting the garbage cans when I pull up in the driveway. You know . . . stuff like you see on TV.”⁹² The problem is that this level of economic security may be unrealistic.

Marriage, Andrew Cherlin has argued, has become a “marker of prestige,” such that “the purchase of a home, and the acquisition of other accoutrements of married life” allow the couple “to display their attainment of a prestigious, comfortable, stable style of life.”⁹³ In other work, McLanahan, with Kathryn Edin and Christina Gibson-Davis, documents the “mismatch between unmarried parents’ aspirations, expectations [for marriage] and their behavior,” again using the Fragile Families and Child Wellbeing Study data.⁹⁴ The “retreat from marriage,” they report, coexists with a high level of voiced support for “marriage as an institution.”⁹⁵ This work confirms the view that “financial stability is by far the most common concern” mentioned and “is a necessary, though not sufficient, precondition for marriage for nearly all the couples [on whom the study provided data].”⁹⁶ Financial concerns, however, include not simply “financial stability or responsibility,” but also building up savings and attaining typical markers of a middle-class life, such as “a house, a car, and other goods.”⁹⁷ Assets are a “visible demonstration that the [couple] can engage in long-term financial planning” and also “offer release from financial worry,” which some unmarried parents believe “can lead to a level of tension and strife” that can threaten marital stability.⁹⁸ Most couples also want to wait until they can “have a ‘decent’ wedding,” which, since they will be

⁹⁰ *Id.*

⁹¹ *Id.* (citing Sara McLanahan et al., *Unwed Parents or Fragile Families?*, in *OUT OF WEDLOCK: TRENDS, CAUSES, AND CONSEQUENCES OF NONMARITAL FERTILITY* 202 (Lawrence L. Wu & Barbara Wolfe eds., 2001)).

⁹² *Id.* (quoting Christina Gibson et al., *High Hopes but Even Higher Expectations: The Retreat from Marriage Among Low-Income Couples* (Ctr. for Research on Child Wellbeing, Princeton University, Working Paper No. 2003-06-FF, 2004)).

⁹³ Andrew J. Cherlin, *The Deinstitutionalization of American Marriage*, 66 *J. MARRIAGE & FAM.* 848, 855, 857 (2004).

⁹⁴ Gibson-Davis et al., *supra* note 43, at 1302.

⁹⁵ *Id.*

⁹⁶ *Id.* at 1307. There are also important relationship quality concerns, discussed below.

⁹⁷ *Id.* at 1307-08.

⁹⁸ *Id.*

paying for it themselves, “requires extensive financial planning.”⁹⁹ McLanahan and her colleagues conclude: “Though these expectations may seem impractical, we believe that they reflect the idea among low-income parents that getting married should signal that the couple has ‘arrived’ in a financial sense.”¹⁰⁰

This research suggests that people assess their marriageability based on an economic standard they see in the broader society. McLanahan and her colleagues have developed an “identity model of marriage,” which posits that marriage is associated with a set of norms about behaviors and living standards, and “the psychological gains to marriage depend on how closely people are able to match these ideals.”¹⁰¹ They show, using census data, that “when individual income is held constant, the further men fall below the median income of other men in their communities, the less likely they are to marry.”¹⁰²

McLanahan also argues that “we should be concerned about the high prevalence of single mothers, especially among mothers in the lower social strata.”¹⁰³ On the one hand, “some single motherhood is probably a good sign for society,” because it indicates women “have the freedom to opt out of bad relationships.”¹⁰⁴ On the other hand, “high levels of father absence are likely to be a sign of social disorganization and isolation.”¹⁰⁵ McLanahan points out that single motherhood is associated with much higher poverty rates for children, and is also a “proxy for multiple risk factors that do not bode well for children.”¹⁰⁶ Some of these risk factors pertain to the mothers themselves, such as higher rates of clinical depression and drug and tobacco use during pregnancy.¹⁰⁷ Others factors relate to the fathers of these children, and include “higher rates of substance abuse, disability, domestic violence, and incarceration.”¹⁰⁸ Unmarried parents have relationships that are “more complex and less stable” than those of married parents, and their households “are more likely to include children from other partnerships.”¹⁰⁹ Unmarried-parent families have higher poverty and unemployment rates. Further, there are parenting-quality issues that are more prevalent among unmarried parents: “[b]reast-feeding and language stimulation are less common, whereas harsh

⁹⁹ *Id.* at 1308.

¹⁰⁰ *Id.*

¹⁰¹ McLanahan, *supra* note 7, at 620.

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.* at 620-21.

¹⁰⁷ *Id.* at 621.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.* at 621-22.

parenting is more common.”¹¹⁰ McLanahan concludes that although it is not possible to say “whether these marital-status differences are due to marriage per se or to something about the parents who marry, there are theoretical reasons for believing that father absence and high levels of union instability are harmful to children.”¹¹¹

If this is the problem, then what is the solution? McLanahan calls for government to take an active role.¹¹² She analogizes to the New Deal-era creation of old age pensions “to address the increases in longevity that resulted from the first demographic transition,” and observes that “most countries are now creating institutions to deal with changes brought about by the second transition.”¹¹³ Some policies she proposes would seek to shape the behavior of adult men and women, while others would ameliorate the impact of demographic changes on children’s “diverging destinies.”¹¹⁴ For example, she asks, “what policies may encourage mothers and fathers in the lowest quartile to adopt the behaviors of parents in the top quartile?”¹¹⁵ In the case of “women from disadvantaged backgrounds,” that desired behavior is to “delay childbearing, invest in education and training, and form stable partnerships.”¹¹⁶ For “men from disadvantaged backgrounds,” the aim is to get them “to remain committed to their children.”¹¹⁷ She proposes economic policies to “make it possible for men and women in the bottom strata to achieve the living standard they associate with marriage.”¹¹⁸ Those policies include the Earned Income Tax Credit, as well as “subsidized child care and preschools” that will “make work more rewarding” and also “directly increase[] children’s resources.”¹¹⁹ The United States is a comparative laggard, it seems, in developing educational institutions.¹²⁰

To address developments in contraception and abortion rights, which have “undermined men’s willingness to take responsibility for their children,” McLanahan eschews shotgun weddings but insists upon policies, such as child

¹¹⁰ *Id.* at 622. On class differences and language stimulation, see Tina Rosenberg, Op-Ed., *The Power of Talking to Your Baby*, N.Y. TIMES (Apr. 10, 2013, 3:25 PM), available at http://opinionator.blogs.nytimes.com/2013/04/10/the-power-of-talking-to-your-baby/?_r=0 (“A poor child is likely to hear millions fewer words at home than a child from a professional family. And the disparity matters.”).

¹¹¹ McLanahan, *supra* note 7, at 622.

¹¹² *Id.* at 622-23.

¹¹³ *Id.* at 622.

¹¹⁴ *Id.* at 622-23.

¹¹⁵ *Id.* at 622.

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

support enforcement, that “hold men responsible for the children they sire,”¹²¹ while also, evidently, reducing nonmarital fertility.¹²² She also urges reforms to the “marriage penalty” in welfare and income-support policies, so that these policies do not “discourage work and marriage.”¹²³

Finally, McLanahan urges policymakers to learn some lessons from feminism.¹²⁴ She observes that the federal government already spends money on a marriage initiative, which aims, among other things, “to improve communication skills within couples and to improve mutual understanding and trust.”¹²⁵ While these programs have their skeptics, McLanahan points out that “the goal of ‘building mutual understanding and trust’ is consistent with the new marital standards envisioned by feminism.”¹²⁶ The Fragile Families and Child Wellbeing Study’s qualitative research indicates that “disputes over sexual infidelity and gender mistrust are serious issues for many low-income couples,” and other research bears out these findings.¹²⁷ Addressing these concerns, McLanahan points out that “marriage-promotion programs . . . may increase union stability among some low-income parents.”¹²⁸

McLanahan reiterates her opening thesis in closing: “[M]others with the most economic independence are leading the way, not in single motherhood, but in establishing stable unions that are based on a more equal sharing of parental responsibilities.”¹²⁹ Further, she argues that government should play an “important role” in “ensuring that children have adequate resources in the new world that is being created by the demographic changes in family behavior” because “children deserve no less” than what government did for the elderly in the first transition.¹³⁰

B. *The Other Marriage Equality Problem and Reauthorizing TANF: Remember When?*

The Fragile Families and Child Wellbeing Study, for which McLanahan has been a principal investigator, follows a cohort of several thousand children born in large U.S. cities between 1998 and 2000; the study uses the term “fragile families” to reflect that three-fourths of such children were born to

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.* at 622-23.

¹²⁴ *Id.* at 623.

¹²⁵ *Id.* McLanahan refers to the Healthy Marriage Initiative started in 2002 by the Bush Administration. Subsequently, in 2005, Congress established an annual funding stream to promote healthy marriage and responsible fatherhood. For further discussion of these programs, see *infra* notes 145-47 and accompanying text.

¹²⁶ *Id.*

¹²⁷ *Id.* (citing Cherlin, *supra* note 93, at 855-56).

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

unmarried parents and that those families are “at greater risk of breaking up and living in poverty than more traditional families.”¹³¹ The study focuses on child outcomes, as well as on the parents themselves, including the “capabilities and conditions” of the unmarried parents (especially the fathers) and the relationship between the unmarried parents.¹³² Why such parents do not marry has riveted the attention of scholars and lawmakers. Thus, DeParle’s news story about two forms of motherhood and the marital divide¹³³ echoes debates in Congress a decade or more ago over the reauthorization of the Temporary Assistance for Needy Families (TANF) program, a part of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) originally enacted in 1996. Drawing on the Fragile Families and Child Wellbeing Study, members of Congress seized on the notion of a “magic moment,” the birth of a child, when eighty percent of the unmarried parents studied were romantically involved and a majority expressed an intention to marry.¹³⁴ Lawmakers reasoned that policy interventions should seize on that magic moment and help those parents follow through on their good intentions.¹³⁵ Alas, the Fragile Families researchers found that, despite unmarried parents’ high intentions, few couples actually married.¹³⁶

Another sociological finding that members of Congress found encouraging during the TANF reauthorization debates was that low-income mothers held the institution of marriage in high regard.¹³⁷ Indeed, far from rejecting marriage as obsolete, these mothers held it in high esteem and did not wish to marry until they had what they considered the prerequisites for a successful marriage.¹³⁸ In an influential article and subsequent book, Kathryn Edin (another Fragile Families researcher) identified both economic obstacles to marriage, such as the conviction that a couple should have a secure economic footing before marrying, and relationship quality concerns, such as distrust of men and concern over control.¹³⁹ “Most mothers,” Edin told Congress, “want a partnership of equals.”¹⁴⁰ In a memorable turn of phrase, she reported women’s

¹³¹ See *About the Fragile Families and Child Wellbeing Study*, *supra* note 43.

¹³² *Id.*

¹³³ DeParle, *supra* note 1.

¹³⁴ I discuss congressional interest in the Fragile Families and Child Wellbeing Study in McCLAIN, *supra* note 21, at 123.

¹³⁵ *Id.*

¹³⁶ See Gibson-Davis et al., *supra* note 43, at 1302 (describing the mismatch between unmarried parents’ aspirations, expectations, and behavior).

¹³⁷ McCLAIN, *supra* note 21, at 122-23.

¹³⁸ Gibson-Davis et al., *supra* note 43, at 1307.

¹³⁹ See Kathryn Edin, *Few Good Men*, AM. PROSPECT (Dec. 19, 2001), www.prospect.org/article/few-good-men; see also KATHRYN EDIN & MARIA KEFALAS, PROMISES I CAN KEEP: WHY POOR WOMEN PUT MOTHERHOOD BEFORE MARRIAGE 9 (2005).

¹⁴⁰ McCLAIN, *supra* note 21, at 117 (quoting *Hearing on Welfare and Marriage Issues Before the Subcomm. On Human Res. of the H. Comm. on Ways and Means*, 107th Cong. 82

view that “[a] man gets married to have somebody take care of them ‘cause their mommy can’t do it anymore.”¹⁴¹ Edin observed that “[m]ost mothers don’t want to be owned or slave for their husband.”¹⁴² Edin’s testimony reports the same relationship-quality concerns found by McLanahan and other Fragile Families researchers.

