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SOLVING MILLENNIAL MARRIAGE EVOLUTION

Kathleen E. Akers* and Lynne Marie Kohm**

Marital incentives and disincentives have changed for millennial Americans, impacting their economic and family decisions, while also creating a ripple effect in society.¹ This phenomenon has worked to divide the rich and the poor in new and profound ways, which has come to be known as the marriage income inequality gap.² Millennial prerogative on the high end of the income inequality gap has decreased the incentives of marriage for any other function than personal happiness,³ which has in turn decreased the number of couples committing to the permanency of marriage despite their age and available resources.⁴ On the lower end of the income inequality gap, childbearing outside of marriage is common,⁵ and unemployment for men makes the economic gap all the wider.⁶

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1. See John Fleming, *Gallup Analysis: Millennials, Marriage and Family*, GALLUP (May 19, 2016), <https://news.gallup.com/poll/191462/gallup-analysis-millennials-marriage-family.aspx> (defining millennials as “those born between 1980 and 1996,” who are now, in 2018, ages twenty-two to thirty-eight).
2. See JUNE CARBONE & NAOMI CAHN, *MARRIAGE MARKETS: HOW INEQUALITY IS REMAKING THE AMERICAN FAMILY 1–5* (2014) (discussing income inequality and its effects in the current marriage market and American culture).
3. See *infra* note 97 and accompanying text. We do not proffer that anyone should marry without happiness; rather, we illustrate that marriage is important to American society in more ways than simply to achieve individual personal happiness. This article discusses this phenomenon in more depth *infra* Section I.
4. See, e.g., *Marriage Is Declining Rapidly: Does It Matter?*, GOOD MEN PROJECT (Apr. 14, 2017), <https://goodmenproject.com/featured-content/marriage-is-declining-rapidly-does-it-matter-ajrt/>.
5. See KATHRYN EDIN & MARIA KEFALAS, *PROMISES I CAN KEEP: WHY POOR WOMEN PUT MOTHERHOOD BEFORE MARRIAGE 2* (2005) (“Having a child while single is three times as common for the poor as for the affluent.”); see also Victor Tan Chen, *America, Home of the Transactional Marriage*, ATLANTIC (Aug. 20, 2017), <https://www.theatlantic.com/business/archive/2017/08/marriage-rates-education/536913> (“Plummeting rates of marriage and rising rates of out-of-wedlock births among the less educated have been linked to growing levels of income inequality.”).
6. See *Got to Have a J.O.B.; The Marriage Market*, 412 *ECONOMIST* 33 (2014) (indicating that women want to marry a man who is employed); see also Tami Luhby,

Further, since transactional aspects of marriage have changed dramatically over the generations,⁷ greater inequality has been created between women and men,⁸ and the rich and the poor.⁹

These aspects have worked together causing new marriage norms to develop in American society, which are particularly being reflected in the millennial generation.¹⁰ Evolving social trends have produced highly educated and wealthy women who are marrying and having children much later in life,¹¹ while concurrently minimizing marriageable men at the lower end of the income inequality gap because of chronic unemployment, a lack of education, incarceration, and substance abuse.¹² This leaves a larger group of women at the high end of the socioeconomic spectrum with a smaller group of comparable men across the board.¹³ Predictably, the effects of these

What Do Women Want in a Husband? A Job!, CABLE NEWS NETWORK (Sept. 24, 2014, 9:36 AM), <https://money.cnn.com/2014/09/24/news/economy/single-americans-on-rise-pew/>.