During the TANF reauthorization debates, lawmakers focused intensely on promoting “healthy marriage” and “responsible fatherhood.” Marriage promotion was also a cornerstone in President George W. Bush’s welfare reauthorization proposals.¹⁴³ Lawmakers argued that welfare reform had been a success in moving mothers “from welfare to work,” but less successful in achieving its family-formation goals, such as reinforcing the concept that marriage is the proper setting in which to have children and that the two-parent, mother-father marital family is both the best guarantor of child wellbeing and a potent anti-poverty device.¹⁴⁴ Lawmakers pondered: How could public policy make men more “marriageable”? Might relationship and marriage education help? Training in parenthood skills? Household financial management? And, of course, what about investment in men’s human capital, such as through education and job training? All of these solutions were features in the various “responsible fatherhood” initiatives proposed over the years and in the ultimate legislation, the Deficit Reduction Act of 2005 (DRA), which authorized grants to governmental and nongovernmental groups to promote healthy marriage and responsible fatherhood.¹⁴⁵ Even prior to the DRA, the Department of Health and Human Services’ Administration for Children and Families had launched a “Healthy Marriage Initiative.”¹⁴⁶ The DRA also established the Healthy Marriage and Responsible Fatherhood Program and funded the still-ongoing National Healthy Marriage Resource

(2001) (statement of Kathryn Edin, Associate Professor of Sociology, Institute of Policy Research, Northwestern University) [hereinafter Edin Statement]).

¹⁴¹ *Id.* (quoting Edin Statement, *supra* note 140, at 82).

¹⁴² *Id.* (quoting Edin Statement, *supra* note 140, at 82).

¹⁴³ *See, e.g., Working Toward Independence: Promote Child Well-Being and Healthy Marriages*, WHITE HOUSE (Feb. 2002), <http://georgewbush-whitehouse.archives.gov/news/releases/2002/02/welfare-book-05.html>.

¹⁴⁴ *See* MCCLAIN, *supra* note 21, at 121-34. *See generally* Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 101, 110 Stat. 2015, 2110-12 (stating findings in support of PRWORA’s passage and its family formation purposes).

¹⁴⁵ Deficit Reduction Act of 2005, Pub. L. No. 109-171, § 7103, 120 Stat. 4, 138-40 (2006). For discussion of various “responsible fatherhood” initiatives undertaken by states, as well as bills proposed in Congress, see MCCLAIN, *supra* note 21, at 121-26.

¹⁴⁶ *Strengthening Families, Healthy Marriage and Responsible Fatherhood*, U.S. DEP’T HEALTH & HUM. SERVICES, <http://www.acf.hhs.gov/programs/opre/research/topic/overview/strengthening-families-healthy-marriage-responsible-fatherhood> (last visited May 12, 2013) (compiling studies undertaken as part of this initiative).

Center and National Responsible Fatherhood Clearinghouse websites.¹⁴⁷ In 2010 new federal legislation continued such funding.¹⁴⁸

I revisit the reauthorization debates and the launching of the federal government's marriage initiatives to suggest both the persistence of concerns over the separation of parenthood from marriage and the new direction those concerns are taking in focusing on the conduct of the middle class. Back when the Clinton Administration and federal lawmakers defended PRWORA as an opportunity to "end welfare as we know it," the focus was on closing the evident divide between the middle class, a group that "played by the rules" concerning family formation, and the welfare poor, who were allegedly out of touch with "fundamental [American] values of work, responsibility, and family."¹⁴⁹ In the reauthorization debates, armed with evidence that low-income parents, in fact, did value marriage, lawmakers touted healthy marriage and responsible fatherhood as a way to close the gap between low-income women and men's marital aspirations and practices, making available to them, for example, the same marriage education available to middle-class couples.¹⁵⁰ In striking contrast to those earlier efforts, contemporary warnings about the marriage divide focus on the growing gap between the middle class – or "Middle America" – and the most advantaged Americans.

The emphasis in the PRWORA and TANF reauthorization debates on "personal responsibility," as well as on the interplay of behavioral and structural factors in explaining poverty and patterns of family formation, has resonance for contemporary diagnoses of the "end of men" and of the marriage divide. One important feature of those debates was the concern that the intense focus on moving mothers from welfare to work – from dependence to independence – was leaving poor men behind.¹⁵¹ What should "personal responsibility" mean as applied to men, not only to women?¹⁵² Certainly,

¹⁴⁷ NAT'L HEALTHY MARRIAGE RESOURCE CENTER, <http://www.healthymarriageinfo.org> (last visited May 12, 2013); NAT'L RESPONSIBLE FATHERHOOD CLEARINGHOUSE, <http://www.fatherhood.gov> (last visited May 12, 2013).

¹⁴⁸ See Claims Resolution Act of 2010, Pub. L. No. 111-291, § 811(b), 124 Stat. 3064, 3159.

¹⁴⁹ See Presidential Statement on Signing the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 32 WEEKLY COMP. PRES. DOC. 1487, 1488 (Aug. 22, 1996); McClain, *supra* note 11, at 352-57, 374-85 (discussing examples of this rhetoric in the PRWORA debates and in defenses of the "family cap").

¹⁵⁰ MCCLAIN, *supra* note 21, at 121-34; McClain, *supra* note 11, at 415-16 (analyzing the use of personal responsibility arguments in 1990s welfare reform debates, including the idea that poor people on welfare should "play by the rules" in the same way that that working Americans purportedly did).

¹⁵¹ See MCCLAIN, *supra* note 21, at 121-34. In this Symposium, Professor Khiara Bridges points out the pertinent ways in which black men had already "ended" prior to TANF's reauthorization. Khiara M. Bridges, *TANF and the End (Maybe?) of Poor Men*, 93 B.U. L. REV. 1141, 1144-47 (2013).

¹⁵² See Dorit Geva, *Not Just Maternalism: Marriage and Fatherhood in American*

Congress interpreted fathers' personal responsibility to entail financial support, and it called for getting tough on "deadbeat dads" by expanding efforts to establish paternity and collect child support.¹⁵³ But what if dads faced economic and other structural barriers that made taking "personal responsibility" difficult? Did the government have any obligation to help? The Clinton Administration spoke about the problems of "dead-broke" dads,¹⁵⁴ and the keen interest in responsible-fatherhood initiatives dates back to that administration.¹⁵⁵ Those initiatives, it warrants mention, also included noneconomic aspects of parenthood in defining "responsible fatherhood," such as active involvement by a father in his child's life. During his time in the U.S. Senate, Barack Obama sponsored responsible fatherhood legislation; as President, he has promoted responsible fatherhood as "every father taking responsibility for his child's intellectual, emotional, and financial well-being."¹⁵⁶ For example responsible-fatherhood campaigns launched under the Obama Administration promote active parenting, urging men to "take time to be a dad today."¹⁵⁷ The meaning of responsible fatherhood is also at issue in contemporary discussions of the marriage divide. As I shall discuss below, Rosin and Murray both offer evidence of a gender gap when it comes to the exercise of personal responsibility by those who are not among the marriage elite. Both also return us to perennial debates about the interplay of personal and public responsibility.

Another interplay that holds contemporary relevance is the one that runs between economics and culture. In the 1990s some Republican welfare critics memorably drew a connection between "intergenerational poverty" and a "poverty of values."¹⁵⁸ Christina Gibson-Davis, Kathryn Edin, and Sara McLanahan consider the role of "culture" as one explanation for the reasons that unmarried parents separate marriage and parenthood:

[W]hat the parents in our study did *not* say about marriage is worth noting. Couples rarely referred to their children when discussing marriage, and none believed that having a child was a sufficient

Welfare Policy, 18 SOC. POL.: INT'L STUD. GENDER ST. & SOC'Y 24, 40-42 (2011).

¹⁵³ *Id.* at 40. This push for stricter laws also had implications for mothers, who must cooperate with such efforts in order to receive TANF benefits.

¹⁵⁴ *See, e.g.*, President William J. Clinton, The President's Radio Address (June 17, 2000) (transcript available at <http://www.presidency.ucsb.edu/ws/index.php?pid=58649>).

¹⁵⁵ *See* Geva, *supra* note 152, at 37.

¹⁵⁶ *See* Responsible Fatherhood and Healthy Families Act of 2009, S. 1309, 111th Cong. (2009); THE WHITE HOUSE, PROMOTING RESPONSIBLE FATHERHOOD (2012), available at http://www.whitehouse.gov/sites/default/files/docs/fatherhood_report_6.13.12_final.pdf.

¹⁵⁷ For examples of such campaigns, see NAT'L RESPONSIBLE FATHERHOOD CLEARINGHOUSE, *supra* note 147.

¹⁵⁸ *See* McClain, *supra* note 11, at 347-52 (citing remarks by Vice President Dan Quayle in *After the Riots; Excerpts from Vice President's Speech on Cities and Poverty*, N.Y. TIMES, May 20, 1992, at A20).

motivation for marriage. Furthermore, no parent talked about marriage enhancing the life chances of their child. One possible explanation for this omission is that couples with these beliefs marry before giving birth to a child and are thus not in our unmarried sample. More likely, the parents in our sample did not discuss children vis-à-vis marriage because they see childrearing and marriage as separate decisions that no longer necessarily go together. The expectations that couples have of marriage – financial stability and a relatively high degree of relational quality – apply only to matrimony, not to parenthood.¹⁵⁹

The authors point out that researchers have previously suggested that the “separation between fertility and matrimony” among “low-income African Americans” may be a “rational response to their constrained circumstances.”¹⁶⁰ They posit an “alternative explanation that unmarried couples with children have become the norm,” such that “everyday experiences reinforce the idea that marriage is a singular event with its own high expectations.”¹⁶¹ What light do they shed on the puzzle of why the retreat from marriage does not bring a retreat from parenthood? The retreat from marriage, they conclude, seems to rest on a “cultural explanation”: as “the bar for marriage has grown higher for all Americans,” those in the “lower portion of the income distribution” find it increasingly difficult to “meet the standards associated with marriage.”¹⁶² At the same time, low-income couples “defer marriage while continuing to bear children” because of “other shifts in the American ethos, especially the view that marriage is no longer the only appropriate venue for childrearing.”¹⁶³ Thus, by titling their influential book *Promises I Can Keep: Why Poor Women Put Motherhood Before Marriage*, Edin and Kefalas highlighted the comparatively higher degree of confidence low-income women have in their capacity to be good mothers than in their capacity to form successful marriages with their child’s father.¹⁶⁴

As I will now discuss, the Pew Research Center’s study bears out this shift in the American ethos about marriage and childbearing, even as that ethos is in tension with views about what type of household setting is best for children.

C. *The Decline of Marriage: “Who Needs Marriage?” vs. a Class-Based Marriage Divide*

Since the commencement of the Fragile Families and Child Wellbeing Study, which examined low-income parents, more recent surveys and studies document the decline of marriage among the middle class and among those

¹⁵⁹ Gibson-Davis et al., *supra* note 43, at 1311.

¹⁶⁰ *Id.* (citing Linda M. Burton, *Teenage Childbearing as an Alternative Life-Course Strategy in Multigeneration Black Families*, 1 HUM. NATURE 123, 124 (1990)).

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ EDIN & KEFALAS, *supra* note 139.

with some college education but not a college degree. The decline of marriage has enjoyed prominent news coverage and is also a central theme of Murray's book, which I discuss in Part IV. Rather than simply a rich-poor divide, these studies describe the marriage gap as a growing divide between a small group of marriage "haves" and a much larger group of marriage "have nots." At the same time, these studies also raise the "Who needs marriage?" question in a way that suggests that people do not marry as a matter of choice, not because they view marriage as out of reach. Moreover, the decline in marriage rates seen among moderately educated middle-class couples is occurring at the same time as an observable separation of marriage from parenthood among members of the middle class. Reminiscent of the shifting "ethos" McLanahan and her co-authors observed concerning whether marriage and parenthood still go together, these studies also find that public opinion does not view marriage as the only way to form a family or the only setting in which to parent.

1. Marriage as a "Shrinking Institution"¹⁶⁵: Obsolete or Out of Reach?

In November 2010 the Pew Research Center, in conjunction with *TIME*, released a highly publicized report, *The Decline of Marriage and Rise of New Families*.¹⁶⁶ One basic message was that marriage is a "shrinking institution": marriage is no longer the "pre-eminent family unit" that it was during the mid-twentieth century.¹⁶⁷ Rather, "[a] variety of new arrangements have emerged, giving rise to a broader and evolving definition of what constitutes a family."¹⁶⁸ The report observes that "[m]arriage is no longer considered a prerequisite for parenthood."¹⁶⁹ As I have elaborated elsewhere, this report shows both public recognition of family diversity and sharp public division about how to evaluate such diversity.¹⁷⁰ Notably, a large majority views the increase in single mothers raising children without paternal involvement in the child's life as a "bad thing for society."¹⁷¹ A smaller majority of young people hold this view.¹⁷² The report shows lower levels of public concern over a same-sex couple raising children, perhaps suggesting the strength of the belief that a child should have two parents.¹⁷³ With respect to the link between marriage and parenthood, the report shows some findings that seem to be in tension with each other. For example, a majority of Americans do not view "having

¹⁶⁵ PEW RESEARCH CTR., *supra* note 44, at 1.

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.* at 2.

¹⁷⁰ Linda C. McClain, *A Diversity Approach to Parenthood in Family Life and Family Law*, in *WHAT IS PARENTHOOD?: CONTEMPORARY DEBATES ABOUT THE FAMILY* 41, 49-50 (Linda C. McClain & Daniel Cere eds., 2013).

¹⁷¹ PEW RESEARCH CTR., *supra* note 44, at 63.

¹⁷² *Id.*

¹⁷³ *Id.* at 56.

children” as the most important reason to marry; only 59% of married people and 44% of unmarried people considered it a “very important” reason to marry, well behind love, making a lifelong commitment, and companionship.¹⁷⁴ A majority, however, agree with the statement that “a child needs a home with both a mother and a father to grow up happily.”¹⁷⁵ Within this majority, however, there is a notable generational difference: only 53% of young people agreed with the statement as compared to 75% of respondents over sixty-five.¹⁷⁶

Considering the class-based marriage equality problem, the report finds that “a marriage gap and a socio-economic gap have been growing side by side for the past half century, and each may be feeding off the other.”¹⁷⁷ The report finds that “[m]arriage rates are now more strongly linked to education than they have been in the past, with college graduates (64%) much more likely to be married than those who have never attended college (48%).”¹⁷⁸ The report finds even larger racial differences; for instance, the marriage gap between blacks and whites has “increased significantly over time,” so that “[b]lacks (32%) are much less likely than whites (56%) to be married.”¹⁷⁹ Moreover, “black children (52%) are nearly three times as likely as white children (18%) and nearly twice as likely as Hispanic children (27%) to live with one parent.”¹⁸⁰ Echoing the findings of McLanahan and other family researchers, the report notes a gap between marital aspirations and practice, attributable to a perceived economic bar to marriage: “adults on the lower rungs of the socio-economic ladder (whether measured by income or education) are just as eager as other adults to marry,” but “they place a higher premium on economic security as a prerequisite for marriage than do those with higher levels of income and education.”¹⁸¹ “[T]his is a bar that they – and their pool of prospective spouses – may find increasingly difficult to meet, given the fact that, relative to other groups, they have experienced significant economic declines in recent decades.”¹⁸² Generational differences are also contributing to the decline of marriage, as younger adults are “delaying marriage and entering into less-traditional family arrangements.”¹⁸³ This trend allows the report to tell two demographic stories simultaneously: a story about marriage “haves” and

¹⁷⁴ *Id.* at 32 (reporting that only five percent of people said having children is the most important reason to marry).

¹⁷⁵ *Id.* at 4.

¹⁷⁶ *Id.* at 54.

¹⁷⁷ *Id.* at 2.

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

¹⁸¹ *Id.* at 2-3.

¹⁸² *Id.* at 3.

¹⁸³ *Id.* It is too soon, the report emphasizes, to tell whether such young adults “will never marry.” *Id.*

“have nots” as well as a story about how marriage is, or at least may be becoming, obsolete.

The report notes the relevance of socioeconomic status to marriage and the divergence in the family lives of those with and without a college education (a theme also pursued at length by Murray and in the *State of Our Unions* reports). The report observes: “2007 marked the first time that college-educated young adults were more likely than those without a college degree to have married by the age of 30.”¹⁸⁴ Indeed, “college graduates are now much more likely than those without a college degree to live in a traditional, 1950s-style family.”¹⁸⁵ By “traditional,” the report seems to mean living in a household with spouse and children, not the particular gendered division of labor in a 1950s household.¹⁸⁶ As the report’s accompanying *TIME* story, *Who Needs Marriage? A Changing Institution*, authored by Belinda Luscombe, emphasizes (using the marriage of Prince William and Kate Middleton as an example), the trend in marriage is toward assortative mating: people increasingly marry later and marry partners “on the same socioeconomic and educational level.”¹⁸⁷ This change is due, in significant part, to women’s advances in education and in the economy, since “it’s more likely than it used to be that a male college graduate will meet, fall in love with, wed and share the salary of a woman with a degree.”¹⁸⁸

The trend toward assortative marriage relates to the emerging template of the egalitarian marriage as the best form of marriage. The Pew report notes that “more than six-in-ten (62%) now say that the best kind of marriage is one where the husband and wife both work and both take care of the household and children. In 1977, fewer than half (48%) endorsed this egalitarian template for spousal roles.”¹⁸⁹ Parallel data show changes in wives’ roles: wives comprised 32% of the workforce in 1960 and comprise 61% of the workforce now.¹⁹⁰ What the public believes to be desirable qualities in a spouse are highly similar for a husband and a wife, another sign of an emerging egalitarian template.¹⁹¹ Nonetheless, some of the report’s findings suggest either the residual hold of gender conventions or public ambivalence about gender roles. For example, a strong majority (67%) of respondents believe that a man should “be able to support a family financially in order to be ready for marriage,” while “only 33% say this is [a] very important” factor for assessing a woman’s readiness.¹⁹²

¹⁸⁴ *Id.* at 12.

¹⁸⁵ *Id.*

¹⁸⁶ *Id.* at 3 (defining “traditional family life” as “married with children”).

¹⁸⁷ Belinda Luscombe, *Who Needs Marriage? A Changing Institution*, *TIME* (Nov. 18, 2010), <http://www.time.com/time/magazine/article/0,9171,2032116,00.html>.

¹⁸⁸ *Id.*

¹⁸⁹ PEW RESEARCH CTR., *supra* note 44, at 4.

¹⁹⁰ *Id.* at 2.

¹⁹¹ *Id.* at 30.

¹⁹² *Id.* at 7.

The Pew report interprets this data as showing “the public’s ambivalence about changing gender roles over the past half century.”¹⁹³ For example, most Americans embrace the changing role of women in society, with only 19% saying women should return to their traditional roles in society.¹⁹⁴ At the same time, 71% also proclaim they “have old-fashioned values about family and marriage.”¹⁹⁵ As noted above, one example of these old-fashioned values seems to be the solid majority of those surveyed who believe that “single women having children” is a “bad thing for society.”¹⁹⁶

One message in Luscombe’s article is that “the kids may not be all right.”¹⁹⁷ The author declares that, “[r]arely is there a bigger chasm between what Americans believe to be the best things for society and what actually happens than in the bearing and raising of children.”¹⁹⁸ The public views marital status as “irrelevant to achieving respect, happiness, career goals, financial security or a fulfilling sex life,” but believes that raising kids is “best done married,” even though “few people say children are the most important reason” to get married.¹⁹⁹ The article reports findings from the Fragile Families and Child Wellbeing Study concerning the gap between marital expectations and practice and emphasizing the likelihood that children born to unmarried mothers would experience their mother living with a new partner.²⁰⁰

Luscombe concludes that, “[i]t seems that the 21st century marriage, with its emphasis on a match of equals, has brought about a surge in inequality.”²⁰¹ The causal relationships between the burdens of poverty and the impermanence of relationships are not clear, and so neither is the solution.²⁰² The article asks whether marriage, “which used to be like the draft,” is “now becoming more like West Point, admitting only the elite and sending the others off to the front line.”²⁰³ Marriage-education experts urge bolstering marriage and teaching communication skills, while “[s]ociologists tend to believe the answers lie outside marriage,” such as through fostering higher societal expectations concerning alternative family arrangements and expecting “responsible behavior outside as well as inside marriage.”²⁰⁴ Curiously, given the identified

¹⁹³ *Id.*

¹⁹⁴ *Id.* at 7-8.

¹⁹⁵ *Id.*

¹⁹⁶ *Id.* at 63.

¹⁹⁷ Luscombe, *supra* note 187.

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

²⁰¹ *Id.*

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ *Id.* (quoting historian Stephanie Coontz).

socioeconomic gap between married and unmarried couples,²⁰⁵ the story offers no recommendations for economic policy.

2. The Fragile Middle, or Middle America's "Retreat" from Marriage

The *State of Our Unions* 2012 report, issued by The National Marriage Project at the University of Virginia and the Institute for American Values, is titled *The President's Marriage Agenda for the Forgotten Sixty Percent*.²⁰⁶ Who is included in this sixty percent, and how are they forgotten? The report's thesis is that "[i]n 'Middle America,' defined here as the nearly 60 percent of Americans aged 25 to 60 who have a high school but not a four-year college degree, marriage is rapidly slipping away."²⁰⁷ This is "astonishing" and worrying because, as Barbara Dafoe Whitehead states, "[f]our decades ago, these moderately educated Americans led the kind of family lives that looked much like the family lives of the more highly educated. They were just as likely to be happily married, and just as likely to be in first marriages."²⁰⁸ Like the Fragile Families and Child Wellbeing Study, this report also identifies a mismatch between marital expectations and behavior. It speaks of the "plight" of "this population who once married in high proportions and formed families within marriage – and who still aspire to marriage but increasingly are unable to achieve it" as "the social challenge for our times."²⁰⁹

The link between fragile families and middle-class families is further evidenced by the report's reiteration of an observation from an earlier *State of Our Unions* report, which warned of "the retreat from marriage in Middle America."²¹⁰ The earlier report, *When Marriage Disappears: The New Middle America*, found that, as marriage among the "moderately-educated middle begins to resemble the fragile state of marriage among the poor, the family patterns of the high school educated become 'more likely to resemble those of high school dropouts, with all the attendant problems of economic stress, partner conflict, single parenting, and troubled children.'"²¹¹ Another parallel between fragile families and middle-class families is the increasing willingness of Middle Americans to separate marriage from parenthood: "Middle America's couples express reservations about marriage but still want, and are having, children."²¹² The 2012 report expresses concerns about the impact on "children of Middle America," who are "growing up without stable families to

²⁰⁵ *Id.*

²⁰⁶ STATE OF OUR UNIONS 2012, *supra* note 41.

²⁰⁷ *Id.* at 2.

²⁰⁸ *Id.* (quoting Barbara Dafoe Whitehead, "What's Missing from Our Middle Class Debate?," PROPOSITIONS, Oct. 2012, at 1, 4).

²⁰⁹ *Id.*

²¹⁰ STATE OF OUR UNIONS 2010, *supra* note 45, at 15.

²¹¹ STATE OF OUR UNIONS 2012, *supra* note 41, at 4 (quoting STATE OF OUR UNIONS 2010, *supra* note 45, at 15).