7. See, e.g., Chen, *supra* note 5 (“Over the last several decades, the proportion of Americans who get married has greatly diminished—a development known as well to those who lament marriage’s decline as those who take issue with it as an institution. But a development that’s much newer is that the demographic now leading the shift away from tradition is Americans without college degrees—who just a few decades ago were much more likely to be married by the age of 30 than college graduates were.”).
8. See Drake Baer, *Economic Forces Making US Men Less Appealing Partners, Researchers Say*, CABLE NEWS NETWORK (Sept. 28, 2017, 4:28 AM), <https://www.cnn.com/2017/09/28/health/american-men-less-marriageable-partner/index.html>.
9. Gillian B. White, *Inequality Between America’s Rich and Poor Is at a 30 Year High*, ATLANTIC (Dec. 18, 2014), <https://www.theatlantic.com/business/archive/2014/12/inequality-between-americas-rich-and-americas-poor-at-30-year-high/383866/>.
10. See Fleming, *supra* note 1.
11. Gretchen Livingston, *For Most Highly Educated Women Motherhood Doesn’t Start Until the 30s*, PEW RES. CTR. (Jan. 15, 2015), <http://www.pewresearch.org/fact-tank/2015/01/15/for-most-highly-educated-women-motherhood-doesnt-start-until-the-30s/> (“Among mothers with a bachelor’s degree, fully 40% were past their 20s when they had their first child, and 14% were at least 35. . . . These patterns of childbearing contrast dramatically with those of less educated women. Among mothers who did not attend college, the majority — 62% — had their first child before they reached the age of 25, and 17% became moms in their teens. Just 16% delayed childbearing until their 30s or later. Even among mothers who have some experience in college (but lack a bachelor’s degree), just 21% were 30 years or older when they had their first child. About half — 49% — were less than 25 when their first child arrived, and another 29% were in their late 20s. Less than two-in-ten women who lack a bachelor’s degree are childless.”).
12. See CARBONE & CAHN, *supra* note 2, at 75 (noting some of these particulars).
13. See, e.g., Katrin Bennhold, *Equality and the End of Marrying Up*, N.Y. TIMES (June 12, 2012), <http://www.nytimes.com/2012/06/13/world/europe/13iht-letter13.html?mcubz=0>.

associations are impacting the future of family stability in current and future generations.¹⁴

This article will analyze those effects in the context of economic outcomes, and determine how they have changed marriage decisions for millennials.¹⁵ It will also discuss how economic incentives are a key driver in the landscape of these varied types of intimate human connections.¹⁶ Measuring the economic and legal incentives underlying human decision-making, we seek to compare the benefits and detriments of each level of intimacy, from online dating to marriage itself, in what we term the millennial marriage evolution.¹⁷ This article works to solve current family instability arising from this income inequality gap.¹⁸ Family law scholars have proffered that “restoring family stability depends on the prospects for more equal and secure participation in the country’s economy.”¹⁹ Because a formidable connection exists between the legal and economic incentives and the economic success of intimate associations,²⁰ we analyze marriage as an economic market affected by supply, demand, consumer preferences, and constraints to work toward a meaningful analysis of efficiency and human capital.²¹ In the context of human

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14. Nearly sixty years ago, noted Harvard sociologist Carle Zimmerman described the potential for change in marriage importance, calling this “the reversal of long-term trends in family sociology.” CARLE C. ZIMMERMAN & LUCIUS F. CERVANTES, *SUCCESSFUL AMERICAN FAMILIES* 207 (1960) [hereinafter *SUCCESSFUL*] (discussing basic social changes to the family that began in the twentieth century). In 1956, Zimmerman noted the great need for review of our family system, but recognized that academic institutions even then had “been loath to give this study a footing in the curriculum or a share of research funds Law schools, bar associations, and intellectuals everywhere are beginning to ask what this family crisis means. The pooh and poohers are giving away to intellectual curiosity—even alarm.” CARLE C. ZIMMERMAN & LUCIUS F. CERVANTES, *MARRIAGE AND THE FAMILY: A TEXT FOR MODERNS* 32 (1956) [hereinafter *MARRIAGE AND THE FAMILY*]. *See generally* ROBERT L. LERMAN & W. BRADFORD WILCOX, *FOR RICHER, FOR POORER – HOW FAMILY STRUCTURES ECONOMIC SUCCESS IN AMERICA*, <https://ifstudies.org/ifs-admin/resources/for-richer-or-poorer-hep-2014.pdf> (explaining the current study that proves Zimmerman’s predicted points).
 15. *See infra* Part I.
 16. *See infra* Section II.B.
 17. *See infra* Sections II.A–B.
 18. *See infra* Section III.D.
 19. CARBONE & CAHN, *supra* note 2, at 9.
 20. *See* Michelle Singletary, *Being Married Has a Lot to Do with Economic Success, Scholars Say*, WASH. POST (Oct. 28, 2014), http://www.washingtonpost.com/business/get-there/being-married-has-a-lot-to-do-with-economic-success-scholars-say/2014/10/28/fdf7d11e-5eda-11e4-8b9e-2ccdac31a031_story.html.
 21. *See infra* Sections III.A–B.