²¹² *Id.* at 7.

help them weather economic change, deregulation, and globalization” and who also suffer “[t]he loss of social opportunity,” with attendant costs for taxpayers.²¹³ The report worries about the instability of cohabitation as compared to marriage, and, quoting Andrew Cherlin, expresses concern about Americans “stepping ‘on and off the carousel of intimate relationships’ increasingly rapidly.”²¹⁴ This marriage decline leads to “a society of winners and losers,” with implications for the next generation: children of “married, well-educated parents are increasingly likely to have the same advantages when they become adults, graduating from four-year colleges and establishing marriages that are, on average, more stable and of better quality than in the recent past.”²¹⁵ In effect, social reproduction among the married will include the reproduction of advantage while social reproduction in Middle America will “increasingly” reproduce disadvantage: “[T]hose born to fragmented families are increasingly likely to repeat their parents’ patterns and to experience the heartache, hardship, and risks that result.”²¹⁶

What factors does the *State of Our Unions* 2012 report believe contribute to this “rapid disappearance of marriage in Middle America”?²¹⁷ The report references Murray’s *Coming Apart* as sparking a debate on the issue and summarizes his conclusion that “the greatest source of inequality in America is not economic but cultural, stemming from millions of Americans losing touch with founding virtues.”²¹⁸ The report also observes that some policymakers, not focused directly on marriage, advocate greater investment in “family planning, job training, and post-secondary education,” in order to reduce levels of nonmarital births and increase rates of high school graduates going to college.²¹⁹ My concern here is not to engage the “truth of the matter” in terms of what best explains the observed trends in marriage patterns, but rather to report the mix of cultural and economic approaches. The report does propose some concrete economic policies (similar to McLanahan’s proposals) aimed at improving “the culture of marriage in Middle America.”²²⁰ Strikingly, it references “[r]ecent popular analyses,” including Rosin’s, “suggest[ing] that we are seeing the ‘end of men’” and responds with measures to “help young men become marriageable men” by inspiring and equipping them “to be better husbands and fathers.”²²¹ These measures include economic programs, such as apprenticeships, as well as more marriage-focused initiatives, such as

²¹³ *Id.*

²¹⁴ *Id.* at 8 (quoting ANDREW CHERLIN, *THE MARRIAGE-GO-ROUND: THE STATE OF MARRIAGE AND THE FAMILY IN AMERICA TODAY* 5 (2010)).

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ *Id.* at 6

²¹⁸ *Id.* at 9-10. For my discussion of Murray’s conclusions, see *supra* Part IV.

²¹⁹ *Id.* at 10-11.

²²⁰ *Id.* at 11.

²²¹ *Id.* at 18.

responding to the high rate of male incarceration by using the “resources of the criminal justice system to help intervene and offer relationship education and hope for a good marriage,” thereby increasing the odds of incarcerated young men “turning their lives around” and having a decent marriage.²²² The report observes that “[m]ost of these young men will have children, whether we intervene or not.”²²³ This proposal responds directly to the concern that there is a shortage of marriageable African American men because so many have become caught up in the criminal justice system.²²⁴ The report also applauds ongoing efforts by the military to support healthy family relationships amid the stresses of military deployment and post-traumatic stress disorder.²²⁵

There are many other components of the report’s proposed marriage agenda, many of which focus on relationship education sponsored by state and federal governments.²²⁶ Some, as the report’s title suggests, focus on cultural initiatives, such as using public service campaigns and statements by the President and Hollywood stars to “convey the truth about marriage, family stability, and child well-being to the next generation of parents.”²²⁷ Since this report is the first *State of Our Unions* report issued since Institute for American Values president David Blankenhorn announced his support for same-sex marriage, it warrants mention that the report states that, whether one is for, against, or uncertain about gay marriage, one can still talk about marriage.²²⁸ Here, nonetheless, the focus is on heterosexuals: “Talk about gay marriage – and then talk about why marriage is important for the vast majority of people who identify as heterosexual and whose sexual lives quite often produce children. Why does marriage matter for those kids?”²²⁹

The report does not directly engage issues of egalitarian models of marriage versus other models. The only mention of gender equality is the notion that if one supports women’s rights, one could talk about how “raising children in marriage is on average a much easier road for women and their families,” and that, if one is concerned about domestic violence, one should realize that there are far greater risks of such violence “with boyfriends and live-in partners than in marriage.”²³⁰

The report closes by sounding a cry for recognizing the link between marriage and social reproduction; it calls on the president, other leaders, and

²²² *Id.* at 18, 23.

²²³ *Id.* at 23.

²²⁴ *Id.* at 22.

²²⁵ *Id.* at 20-21.

²²⁶ One of the more controversial aspects of the report is its recommendation to “end anonymous fatherhood,” so that women cannot purchase anonymous sperm. Instead, as in some other nations, children would have a right to learn the identity of the donor. *Id.* at 24.

²²⁷ *Id.* at 28-29.

²²⁸ *Id.* at 29-30.

²²⁹ *Id.* at 30.

²³⁰ *Id.*

fellow citizens to “join us in supporting marriage as a vital pathway to opening social opportunity – for today’s young people, and their children.”²³¹

III. WHAT HAPPENS TO MARRIAGE WITH THE END OF MEN AND THE RISE OF WOMEN?

Hanna Rosin’s book, *The End of Men: And the Rise of Women*, offers a window into both dimensions of the other marriage equality problem: the class divide and gender dynamics within and outside of marriage. Her book also highlights the tension evident in contrasting news stories about the future of marriage. On one account, marriage is a class privilege, where now not just the poor, but also the undereducated middle class, are left out. On another, marriage – and intimate relationships more broadly – are simply not on the agenda of an increasing number of people who live satisfying lives as “single by choice.”²³² As a feminist scholar, I find intriguing Rosin’s exploration of the reasons that women across the class divide decide that marriage is not for them, or at least, not for them right now.

A. *Who Needs Marriage?: Avoiding “Derailment” from Relationships*

Rosin reports that one reason for marriage not being on the agenda for some highly ambitious and successful women is because they perceive that a relationship with a man will simply get in their way or even derail them.²³³ In her much-discussed chapter on the hookup culture, Rosin observes that “today’s college girl likens a serious suitor to an accidental pregnancy in the nineteenth century: a danger to be avoided at all costs, lest it thwart a promising future.”²³⁴ Rosin asserts that research shows that “women benefit greatly from living in a world where they can have sexual adventure without commitment or all that much shame, and where they can enter into temporary relationships that don’t derail their careers.”²³⁵ Rosin even asserts that “feminist progress is largely dependent on hookup culture,” and that women perpetuate that culture because it serves their own ends, such as by allowing them to focus on school performance, employment, and their financial future instead of relationships.²³⁶ As these college graduates move on to become high-achieving career women, they learn to use their “erotic capital” strategically, since they “no longer need men for financial security and social influence.”²³⁷ Even when young women may be ready for marriage, one problem is that young men, for a variety of reasons, including immersion in

²³¹ *Id.* at 32.

²³² *See* Nanos, *supra* note 13.

²³³ ROSIN, *supra* note 19, at 21.

²³⁴ *Id.*

²³⁵ *Id.*

²³⁶ *Id.*

²³⁷ *Id.* at 38-39.

“universal frat boy culture,” are “no longer suitable for stable romantic relationships, especially relationships with ‘equal status female mates.’”²³⁸ Nonetheless, Rosin ends the chapter on a happily-ever-after note: Sabrina, an ambitious business school graduate who had previously sought to root out any personal vulnerability and broke off several engagements, was now planning her wedding.²³⁹

One criticism of Rosin is her inadequate analysis of less-privileged female college students.²⁴⁰ For such women, according to Rosin, an unsatisfactory marriage seems both inevitable and a trap to escape. Rosin reports that these women “came to college mostly with boyfriends back home and the expectation of living a life similar to their parents’: make it through school, start work immediately, and get married along the way.”²⁴¹ They found the hookup culture “initially alienating” and felt “trapped between the choice of marrying a kind of hometown guy they called ‘the disaster’ – a man who never gets off the couch and steals their credit card – or joining a sexual culture that made them uncomfortable.”²⁴² She then reports that such women came to see that “[s]uccess meant seeing the hook-up culture for what it is: a path out of a dead-end existence, free from a life yoked to the ‘disaster.’”²⁴³ She gives anecdotal evidence of the hookup culture opening up young women’s horizons so that they need not marry and settle down right away, like their peers back home.²⁴⁴ Sherry Linkon insightfully comments that Rosin paints the options these working-class women perceive as “two extremes” and leaves out the possibility of “plenty of open space and many options” between them,

²³⁸ *Id.* at 40-41.

²³⁹ *Id.* at 32-37, 45-46.

²⁴⁰ Another important criticism that I note here, but do not address in text, is that Rosin’s account of how women benefit from the hookup culture overlooks the “context” of women’s “increased sexual agency” on campus, which is that women’s “claims of agency coexist with demands for [their] compliance,” or, more bluntly, “when it comes to sex on campus, men still rule.” Michael Kimmel, *Is It the End of Men, or Are Men Still in Power? Yes!*, 93 B.U. L. REV. 689, 694 (2013). Part of this “context” is the problem of sexual assault on campus and how administrators treat students’ reports of such assaults, causing students (predominantly female students) to file Clery Act and Title IX complaints alleging, respectively, failures by school administrations to comply with federal reporting requirements and with creating a hostile environment on campus for students. See Richard Pérez-Peña & Ian Lovett, *2 More Colleges Accused of Mishandling Assaults*, N.Y. TIMES, Apr. 19, 2013, at A14 (reporting on lawsuits brought by students at Swarthmore College and Occidental College).

²⁴¹ ROSIN, *supra* note 19, at 23. Rosin draws on the work of Elizabeth Armstrong and Laura Hamilton on the views about hooking up held by college women from different class backgrounds. See, e.g., Laura Hamilton & Elizabeth A. Armstrong, *Gendered Sexuality in Young Adulthood: Double Binds and Flawed Options*, 23 GENDER & SOC’Y 589 (2009).

²⁴² ROSIN, *supra* note 19, at 23-24.

²⁴³ *Id.* at 24.

²⁴⁴ *Id.*

“including the possibility that an educated woman from a working-class background could construct a fulfilling relationship with an uneducated man with whom she shares a home culture.”²⁴⁵ For example, this type of marriage is one that many black women form, given disparities in levels of education between black women and men.²⁴⁶ Instead, Rosin seems to view “marrying a working-class man” as “an inherently bad, even foolish choice.”²⁴⁷ Rosin also “glibly exaggerate[s] the tensions working-class women might feel with the ‘classed self-development imperative’ of higher education.”²⁴⁸

B. *The Seesaw Marriage*

Rosin picks up the narrative thread in the next chapter with portraits of the “seesaw marriage.”²⁴⁹ This term refers to the allegedly egalitarian marriages formed by elites – well-educated people who have careers and balance work and family based on criteria other than the traditional male-breadwinner/female-caregiver dichotomy. Or try to, anyway. How do things work in “seesaw marriages,” or what Rosin calls “true love (just for elites)”²⁵⁰ In theory, the “new model of elite marriage” is a “constantly shifting equation” in terms of who does what and whose career and personal needs take precedence at any one time: “sixty-forty or eighty-twenty or ninety-ten.”²⁵¹ The actual portraits in the chapter reveal, as Rosin puts it, “tensions under the surface.”²⁵² Facing new roles as caregivers, men are experiencing “the old Betty Friedan identity crisis, only in masculine form.”²⁵³ Indeed, in Rosin’s stories, men are clearly struggling and are even “haunted by the specter of a coming gender apocalypse.”²⁵⁴

The division of labor of some of the couples Rosin profiles suggests that the seesaw is tilted too far toward the woman assuming too many responsibilities and the man assuming too few. One example is Steven and Sarah Andrews, both in their thirties, whom Rosin describes as “consummate ‘marriage planners,’ the current reigning model among the professional class.”²⁵⁵ She works; he stays home and takes care of their child and is a self-described

²⁴⁵ Sherry Linkon, *Can Working-Class Women Have It All?*, WORKING-CLASS PERSP. (Sept. 3, 2012), <http://www.workingclassstudies.wordpress.com/2012/09/03/can-working-class-women-have-it-all>.

²⁴⁶ RALPH RICHARD BANKS, *IS MARRIAGE FOR WHITE PEOPLE? HOW THE AFRICAN AMERICAN MARRIAGE DECLINE AFFECTS EVERYONE* 3 (2011).

²⁴⁷ Linkon, *supra* note 245.

²⁴⁸ *Id.*

²⁴⁹ ROSIN, *supra* note 19, at 47-77.

²⁵⁰ The chapter title is “The Seesaw Marriage: True Love (Just for Elites).” *Id.* at 47.

²⁵¹ *Id.* at 50.

²⁵² *Id.* at 52.

²⁵³ *Id.* at 53.

²⁵⁴ *Id.* at 61.

²⁵⁵ *Id.* at 71.

“mediocre house dude,” committed just to keeping the house “mildly clean.”²⁵⁶ Sarah, not surprisingly, feels that she actually is “in charge of both realms” – work and home – whirling into action at home after a long day at work, while Steven “feels entitled to check out on evenings and weekends.”²⁵⁷ This makes Sarah “tired and sometimes angry.”²⁵⁸

Despite all that Sarah does, Rosin reports that “there is a reigning notion in the Andrews house that Steven is ultimately the one in charge, that if anything ever went wrong, Steven would stand between his family and disaster.”²⁵⁹ Sarah analogizes their situation to the television show *Charlie’s Angels*, with Steven as Charlie and Sarah doing his bidding: planner and executor.²⁶⁰ Rosin acknowledges, however, that “[t]his may be a fiction they both perpetuate because women have not yet become accustomed to owning the power even when it is so obviously theirs.”²⁶¹ It may also be a way that men “preserve the protector aspect of being the breadwinner even when they are not earning the money,” or it may, or may not, be a way to “save men from obsolescence and give them space to invent an entirely new way of being a happy, harmonious family in the age of female power.”²⁶²

If this is the portrait of an egalitarian marriage among the elite, it is rather disheartening. Further, Steven himself does not seem to think men are much good. Rosin concludes the chapter with their son Xavier taking off his diaper and “pee[ing] in the hallway for maybe the third time that day.”²⁶³ Steven philosophizes: “All boys do is pee on things. Nothing good comes from being a man. Women bring good things to the world. I live longer if I have a wife. I have a better, healthier life.”²⁶⁴ In fact, Steven is correct that marriage does have health and other benefits, especially for men, because of what Linda Waite and Maggie Gallagher call the “virtues of [wifely] nagging.”²⁶⁵ Earlier in the chapter, Rosin reports research that “men need marriage more than women do”²⁶⁶ and that it benefits men more than women.²⁶⁷ Even more

²⁵⁶ *Id.* (internal quotation marks omitted).

²⁵⁷ *Id.* at 74-76.

²⁵⁸ *Id.* at 75.

²⁵⁹ *Id.* at 76.

²⁶⁰ *Id.*

²⁶¹ *Id.*

²⁶² *Id.* at 77.

²⁶³ *Id.*

²⁶⁴ *Id.*

²⁶⁵ See LINDA J. WAITE & MAGGIE GALLAGHER, THE CASE FOR MARRIAGE: WHY MARRIED PEOPLE ARE HAPPIER, HEALTHIER, AND BETTER OFF FINANCIALLY 55 (2000); JAMES Q. WILSON, THE MARRIAGE PROBLEM: HOW OUR CULTURE HAS WEAKENED FAMILIES 16-17 (2002) (quoting Waite and Gallagher on the benefits husbands experience from their wives’ solicitude).

²⁶⁶ This the message of the *TIME* story discussed in Part II. See Luscombe, *supra* note 187. On the cover of the magazine, the full title is: *Who Needs Marriage? Men Do, More*

striking is Steven's statement about his son: "I wanted a little Anne of Green Gables. Someone creative and good. I would love it if the next one is a little girl. Like my wife. A superstar."²⁶⁸ Unlike Murray, Rosin does not pay attention to the social reproduction of advantage; that is, how people in seesaw marriages transmit advantage to their children. Her focus is more on how individual men are coping with changing roles and prefiguring "what marriage will look like in the not too distant future, when more women than men are paying the bills."²⁶⁹

C. *The "New American Matriarchy" Among the Married . . . and Unmarried*

Rosin explores the other side of the class divide over marriage in her chapter, "The New American Matriarchy: The Middle Class Gets a Sex Change."²⁷⁰ I augment my discussion with her *New York Times Magazine* cover story, *Who Wears the Pants in This Economy?: When Jobs Go Away, Husbands and Wives Make a New Deal*,²⁷¹ timed to coincide with the release of her book. Together, the book and article focus on women and men dealing with "upended gender dynamics"²⁷² in two types of relationships: (1) those of younger, generally unmarried, couples, in which striving middle-class women see unemployed and underemployed men as not adding much of value to their lives or even making their lives harder, and (2) marital relationships among older couples trying to adjust to a new division of labor triggered by male job loss in the recession.

Startlingly, Rosin uses the term "matriarchy" in her book and cover story without making any historical reference to Daniel Patrick Moynihan's widely discussed use of the term in his controversial 1965 report, *The Negro Family: The Case for National Action*.²⁷³ Instead, when she comments that the pattern of women "stepping into the traditional provider role" and declining to marry the fathers of their children "has played out once before in American culture," her historical reference is to sociologist William Julius Wilson's *When Work Disappears*.²⁷⁴ Wilson's book described the decline of manufacturing jobs for black men, beginning in the 1970s, and the consequences for family life and

Than Women. And It Works Better for Richer Than for Poorer.

²⁶⁷ ROSIN, *supra* note 19, at 68.

²⁶⁸ *Id.* at 77.

²⁶⁹ *Id.* at 70.

²⁷⁰ *Id.* at 79-112.

²⁷¹ Hanna Rosin, *Who Wears the Pants in This Economy?*, N.Y. TIMES, Sept. 2, 2012, (Magazine), at 22.

²⁷² ROSIN, *supra* note 19, at 91.

²⁷³ DANIEL PATRICK MOYNIHAN, OFFICE OF POLICY PLANNING & RESEARCH, U.S. DEP'T OF LABOR, *THE NEGRO FAMILY: THE CASE FOR NATIONAL ACTION* (1965). In a subsection entitled "Matriarchy," Moynihan states that "[a] fundamental fact of Negro American family life is the often reversed roles of husband and wife." *Id.* at 30.

²⁷⁴ ROSIN, *supra* note 19, at 88 (citing WILSON, *supra* note 27).

marriage.²⁷⁵ At the same time, by using the term “nascent middle-class matriarchy” to refer to gender dynamics among older, married, middle-class couples, Rosin extends the use of the term.²⁷⁶

Beginning with the unmarried, younger couples, Rosin sketches profiles of working-class women struggling valiantly to better themselves, care for their children, and pursue the American dream, while the men in their lives seem to be a net drain. The opening pages of her book refer to Bethenny and Calvin, who have a ten-year-old daughter.²⁷⁷ When Rosin encounters Bethenny by chance in a supermarket and asks her if she wants to marry, Bethenny looks at her daughter, to whom she tosses a granola bar, and laughs: “Well, there’s Calvin But Calvin would just mean one less granola bar for the two of us.”²⁷⁸ Rosin interprets the laugh as an indicator of empowerment: far from being a “pitiable single mother,” Bethenny, “[b]y keeping Calvin at arm’s length [] could remain queen of her castle, and with one less mouth to feed,” she and her daughter “might both be better off.”²⁷⁹

Women in Rosin’s portraits adapt and adjust to changing economic circumstances (hence, her term “Plastic Woman”); men, in contrast, remain stuck in the past, still hoping that the jobs of yesteryear will return (“Cardboard Man,” Rosin calls them, although something about being glued or stuck to the spot might be more apt).²⁸⁰ One critical difference between her account and that of Murray is that Rosin specifically focuses on such gender dynamics.

Part of why men are stuck is due to their conception of proper gender roles. For example, one man profiled by Rosin, Troy, is fond of using the refrain, “ain’t a man.”²⁸¹ This phrase is used not only to express pride in his female partner, Shannon, but also to express what no man “would take [] from his wife,” such as coming home from work late without an explanation.²⁸² When, for the fourth night, Shannon, who is the primary breadwinner and juggles working at Walmart and as an exotic dancer with going to nursing school, came home late, Troy “choked her until she passed out.”²⁸³ We are told that he regarded this as his “darkest hour” and Rosin reports, without editorializing, that “[t]o make it up to her, he bought her a choker with a really big silver

²⁷⁵ See *id.* (“Over time, nuclear families fell apart, drug addiction shot up, and social institutions began to disintegrate As a result, in the intervening two decades, the society has turned into a virtual matriarchy. In poorer communities women are raising children alone while one third of the men are in jail.”).

²⁷⁶ Rosin, *supra* note 271.

²⁷⁷ ROSIN, *supra* note 19, at 1-4.

²⁷⁸ *Id.* at 2.

²⁷⁹ *Id.*

²⁸⁰ *Id.* at 7-8, 263.

²⁸¹ *Id.* at 104.

²⁸² *Id.*

²⁸³ *Id.* at 104-05.

heart to cover the bruise.”²⁸⁴ Troy seems to contribute little to the household. He does, however, make their son laugh and manage to calm Shannon down.²⁸⁵ Troy says they have a “*Jerry Springer* relationship” with a lot of fighting over “sex and work”: he complains about the infrequency of sex; Shannon complains that he “never brings home a paycheck.”²⁸⁶ Troy cannot get over the closing down of the Russell Athletic manufacturing plant. He “is living in his father’s memory of the great days of Russell.”²⁸⁷ Shannon urges Troy to “[g]et over it,” and stop living in the past.²⁸⁸

Rosin concludes the chapter with Shannon, in yet another effort to help Troy move forward, driving him to the old site of the Russell factory, where a truck trailer is “sunk into the earth.”²⁸⁹ Displayed on the trailer is “an enormous painting of a football player in full uniform running with the ball tucked in his hands, next to the words RUSSELL. THE EXPERIENCE SHOWS.”²⁹⁰ Rosin sees this as “depressing,” a “mockery of imminent victory,”²⁹¹ and we assume Shannon does too. Troy, however, “doesn’t register that emotion.”²⁹² Instead, he responds by jokingly assuming a football pose and tackles her to the ground, “where both of them fall, for the moment, laughing.”²⁹³ What happens next we are not told.

A fascinating examination of gender dynamics and role negotiation *within* marriage is showcased in Rosin’s portraits of somewhat older, married couples in which the woman is now the primary earner and the man is newly under- or unemployed. These are the couples profiled in her *New York Times Magazine* cover story.²⁹⁴ The story begins with the teaser: “Welcome to the new middle-class matriarchy.”²⁹⁵ Compared to Shannon and Troy, the couples featured in this story are more solidly middle class, but the husbands experienced a reversal of fortune in the recession and the wives became the primary breadwinners. Instead of engaging in violent choking followed by choker necklaces, these men look beaten down themselves. In the remarkable photos accompanying this story, the poses are of women putting their arms around their men. In two photos, the husbands sit in chairs while their wives stand

²⁸⁴ *Id.* at 105.

²⁸⁵ *Id.* at 103.

²⁸⁶ *Id.* (internal quotation marks omitted).

²⁸⁷ *Id.*

²⁸⁸ *Id.*

²⁸⁹ *Id.* at 111.

²⁹⁰ *Id.* at 111-12.

²⁹¹ *Id.* at 112.

²⁹² *Id.*

²⁹³ *Id.*

²⁹⁴ Rosin, *supra* note 271.

²⁹⁵ *Id.* Once again, Rosin never refers to the Moynihan Report and the earlier use of the term “matriarchy.” See *supra* note 273 and accompanying text.

next to or behind them with an arm around their shoulder.²⁹⁶ In another, the husband stands with hands in his pockets while his wife holds onto his arm as if propping him up.²⁹⁷

These couples cope with a gender ideology, often rooted in the teachings of their Christian religion, that the man is the head of the household and that an essential feature of manhood is providing for wife and family.²⁹⁸ Wives, according to this religious worldview, should graciously submit to their husbands.²⁹⁹ Murray, as I discuss below, also stresses “religiosity” as being among the founding virtues. “Like everyone of their generation I spoke to,” Rosin observes of one featured couple, “Charles and Sarah Beth Gettys both insisted that Charles was still the ‘head of the household.’”³⁰⁰ Charles, formerly head of national sales for the fabrics division of Russell, had left that job in 2003 when he saw his position would not last much longer, and then had a brief, unsuccessful foray into starting a construction business.³⁰¹ Meanwhile, Sarah, who had always worked as a nurse, but only to earn “fun money” for the family, steadily rose up the ranks as her hospital employer grew, eventually becoming vice president in charge of patient services and the family’s primary breadwinner.³⁰²

When Rosin pressed couples as to why men “got to retain their title if they weren’t fulfilling most of the attending duties,” some answered in terms of “redefining ‘head’ as ‘spiritual head,’ meaning biblically ordained as leader.”³⁰³ Further, men could be protectors and rescuers even if they weren’t primary earners, or earning at all: “[I]f someone broke into the house, if the children were in trouble or out of control, if the roof caved in, if there was a tornado, if we need him, he would rescue us.”³⁰⁴ Sarah Beth asks her Sunday school class of high school girls to reflect on “what being ‘submissive’ means in today’s world,” while another wife “sometimes used the word ‘submissive’ but usually put it in air quotes.”³⁰⁵ These portraits suggest that even if women “wear the pants,” they are still invested in helping men feel that they are the “leaders” of the family.