socio-legal connections, we will analyze scholarship, data, and recent information from surveyed millennials to propose incentives and solutions to this growing concern.²²

Part I examines the millennial desire for employment, financial security, and education as well as the impact these desires have on decisions toward marriageability.²³ It considers the rise in numbers of single Americans,²⁴ data illuminating how to define millennials,²⁵ and evidence indicating that they are not convinced happiness is found in marriage.²⁶ Part II examines the legal incentives and economic connections between intimate associations and economic success.²⁷ It analyzes the economics behind America's marriage decline,²⁸ the effects of online dating and new forms of human romantic connection, and the effects of childbearing and child-rearing on national family strength.²⁹ Finally, Part III combines those discussions to consider the dependence of national economic success on current and future marital commitments, offering proposals to improve family stability nationally through marital strength.³⁰ In this section we proffer that the solution to incentivizing marriage for millennials may be increasing an understanding of the connection between prestige and parenthood, thereby effectively reconnecting parenthood with marriage.³¹ This connection, particularly with respect to the human capital of children,³² may provide a positive link between marriage and sex, family, and overall social benefits for both ends of the income inequality gap.³³ We suggest that incentivizing this connection could substantially diminish the income inequality gap currently evident in millennial marriages.³⁴

By examining this millennial marriage evolution, and exploring the likely future effects of these shifting elements on America, this article analyzes legal and economic incentives toward increasing family stability.³⁵ It offers specific microeconomic and

22. *See infra* Part III.

23. *See infra* Part I.

24. *See infra* notes 82–85 and accompanying text.

25. *See infra* Part I.

26. *See infra* notes 90–96 and accompanying text.

27. *See infra* Sections II.A–B.

28. *See infra* notes 132–68 and accompanying text.

29. *See infra* Sections II.C–D.

30. *See infra* Part III.

31. *See infra* Section III.C.

32. *See infra* Section III.C.

33. *See infra* Section III.C.

34. *See infra* Section III.D.

35. *See infra* Sections II.A–B.

macroeconomic solutions to the income inequality gap in the basic altruistic concept of parenting toward increased human capital levels in children.³⁶ This ultimately leads to increasing family strength, while concurrently decreasing the income inequality gap among millennial Americans.³⁷ This article presents a way forward by focusing on what millennials desire most out of life.³⁸

I. WHAT MILLENNIALS WANT

The millennial longing for a solid economic foundation seems key in decision-making, particularly toward marriageability.³⁹ Millennial women still want a spouse with a secure income,⁴⁰ and millennial men want it all—a spouse with a good income who can help pay off their debts,⁴¹ and stay at home.⁴² And even though “marriage has lost much of its social allure . . . it remains a desired milestone for about 70 percent of millennials.”⁴³

Current marriage patterns, however, are diverging to reveal an increasing divide between those who are married with means, and those who are single, of generally low-income, and possibly reliant on entitlement programs and social safety nets.⁴⁴ One explanation for delayed marriage among high-income millennials may be a new

36. *See infra* Section III.D.

37. *See infra* Part IV.

38. *See infra* notes 39–43, 62–67 and accompanying text.

39. *See* Meg Murphy, *NowUKnow: Why Millennials Refuse to Get Married*, BENTLEY U., <https://www.bentley.edu/impact/articles/nowuknow-why-millennials-refuse-get-married> (last visited Nov. 10, 2018).

40. *ECONOMIST*, *supra* note 6.