These stories also indicate that in addition to structural obstacles traceable to the current recession, such as a loss of manufacturing jobs, men confront obstacles due to conceptions of masculinity that hinder their ability to adapt to

²⁹⁶ Rosin, *supra* note 271.

²⁹⁷ *Id.*

²⁹⁸ *Id.*

²⁹⁹ *Id.*

³⁰⁰ *Id.*

³⁰¹ *Id.*

³⁰² *Id.*

³⁰³ *Id.*

³⁰⁴ *Id.* (paraphrasing the feelings many women expressed regarding the role of their husbands as protector).

³⁰⁵ *Id.*

the new economy. Rosin captures this with her repeated imagery of men being stuck, a metaphor in sharp contrast with women's plasticity and adaptability, including their ability to adapt to new gender roles. For example, why don't men take advantage of opportunities to shift to the types of jobs for which there will be continuing demand in a post-industrial economy? In the *New York Times Magazine* story, one husband, Reuben, explains why he could not train for one of the jobs that he knew was available: "'We're in the South' . . . 'A man needs a strong macho job. He's not going to be a schoolteacher or a legal secretary or some beauty-shop queen. He's got to be a man.'"³⁰⁶ Another, Rob, was struggling to get his network consultant business going after his position as a network analyst at Russell was phased out. His self-image is as the family provider and "the man of the house," despite the fact that his wife Connie is providing the "dependable salary."³⁰⁷ He explains that he has internalized the ideal of man as provider, adding: "It's like, if I can't take care of her, then I'm not a man."³⁰⁸ Comic relief from this dilemma arrives in the form of comments by Connie's daughter from her first marriage, who proclaims that Rob's ideas about marriage are "so cute, it's gross," and finds "this Southern code of chivalry" to be "nonsense," out of sync with how the "boys she knew actually behaved – hanging out in the parking lot, doing God knows what, or going home and playing video games instead of bothering to apply for college."³⁰⁹

In contrast to these older women, who often assumed primary breadwinner roles after their husbands experienced a reversal of fortune, many of the younger women Rosin profiles feel little obligation to shore up or bolster their male partner. Here Rosin's portraits of male haplessness and irresponsibility are quite vivid. In a later chapter of her book, "Pharm Girls," Rosin profiles Hannah, one of the growing number of women going to pharmacy school as a path to upward mobility.³¹⁰ Hannah's boyfriend is Billy, an underemployed painter who often goes fishing with his buddies, who "are also underworked this year."³¹¹ Rosin captures Hannah's exasperation with Billy and his apparent refusal to better himself. One telling example of their conflict is over television preferences: she favors documentaries and educational shows; he favors Comedy Central.³¹² The chapter ends with Billy turning the television to the movie *Jackass 3D*. Hannah "rolls her eyes because, she says, those jackasses do the same exact thing, year after year. 'What's wrong with that?' says Billy."³¹³ What holds Billy back? Once again, Cardboard Man fails to adapt to new economic realities. While Hannah is emblematic of women who see the

³⁰⁶ *Id.*

³⁰⁷ *Id.*

³⁰⁸ *Id.*

³⁰⁹ *Id.*

³¹⁰ ROSIN, *supra* note 19, at 113-43.

³¹¹ *Id.* at 123-24.

³¹² *Id.* at 126.

³¹³ *Id.* at 143.

value of professional training as a pathway to a lucrative profession, Billy is emblematic of men who do not pursue such education. Rosin attributes this failure by “Cardboard Man” in part to the problem that “the range of acceptable masculine roles has changed comparatively little,” and has even narrowed as men “shy away from some careers as women begin to dominate them.”³¹⁴

Rosin concludes the book on a somewhat hopeful note. Calvin, on whom Bethenny was reluctant to expend a granola bar, is enrolling in the nursing program Bethenny just completed, willing to give it a try “even though the classes looked like ‘all skirts’ to him.”³¹⁵ Higher on the economic ladder herself, Rosin indicates that her research has led to personal reflection. She writes: “[It has] caused me to start raising my own two sons differently. Even if it’s against their ‘nature,’ I want to teach them to bend.”³¹⁶ And she adds that “[t]o my relief, I’ve discovered that with a little creativity on all our parts, it’s not all that hard.”³¹⁷

In sum, Rosin’s book offers rich material on certain aspects of the other marriage equality problem. Missing from her analysis, however, is consideration of the impact of the so-called “new American matriarchy” for children, or the “reproduction of disadvantage” problem. As Naomi Cahn and June Carbone observe in their contribution to this Symposium, “[w]hile Rosin paints a cheery picture of single mothers preferring to make it on their own, their children are falling further behind the children in two-parent families whose combined resources offer greater advantages.”³¹⁸ Moreover, Rosin does not attend much to the impact of the marriage divide on the capacity of neighborhoods and communities in which these comparatively disadvantaged families live to support social reproduction.

IV. CHARLES MURRAY: THE MARRIAGE DIVIDE THREATENS AMERICAN EXCEPTIONALISM

In his book, *Coming Apart: The State of White America, 1960-2010*, Murray worries a great deal about the implications of the marriage divide for social reproduction. He suggests certain demographic trends “call[] into question the viability of white working-class communities as a place for socializing the next generation.”³¹⁹ He contends that American exceptionalism has rested in America’s community life: “The founding virtues operating under the freedoms guaranteed by the Constitution produced an American civic culture that was unique in all the world. . . . All observers [(among them Alexis de Tocqueville)] agreed that community life in the United States was unlike

³¹⁴ *Id.* at 125.

³¹⁵ *Id.* at 262, 271.

³¹⁶ *Id.* at 270.

³¹⁷ *Id.*

³¹⁸ Carbone & Cahn, *supra* note 46, at 884.

³¹⁹ MURRAY, *supra* note 12, at 167.

community life anywhere else.”³²⁰ Murray identifies the four core values, or “founding virtues,” upon which America rests as marriage, industriousness, honesty, and religiosity.³²¹ These virtues work together and their decline causes social capital to deteriorate: “The empirical relationships that exist among marriage, industriousness, honesty, religiosity, and a self-governing society mean that the damage is done, even though no one intends it.”³²² Thus, the sorting of America into a “new upper class” and a “new lower class” portends the “selective collapse” of American community, and thus, of American exceptionalism.³²³

Men are the primary culprits, as Murray tells the tale. They are less industrious, less responsible, and less likely to marry the mothers of their children. Thus, the rise in male irresponsibility has serious implications for the very stability of civil society and, ultimately, of the political order.³²⁴

A. *The Marriage Divide Between the New Upper Class and the Rest of America*

How does Murray evaluate the growing marriage divide and its impact on children? Like Rosin, he devotes chapters to both sides of the divide. The story he tells about the marriage “haves,” so to speak, is of assortative mating, or what Murray calls “cognitive homogamy”: the most highly educated people marry each other and live in elite communities, or “super zip codes,” segregated from other social classes.³²⁵ To be sure, “before the age of mobility,” there was some homogamy – “people commonly married someone from the same town or from the same neighborhood of an urban area” – but whether there was “cognitive homogamy” was more “haphazard.”³²⁶ Today, even college graduates sort themselves; those “from elite colleges are likely to marry other graduates from elite colleges.”³²⁷ Murray, whose prior work, *The Bell Curve*, includes a controversial examination of intelligence,³²⁸ asserts that these parents, graduates of elite institutions, transmit cognitive ability to the next generation, which helps the elite “maintain[] its status across generations.”³²⁹ Genetics alone does not do the entire job, however; Murray also stresses how the new upper class grooms its children for success.³³⁰

³²⁰ *Id.* at 237.

³²¹ *Id.* at 127-43.

³²² *Id.* at 210.

³²³ *Id.* at 236-52.

³²⁴ *Id.* at 210.

³²⁵ *Id.* at 61, 78.

³²⁶ *Id.* at 61.

³²⁷ *Id.* at 64.

³²⁸ See generally RICHARD J. HERRNSTEIN & CHARLES MURRAY, *THE BELL CURVE: INTELLIGENCE AND CLASS STRUCTURE IN AMERICAN LIFE* (1994).

³²⁹ MURRAY, *supra* note 12, at 65.

³³⁰ *Id.* at 41 (describing the obsession of upper-class parents with “how smart their baby

In this “new kind of segregation,” the new upper class lives apart and differently from the rest of America.³³¹ Similar to the *State of Our Unions* 2012 report discussed above, Murray’s book contrasts the growing divide between the lives of the upper class and those of the rest of America with what happened in an earlier era. He explains these trends, and what has happened to the founding virtues from 1960 to 2000, by describing two “fictional neighborhoods,” Belmont and Fishtown.³³² Thus, in places like Belmont, an upper-class neighborhood, one infers that the founding virtues of marriage, responsibility, honesty, and industriousness continue to flourish. By contrast, although those same virtues flourished in Fishtown during the 1960s, when it was a white working-class neighborhood, today there is a stark divide and Fishtown exemplifies the new lower class.³³³

In his survey of the decline of the virtues, Murray begins with “class divergence in marriage” because, “[o]ver the last half century, marriage has become the fault line dividing American classes.”³³⁴ Formerly, even though the wealthy differed from the middle and working class because they were, well, wealthier, the patterns of family and community life among the wealthy differed little from that of the middle and working class: marriage, responsible parenting, civic engagement, and the like.³³⁵ Now, by contrast, the white middle class – particularly the working class or moderately educated middle class – is “coming apart” at the seams: nonmarital births have become the norm. The new upper class, meanwhile, does not repudiate marriage. Marital births are the norm, albeit often after a protracted investment in the human capital of young adults.³³⁶ In its model of investment, this story is consistent with McLanahan’s picture of “diverging destinies.” Murray illustrates this divergence in his portraits of the real Belmont and Fishtown. He reports data showing that from 1997 to 2004, ninety percent of children in the real Belmont were living with both biological parents when the mother turned forty. In the real Fishtown the number was “sinking below the 30 percent level.”³³⁷ Murray

is, how to make the baby smarter, where the baby should go to preschool, and where the baby should go to law school,” and remarking that “one of the major preoccupations of upper-class parents during their children’s teenage years, the college admissions process, is almost entirely absent in mainstream America”).

³³¹ *Id.* at 69.

³³² Murray first describes the real town of Belmont and then, for the purposes of highlighting class differences among communities, creates a fictionalized town of Belmont that is even more homogenous in terms of income and marital status than the real town. *See id.* at 144-45. The fictional Fishtown represents the “new lower class.” *Id.* at 144. Murray first describes the real Fishtown, and then the fictional Fishtown, which allows him to display the class differences in starker terms. *Id.* at 145-46.

³³³ Murray details this decline in separate chapters on the four virtues. *Id.* at 149-208.

³³⁴ *Id.* at 149.

³³⁵ *Id.* at 23-32, 69-78.

³³⁶ *Id.* at 158-63.

³³⁷ *Id.* at 167.

identifies a shift in norms about marriage as the expected site for parenthood, suggesting, consistent with McLanahan, the declining hold of the shotgun wedding. While “the traditional norm in Fishtown had not necessarily been ‘get married and then get pregnant and have a baby,’” “[q]uite frequently, it had been ‘get pregnant, then get married and have a baby.’”³³⁸ A “drastic” shift from either of these norms was evident even by the mid-1980s, however, when more high school-age girls were getting pregnant and not marrying.³³⁹ Murray considers the reasons for this shift, rejecting “lack of information about family planning.”³⁴⁰ Instead, he suggests a mixture of pregnancies that “just happened,” but were not, in contrast to past practice, “followed by marriage”; pregnancies that were wanted in order to achieve status by having a baby; and “pregnancies . . . welcomed as a way to get out of the house,” to move in with a boyfriend, or to go on welfare.³⁴¹

B. *Irresponsible Men, Unmarried Mothers, and the Decline of Social Capital*

Some attention to Murray’s critique of male irresponsibility as a falling away from the founding virtues will afford a useful comparison with Rosin. In the chapter “The Real Fishtown,” Murray steps back from telling the story of the new (white) lower-class neighborhoods through statistics and begins to describe actual people in an actual town. The basic motif is one of “many adult men in a community [] living off relatives or girlfriends,” which results in placing “lots of stress on the community.”³⁴² He considers the decline in male “industriousness” and of townspeople describing men “who just couldn’t seem to cope with the process of getting and holding a job.”³⁴³ The problem for family structure is that unmarried men who father children may be “nice” guys who are “sorry,” but for the most part, they do not “end up being fathers to their children.”³⁴⁴ Murray asserts: “Children need fathers, and the next generation in a community with lots of children without fathers is in trouble.”³⁴⁵ This problem contributes to the decline of social capital.

Why marriage matters, Murray argues, pertains not just to the organization of communities, but also because of the “socialization of the next generation.”³⁴⁶ He contends that “the family structure that produces the best outcomes for children, on average, are two biological parents who remain married.”³⁴⁷ “Never-married women,” he reports, “produce the worst

³³⁸ *Id.* at 213.

³³⁹ *Id.*

³⁴⁰ *Id.* at 214.

³⁴¹ *Id.*

³⁴² *Id.* at 210.

³⁴³ *Id.* at 216.

³⁴⁴ *Id.* at 210.

³⁴⁵ *Id.*

³⁴⁶ *Id.* at 158.

³⁴⁷ *Id.*

outcomes.”³⁴⁸ With this metric, then, the decline of marriage and the “collapse” of the family in places like Fishtown is dire because “[f]amilies with children are the core around which American communities must be organized” because they “have always been, and still are, the engine that makes American communities work.”³⁴⁹

Murray also stresses the diverging destinies of the Belmonts and Fishtowns of America from 1960 to 2010 with respect to the virtue of industriousness among white men.³⁵⁰ Men in Fishtown, for example, lack work because they lack industriousness, not because of the disappearance of jobs.³⁵¹ He reports comments by Fishtown residents that young men just “don’t have the ambition,” that they have male role models who are “not working or on unemployment,” and that they simply “ha[ve] no interest in holding a job or having a family.”³⁵² Murray is also suspicious of the rising rate of disability among men, suggesting they learn to get by on disability income while working “under the table.”³⁵³ Men also “live off” women who receive welfare payments.³⁵⁴ We learn that “such men are known as ‘runners’ or ‘fly by nights,’ because they are constantly on the move, avoiding debt collectors, child support collectors, their girlfriends or children, or the police. They, too, are active in the drug trade, which exploded” in Fishtown in the 1980s.³⁵⁵

His bottom-line measure, whether a household has “someone working at least forty hours a week,” reveals a marked downward trend: in 1960, 81% of Fishtown households and 90% of Belmont households met this barometer; by March 2012 the qualifying Fishtown households had dropped to 53% while Belmont households only experienced a 3% decline, to 87%.³⁵⁶

Critics of Murray challenge his diagnosis of male unemployment as a moral problem – the deterioration of virtue – rather than as a result of the deep recession and structural economic problems disproportionately affecting working-class men.³⁵⁷ The interplay between personal and public responsibility, or between personal choices and economic constraints, is important because an emphasis on the loss of virtue cries out for cultural solutions, while an emphasis on economic structures calls out for economic

³⁴⁸ *Id.*

³⁴⁹ *Id.* at 165.

³⁵⁰ *Id.* at 168-81.

³⁵¹ *Id.* at 216-19.

³⁵² *Id.* at 217.

³⁵³ *Id.* at 218.

³⁵⁴ *Id.*

³⁵⁵ *Id.* at 218-19.

³⁵⁶ *Id.* at 188.

³⁵⁷ See, e.g., CAHN & CARBONE, FAMILY CLASSES, *supra* note 46; Ralph Richard Banks, *Charles Murray’s Coming Apart and the Culture Myth*, DAILY BEAST (Feb. 8, 2012, 12:23 AM), <http://www.thedailybeast.com/articles/2012/02/08/charles-murray-s-coming-apart-and-the-culture-myth.html>.

policy. The gender dynamic that Murray finds in both real and fictional Fishtown is similar to that which Rosin reports: men are often a net drain on the women with whom they share children. While Rosin tends to stress the energy, drive, and determination of the women she profiles, however, the women in Murray's account do not escape blame for moral failings. In discussing the increasing number of teenage females in Fishtown getting pregnant, Murray reports a school teacher's view that "not knowing how to be mothers is a big problem," as such young mothers "'want to "do" for their kids but do not know how.'"³⁵⁸ Often, siblings take care of siblings and children learn "how to take care of themselves."³⁵⁹ Also, grandparents are often raising their grandchildren.³⁶⁰ In a passage all too reminiscent of some of the rhetoric from the 1990s about the type of mothers who received Aid to Families with Dependent Children benefits, Murray comments:

Alongside the women who didn't get married but are trying hard to be good mothers are those who are the horror stories that workers in the child protective services exchange – mothers who use three-year-olds to babysit for infants while they go out for the evening; homes where the children are brain damaged because the latest live-in boyfriend makes meth in the kitchen sink; and the many cases of outright physical and emotional abuse by never-married women who are not just overburdened mothers but irresponsible or incompetent ones.³⁶¹

One significant difference between Murray's portrait of irresponsible mothers and the horror stories told by Congressmen in the 1990s is that, for many of its critics in those debates, the "color of welfare"³⁶² was black. Murray's stories, by contrast, are about the failings of the new white American lower class and the "selective collapse" of American community.³⁶³

Similar to Murray's indictment of men for their employment, Murray diagnoses a falling away from marriage in terms of a loss of virtue. He fails to consider the interplay of culture *and* economics in the class-based gap between marital aspirations and practices among the marriage have nots. For this reason, he fails to consider how public policy might address that gap.³⁶⁴

³⁵⁸ MURRAY, *supra* note 12, at 214.

³⁵⁹ *Id.* at 215.

³⁶⁰ *Id.* at 214-15.

³⁶¹ *Id.* at 210; *cf.* McClain, *supra* note 11, at 450 (describing rhetoric about welfare mothers).

³⁶² See generally JILL QUADAGNO, THE COLOR OF WELFARE: HOW RACISM UNDERMINED THE WAR ON POVERTY (1994).

³⁶³ MURRAY, *supra* note 12, at 236-52.

³⁶⁴ CAHN & CARBONE, FAMILY CLASSES, *supra* note 46 (manuscript at 66) (critiquing Murray for not recognizing that Americans may share cultural aspirations to marry, but that forces beyond the control of the individual may make realizing those aspirations impossible).

C. *Gender Dynamics and Gender Roles in the New Upper Class*

How do gender dynamics look, in comparison, in the family lives of the new elites living in their super-zip-code neighborhoods? Murray disappoints on this question, perhaps because he does not devote a parallel chapter to lives in the real Belmont. He begins with an interesting survey revealing the chronological shift in women's attitudes about marriage, family, and career from 1960 to 2010. Thus, Murray recounts a 1962 Gallup poll, commissioned by the *Saturday Evening Post*, which found that ninety-six percent of wives surveyed believed that a "girl who is married and has a family to raise" is happier than "the unmarried career girl," and ninety-three percent of those wives "said that they did not, in retrospect, wish they had pursued a career instead of getting married."³⁶⁵ Unsurprising for that time, most married women said that between the ages of twenty and twenty-three was the ideal time for women to marry, with a mere eighteen percent believing a woman "should wait until age 25 or older."³⁶⁶ Married women strongly endorsed the norm of fidelity for husbands and wives. Another contemporaneous poll, taken before states adopted no-fault divorce laws, found that a strong majority of people thought divorce should be made more difficult.³⁶⁷

With that as a baseline, Murray charts shifts in attitudes about "the woman's role in marriage."³⁶⁸ One graph shows a sharp decline, from 1977 through the 1980s, in the percentage of whites aged thirty to forty-nine who agreed with the statement that "women should tend the family."³⁶⁹ Although "[t]he traditional conception of marital roles took a big hit," a "substantial class difference remained": by the 2000s, "almost 40 percent of Fishtown still took a traditional view of the woman's role, compared to less than 20 percent of Belmont."³⁷⁰ This higher degree of acceptance of women's changed roles seems to fit Murray's account of assortative mating among the new upper class. Murray, however, does not flesh this data out with portraits of the dynamics in the marriages, or nonmarital relationships, of citizens in the different towns. In his later chapter on industriousness, he reports that "married women in Belmont and Fishtown behaved similarly," as part of the "revolution" of married women's increased participation in the labor force.³⁷¹ With respect to unmarried women, he finds an "already wide" gap in 1960, with more than ninety percent of college-educated unmarried women in the labor force, compared with a peak rate of eighty-three percent in 1983 for unmarried women with a high school education.³⁷² Murray does not, however,

³⁶⁵ MURRAY, *supra* note 12, at 149.

³⁶⁶ *Id.* at 149-50.

³⁶⁷ *Id.* at 150 (discussing poll from 1960).

³⁶⁸ *Id.* at 151.

³⁶⁹ *Id.*

³⁷⁰ *Id.*

³⁷¹ *Id.* at 184.

³⁷² *Id.* at 184-85.

offer a satisfactory analysis of this gap, instead presenting data without exploring the stories behind those data.

Murray also reports differences in divorce rates between the towns, with similar trajectories until the early 1980s, when the “trendline in Belmont flattened” while the trendline in Fishtown “continued steeply upward.”³⁷³ Similarly, the number of married couples that self-reported being “very happy” in their marriages seems to have steadily declined in Fishtown, while it has been arcing up in Belmont since the 1980s.³⁷⁴

Religiosity offers a more complicated picture than a stark class divide. America still is “exceptional” as compared with “other advanced countries” in terms of the percentage of white Americans who are “actively religious.”³⁷⁵ Thus, while Murray’s data challenge the “conventional wisdom that working-class white America is still staunchly religious while white American elites are dominated by secular humanists,” he cannot paint a picture of an intensely religious, hence virtue-drenched, Belmont and an irreligious, hence virtue-lacking, Fishtown.³⁷⁶ Secularization is widespread. Nonetheless, he does find a higher percentage of religiously disengaged in Fishtown (59%) than in Belmont (41%).³⁷⁷ His basic claim here is that, to the extent that “religion” is “one of the key sources of social capital in a community,” if a town has more active churchgoers, it will have more people to serve not only in the church but also in that community’s various charitable activities.³⁷⁸

CONCLUSION

In this Article I have argued for giving attention to “the other marriage equality problem,” the growing class-based divide in the United States with respect to paths to family formation. I have argued that warnings about growing family inequality and its implications for children warrant attention. My point of departure was contrasting portraits in the media of what is happening to marriage. One portrait is of marriage “haves” and “have nots,” with things going well for people who follow a course of investing in their education before marrying and becoming parents, and whose children then benefit from the parental investment of two parents, and with things going less well for people who depart from that script. Another portrait suggested resistance to the idea that marriage should be the marker of the good life and of responsible citizenship, championing those who remain single, and childless, as being happy and as contributing greatly to civil society. To analyze the other marriage equality problem, I used as foils Hanna Rosin’s diagnosis of the “end of men and the rise of women” and Charles Murray’s account of the marriage

³⁷³ *Id.* at 156.

³⁷⁴ *Id.* at 157.

³⁷⁵ *Id.* at 204-05.

³⁷⁶ *Id.* at 206.

³⁷⁷ *Id.* at 204.

³⁷⁸ *Id.* at 207.

divide as part of the class-based “selective collapse of American community.” I also argued that Rosin’s account highlights that one aspect of the other marriage equality problem is gender equality: how men and women understand and navigate gender roles in marital and nonmarital relationships, particularly in changing economic circumstances.