41. *See* Darla Mercado, *These Millennial ‘Gold-Diggers’ Aren’t Who You Think*, CNBC (Apr. 25, 2018), <https://www.cnbc.com/2018/04/25/millennial-men-want-spouses-to-help-pay-off-debt.html>. “[Forty-one] [] percent of millennial men would marry someone who earns more than they do so that their partner can pay off their debts. To compare, only 15 percent of millennial women have that aim.” *Id.*

42. *See* Stephanie Coontz, *Do Millennial Men Want Stay at Home Wives?*, N.Y. TIMES (Mar. 31, 2017), <https://www.nytimes.com/2017/03/31/opinion/sunday/do-millennial-men-want-stay-at-home-wives.html> (discussing changing trends among millennials toward more traditional families).

43. Murphy, *supra* note 39; *see also* Catherine Rampell, *Many Life Milestones Are out of Millennials’ Reach*, WASH. POST (Sept. 15, 2014), https://www.washingtonpost.com/opinions/catherine-rampell-many-life-milestones-are-out-of-millennials-reach/2014/09/15/4947ce34-3d12-11e4-b0ea-8141703bbf6f_story.html?noredirect=on&utm_term=.f14e6ab3a0a0 (“Even as marriage rates have plummeted — particularly for the young and the less educated — Gallup survey data show that young singles very much hope to get hitched. Of Americans age 18 to 34, only about 9 percent have both never been married and say they do not ever want to marry.”).

44. Murphy, *supra* note 39 (citing an internal Urban Institute report).

level of egocentricity.⁴⁵ Some labor market scholars have suggested a millennial tendency toward narcissism.

We are not suggesting that all [m]illennials are narcissists. Rather, there is a significant increase in the proportion of narcissists among the [m]illennial population than in other generations before them. This increase is becoming more apparent as [m]illennials enter the workforce and the level of narcissism among employees and managers rises.⁴⁶

Millennials have also been referred to as “GenMe” based on existing quantitative research illustrating an increasing tendency toward individualistic, materialistic, and narcissistic propensities.⁴⁷ Preferring short digital messaging,⁴⁸ millennials are detached from religious, social, and legal institutions.⁴⁹ Other sectors that deal with

45. See S. Mark Young, Fei Du, Kelsey Dworkis & Karri Joseph Olsen, *It's All About All of Us – The Rise of Narcissism and Its Implications for Management Control System Research*, 28 J. OF MGMT. ACCT. RES. 39, 43 (2016).

46. *Id.* at 44 (“Narcissism has been identified as an underlying psychological explanation regarding why individuals not only act in grandiose and selfish ways, but also engage in dysfunctional and corrupt behavior.”); see, e.g., Katherine Taken Smith, *Longitudinal Study of Digital Marketing Strategies Targeting Millennials*, 29 J. CONSUMER MKTG. 86, 87 (2012) (showing that studies targeting millennials indicate that perception is a key influencer for them).

47. Gabriel B. Grant, *Exploring the Possibility of Peak Individualism, Humanity's Existential Crisis, and an Emerging Age of Purpose*, 8 FRONTIERS IN PSYCHOL. 1, 1 (2017) (citing Patricia M. Greenfield, *The Changing Psychology of Culture from 1800 through 2000*, 24 PSYCHOL. SCI. 1722 (2013)). Interestingly, though not directly on point to our topic here, millennials have a growing skepticism toward liberal democracy. See Constantin Gurdgiev, *Millennials' Support for Liberal Democracy is Failing. An Investor Perspective* (July 12, 2017) (unpublished manuscript), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2993535 (noting that young voters are increasingly rejecting the liberal paradigm and the decline of liberal democratic values); see also Shaen Corbet & Constantin Gurdgiev, *Millennials' Support for Liberal Democracy Is Failing. A Deep Uncertainty Perspective* (Aug. 7, 2017) (unpublished manuscript), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3033949 (noting that the millennial generation has the lowest trust in democracy as a system of governance compared to all other generational age groups).

48. Livia Levine, *Eliciting Cooperation with Communication: Negotiating with the Millennial Generation*, Int'l Ass'n Conflict Mgmt. 24th Annual Conference Paper (June 25, 2011) (unpublished manuscript) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1872652.