This Article also situated contemporary debates about what is happening to marriage in the context of periods of earlier concerns about marriage. During congressional debates about welfare reform and, later, the reauthorization of TANF, lawmakers paid keen attention to the separation of marriage and parenthood among low-income men and women and their “fragile families” and to an evident gap between marital aspirations and marital practice. Turning to more recent reports on the marriage divide, I highlighted a parallel concern over a gap between marital aspiration and practice and the separation of marriage and parenthood in a growing segment of Middle America.

The other marriage equality problem concerns both the ability of adults to act on their aspirations for their intimate relationships and the impact upon children of growing family inequality in the United States. Both of these dimensions of the marriage equality problem are matters within the concern of family law and policy. Federal administrative and legislative responses are also appropriate. As McLanahan argued, drawing analogies to policies instituted during the New Deal era, broader public policies should address the consequences of broad demographic changes in patterns of family life. The formative project of constitutional liberalism could properly support efforts to address family inequality. The scope of such efforts should go beyond family policy, narrowly conceived. Thus, in recent work, McLanahan and her *Fragile Families* colleague Irwin Garfinkel propose a range of policies investing in children and adults.³⁷⁹ Direct and indirect investments in children would include such policies as providing national health insurance, universal pre-kindergarten, and paid parental leave; investments in parents would include, in addition to paid parental leave, revisiting unrealistic child support-obligations imposed on low-income fathers, instituting child-support assurance, marriage and fatherhood programs focused on relationships skills, and reducing mass incarceration.³⁸⁰ McLanahan and Garfinkel sensibly argue that investing in “the human capital and the economic and social security of children in fragile families” is likely to “reduce the future prevalence of fragile families,” noting that “[e]ducational attainment – a critical element of human capital – is not only a strong predictor of earnings, but is also one of the strongest predictors of marriage and family stability.”³⁸¹ Finally, they call for educational and

³⁷⁹ Sara S. McLanahan & Irwin Garfinkel, *Fragile Families: Debates, Facts, and Solutions*, in *MARRIAGE AT THE CROSSROADS: LAW, POLICY, AND THE BRAVE NEW WORLD OF TWENTY-FIRST-CENTURY FAMILIES* 142, 155-56 (Marsha Garrison & Elizabeth S. Scott eds., 2012).

³⁸⁰ *Id.* at 154-63.

³⁸¹ *Id.* at 163.

healthcare programs aimed at reducing the incidence of unintended pregnancy and early childbearing, including programs encouraging children and young people, across class lines, to delay forming a family “until they have found a partner with whom they can form a stable union.”³⁸²

There are, of course, difficult normative and empirical questions. On the one hand, the fact that marriage is in “decline” may be welcome evidence of a loosening up of scripts about what forms adult intimate life and family life can take. On this view, perhaps it is a good thing that some people think marriage is obsolete or no longer the chief marker of a fulfilling life. Elsewhere, I have articulated support, for example, for a diversity approach to family life and to parenthood, consonant with family law’s recognition of the growing diversity in family life.³⁸³ On the other hand, evidence that most Americans share an aspiration toward a happy marriage, but that there is a class-based gap in whether they achieve that goal, suggests that marriage is not obsolete, for many people, but instead perceived to be out of reach. Further, when inequality among families also entails inequality among children, this creates concerns about social reproduction. McLanahan and Garfinkel, for example, conclude that “[f]ragile families are both a consequence and a cause of economic disadvantage.”³⁸⁴

To be sure, studies of child outcomes caution against assuming that a particular family form, as such, is the guarantor of child wellbeing. Instead, what matters most seems to be the quality of the parent-child relationship, access to social and economic resources, and the place of families in their broader communities.³⁸⁵ Nonetheless, child poverty is a factor that shapes children’s lives and opportunities and single-parent families, generally, are more likely to be poor than two-parent families. Moreover, while children may fare well in *stable* single-parent households, household *instability* that results from the complex family patterns that arise as many unmarried mothers and

³⁸² *Id.* at 163-64.

³⁸³ McClain, *supra* note 170, at 41-62.

³⁸⁴ McLanahan & Garfinkel, *supra* note 379, at 154.

³⁸⁵ Several contributions to my recent book, *WHAT IS PARENTHOOD?: CONTEMPORARY DEBATES ABOUT THE FAMILY*, *supra* note 170, discuss child outcomes. *See, e.g.*, Howard Steele & Miriam Steele, *Parenting Matters: An Attachment Perspective*, in *WHAT IS PARENTHOOD?: CONTEMPORARY DEBATES ABOUT THE FAMILY*, *supra* note 170, at 214, 214-33; Fiona Tasker, *Developmental Outcomes for Children Raised by Lesbian and Gay Parents*, in *WHAT IS PARENTHOOD?: CONTEMPORARY DEBATES ABOUT THE FAMILY*, *supra* note 170, at 171, 184-85. Even strong defenders of marriage as the optimal family form for children acknowledge that there are important differences among groups of children. *See* Margaret F. Brinig, *A Case for Integrated Parenthood*, in *WHAT IS PARENTHOOD?: CONTEMPORARY DEBATES ABOUT THE FAMILY*, *supra* note 170, at 147, 164 (reporting research results that “black children seem to be affected by formal legal relationships far less than other racial groups in the United States”). For an older, but still helpful discussion, see NANCY E. DOWD, *IN DEFENSE OF SINGLE-PARENT FAMILIES* (1996).

fathers dissolve their relationships and form new partnerships has negative consequences for children and their parents.³⁸⁶

At the same time, discussions about the consequences for children of the growing class divide need to be attentive to the risk of a new model of parenting and family life where only the most affluent and advantaged parents pass muster and the less advantaged and affluent doom their children to an inferior life. For example, some responses to Jason DeParle's portrait of the two white mothers, Jessica (single) and Chris (married), as emblematic of two classes, "divided by 'I do,'" criticized the story as "moralizing" against single mothers and as suggesting that Jessica's children were "suffering because of a lack of extracurricular activities," which would somehow doom them to becoming "dropouts and teenage parents."³⁸⁷ Instead, critics argued, why not look at the resourcefulness of mothers like Jessica, whose own parenting philosophy is that parental involvement (whether there is one parent or two) will help children feel that they "can do whatever it is they want to do, whether they come from a family with money or a family with not much money."³⁸⁸ An issue deserving further attention in consideration of the social reproduction of advantage – and disadvantage – is how class shapes models of parenting and what parents believe they should do for their children to prepare them for success in life.³⁸⁹

I will conclude by observing an irony. Back in the 1990s, when Congress debated welfare reform and politicians indicted the welfare poor as out of touch with core American values of family, work, and responsibility, some politicians and conservatives laid some of the blame at the door of baby-boomer liberals, whom they viewed as being elitist, self-indulgent, and themselves out of touch with mainstream American values. Pundits charged that baby boomers' war against traditional values had trickled down to the

³⁸⁶ McLanahan & Garfinkel, *supra* note 379, at 151-54; *see also* KATHRYN EDIN & TIMOTHY NELSON, *DOING THE BEST I CAN: FATHERHOOD IN THE INNER CITY* 226 (2013) (using the terms "family-go-round" and "serial fatherhood" to describe complicated family patterns that arise when low-income fathers have children with several partners and "no one man is ultimately responsible for [children's] long-term well-being and care"). Kathryn Edin has observed that while stable single parent families do comparatively well in terms of child outcomes, "there are no single mothers," because of this pattern of family and household complexity. BULawVideo, *Panel 3: Family (Evaluating Claims About the "End of Men" Conference)*, 01:21:31, YOUTUBE (Dec. 18, 2012), http://www.youtube.com/watch?feature=player_embedded&v=C18gcIZPeGw..

³⁸⁷ Katie Roiphe, *New York Times*, *Stop Moralizing About Single Mothers*, SLATE (July 16, 2012, 2:04 PM), http://www.slate.com/articles/double_x/roiphe/2012/07/single_mothers_always_falling_apart.html.

³⁸⁸ *Id.* (quoting Jessica Schairer).

³⁸⁹ *See generally* ANNETTE LAREAU, *UNEQUAL CHILDHOODS: CLASS, RACE, AND FAMILY LIFE* (2d ed. 2011) (discussing contrasting models of "concerted cultivation" among the more affluent and "natural growth" among the less affluent).

poor, with disastrous consequences, since the poor had less to fall back on.³⁹⁰ That is why, for example, Murphy Brown was so dangerous as a role model. Twenty years later, pundits like Murray now lament that the white middle class and working class have fallen away from traditional family values and the founding virtues; the college-educated elites, meanwhile, embrace virtues of marriage and industriousness and are the ones with more stable marriages, low divorce rates, and low rates of nonmarital births. That elite, he argues, should be more willing to preach the founding virtues to the rest of America, but they do not. McLanahan puts this in a less inflammatory way in her caution about diverging destinies: how can public policy encourage lower-income men and women to accept the behaviors of those in the top income quartile, so that they “delay childbearing, invest in education and training, and form stable partnerships” before having children?³⁹¹ In addition, how can public policy encourage men from disadvantaged backgrounds to “remain committed to their children?”³⁹²

Murray’s indictment of a broad swath of Americans for their decline in virtue also brings us back to the perennial debates about the interplay of personal and public responsibility; or the respective roles of character, culture, and structural barriers to equality and opportunity. Rosin’s diagnoses raise similar questions. Is there economic opportunity for the hapless men Murray and Rosin describe if they would just grasp it? Are gender conventions holding men hostage so that they, unlike women, simply cannot grow, evolve, and adapt? Or are there bigger structural barriers that would remain even if men were willing to become more like women? What about social or cultural obstacles to accepting more women as family breadwinners and finding an approach to work-family conflict that accommodates that role? I have argued that one dimension of the other marriage equality problem is negotiating gender roles and gender equality within marital and nonmarital relationships. The tensions Rosin found in her couples over women’s changing family roles seem mirrored in the broader society. Public opinion surveys suggest that, as a record forty percent of American families now have women as the primary

³⁹⁰ Andrew Rosenthal, *Quayle Says Riots Sprang from Lack of Family Values*, N.Y. TIMES, May 20, 1992, at A1 (reporting Vice President Dan Quayle’s comments that having families helped many aging, middle-class baby boomers “recover family values,” and that the majority survived the “turbulent” and “unfortunate legacy of the ‘boomer’ generation[’s]” war “against traditional values” in the 1960s, but “many of the poor, with less to fall back on, did not”).

³⁹¹ McLanahan, *supra* note 7, at 622. For elaboration on this model as an emerging “responsible parenthood” or “blue families” model, see generally CAHN & CARBONE, RED FAMILIES V. BLUE FAMILIES, *supra* note 46.

³⁹² McLanahan, *supra* note 7, at 622. For an important ethnographic study of low-income, unmarried fathers, concluding that such fathers have made a “headlong retreat” from the traditional breadwinning role – which they assign to the mother – in favor of the new “softer side” of fatherhood, stressing “love, communication, and quality time,” see EDIN & NELSON, *supra* note 386, at 218-22.

breadwinners, the public is “conflicted.”³⁹³ On the one hand, the “vast majority,” seventy-nine percent, of those surveyed do not believe that women should “return to their traditional roles.”³⁹⁴ On the other hand, fifty-one percent believe “children are better off if a mother is home and doesn’t hold a job;” only a minimal percent say the same thing about a father.³⁹⁵ Moreover, the prevailing public opinion is that having females as breadwinners makes it easier for families to live comfortably, but it also makes it more difficult to have successful marriages and raise children.³⁹⁶ Clearly, there is unfinished business on this issue.

³⁹³ WENDY WANG ET AL., PEW RESEARCH CTR., BREADWINNER MOMS: MOTHERS ARE THE SOLE OR PRIMARY BREADWINNER IN FOUR-IN-TEN HOUSEHOLDS WITH CHILDREN; PUBLIC CONFLICTED ABOUT THE GROWING TREND 6, 9 (2013), available at http://www.pewsocialtrends.org/files/2013/05/Breadwinner_moms_final.pdf. There is an important class difference as well; the two groups of women include married, college-educated wives who earn nearly \$80,000 and single mothers, less likely to have a college degree, who earn \$23,000. *Id.* at 1.

³⁹⁴ *Id.* at 1.

³⁹⁵ *Id.* at 3.

³⁹⁶ *Id.* at 2.