49. *MILLENNIALS IN ADULTHOOD: DETACHED FROM INSTITUTIONS, NETWORKED WITH FRIENDS*, PEW RES. CTR. 4 (2014), http://www.pewresearch.org/wp-content/uploads/sites/3/2014/03/2014-03-07_generations-report-version-for-web.pdf.

millennials have also noticed a need for a different approach.⁵⁰ Lower income millennials tend to be characterized by less education and increased birth rates,⁵¹ and may lose public benefits upon marriage.⁵² While this gap may reflect differing concerns, both groups nonetheless evidence basic rules of assortative mating.⁵³

Assortative mating is the notion that market participants match with like participants, a concept that economist Dr. Gary Becker explained maximizes utility and efficiency in intimate relationship connections.⁵⁴ This notion accommodates the effect of love on that utility; “a marriage involving love is more efficient than other marriages, even when one of the mates is selfish, and increased efficiency benefits the selfish mate also. . . . marriages involving love are likely to be part of the equilibrium sorting because in market terms they are more productive than other marriages.”⁵⁵

Therefore, love provides a means by which greater utility and efficiency is attained within the bounds of marriage, according to Becker.⁵⁶ Assortative mating mechanisms also spill over to the family relationship; Dr. Carle Zimmerman recognized this concept of assortative mating as a sort of “marriage self-protection system,” where not only like individuals connect, but like families connect as well.⁵⁷ Dr. Zimmerman further noted that this “is due in part to

50. Even law professors have recognized the need for a different approach with millennials. *See* Leon R. Hoke, Teaching the Millennials: Do We Need a Paradigm Shift? (July 8, 2004) (unpublished manuscript), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=569482. Other scholars blame it all on Harry Potter. *See* Anthony Gierzynski & Julie Seger, Harry Potter and the Millennials: The Boy-Who-Lived and the Politics of a Muggle Generation (Aug. 1, 2011) (unpublished manuscript), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1902219 (asserting that Harry Potter may explain political views held by millennials).
51. *See* Livingston, *supra* note 11; *see also* Andrew Beuchamp & Catherine Pakaluk, The Paradox of the Pill: Heterogeneous Effects of Oral Contraceptive Access (Jan. 30, 2018) (unpublished manuscript), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2998268 (finding that the pill increased nonmarital births through decreased likelihood of marriage after a birth, effects which are almost entirely concentrated among less educated women).
52. Nina Bernstein, *Strict Limits on Welfare Benefits Discourage Marriage, Study Says*, N.Y. TIMES (June 3, 2002), <https://www.nytimes.com/2002/06/03/nyregion/strict-limits-on-welfare-benefits-discourage-marriage-studies-say.html>.
53. *See* GARY S. BECKER, A TREATISE ON THE FAMILY 108–23 (1993).
54. *See id.*
55. *Id.* at 124 (also referring to a more in-depth discussion on the matter in Chapter 8).
56. *See* BECKER, *supra* note 53, at 277–83.
57. MARRIAGE AND THE FAMILY, *supra* note 14, at 91. Though Zimmerman’s work is dated, he was a sociologist looking to the future, making his work extremely relevant to our understanding of what we face today.

extreme strain which has been placed upon it by the cultural developments and changes of our age.”⁵⁸ Therefore, marital decline is not only legal and economic, but it is also cultural.⁵⁹ “We are a great civilization faced with a problem of internal decay because of the fission of family values.”⁶⁰ Societal ‘strain’ and ‘internal decay’ within the family relationship have very real negative effects on society and present problems for legal and economics experts alike.⁶¹ Even though we are aware of the negative effects of assortative mating, the obvious results are difficult to avoid because individuals who share common interests and social station tend to connect with each other. There is a conundrum between loneliness and license, and economics tend to be a key part of the equation, even in relationships.⁶²

Millennials also want purpose.⁶³ Whether due to facing high rents relative to income and volatility in housing markets,⁶⁴ or their desire for individualism and meaning,⁶⁵ employment plays a key role in millennial incentives.⁶⁶ More than half of millennials want to start their own business to increase employment.⁶⁷ They want purposeful work and meaning in their jobs.⁶⁸ These goals can be analyzed

58. *Id.*

59. *Cf.* CARLE C. ZIMMERMAN, *THE FAMILY OF TOMORROW: THE CULTURAL CRISIS AND THE WAY OUT* 247–50 (1949) [hereinafter *FAMILY OF TOMORROW*].

60. *Id.* at 250 (adding that though science cannot civilize people, it can at least tell them how to civilize themselves).

61. *See* MARRIAGE AND THE FAMILY, *supra* note 14, at 17 (indicating that negative effects on society occur solely because of the internal decay within family relationships).

62. *See* Grant, *supra* note 47, at 10 (finding millennials to be both individualistic and pluralistic in their societal approach).

63. *Id.* at 1.

64. *See generally* Richard K. Green & Hyojung Lee, *Age, Demographics, and the Demand for Housing, Revisited*, 61 REG’L SCI. & URB. ECON. 86, 86, 96 (2016) (explaining that the housing market has been in crisis and that rent has been difficult to pay for many but both the housing market and income levels for millennials are improving).

65. *See* Grant, *supra* note 47, at 10.

66. Amy Adkins, *What Millennials Want from Work and Life*, GALLUP (May 10, 2016), <https://www.gallup.com/workplace/236477/millennials-work-life.aspx> (stating that because millennials want to spend money and want financial stability, employment plays a large role in their lives).

67. YOUNG INVINCIBLES, NEW POLL FINDS MORE THAN HALF OF MILLENNIALS WANT TO START BUSINESSES 1 (2011) (revealing that 54% either wanted to start a business or already had started one, and 38% had delayed doing so because of the economy).

68. *See* Grant, *supra* note 47, at 1. We are convinced that purpose and meaning yields a truly abundant life, not only for millennials, but for every generation. *See* *John* 10:10 (New Living Translation) (“The thief’s purpose is to steal and kill and destroy. My purpose is to give them a rich and satisfying life.”).

through two economic effects underlying the impact of changing incentives faced by millennials: the substitution effect and the income effect.⁶⁹ Economists define the substitution effect as follows: when the price of a good changes, the rate at which an individual can exchange one good for another changes, and the total purchasing power of that individual's income is altered.⁷⁰ For example, if one good becomes cheaper, an individual will have to give up less of another good to purchase more of the cheaper good.⁷¹ Similarly, women have seen a substitution effect with respect to their careers, as increased fertility control methods have decreased the cost of being in a relationship and being in the workforce, causing a delay of motherhood by millennial women.⁷² The substitution effect reflects changes in demand due to changes in the rate of exchange between goods, such as demand to work more and have children later in life.⁷³ In a situation where the price of one good decreases, a consumer is left with more purchasing power, which means that the amount of overall goods purchased will increase; this change in demand due to increased purchasing power is known as the income effect.⁷⁴ These two economic effects on demand underlie the changing millennial incentives relative to previous generations.⁷⁵ Sex has become less costly for females while marriage and commitment have become

69. See *infra* notes 70–74 and accompanying text.

70. HAL R. VARIAN, INTERMEDIATE MICROECONOMICS: A MODERN APPROACH 137 (Jack Repcheck ed., 8th ed. 2010).

71. *Id.*

72. Cf. Gretchen Livingston, *They're Waiting Longer, but U.S. Women Today More Likely to Have Children than a Decade Ago*, PEW RES. CTR. (Jan. 18, 2018), <http://www.pewsocialtrends.org/2018/01/18/theyre-waiting-longer-but-u-s-women-today-more-likely-to-have-children-than-a-decade-ago/> (demonstrating how women are delaying motherhood). This trend is noticeable across races and ethnicities among millennial women. *Id.* “[D]elays in childbearing have continued among women in their 20s: While slightly more than half (53%) of women in their early 40s in 1994 had become mothers by age 24, this share was 39% among those who were in this age group in 2014.” *Id.*

73. VARIAN, *supra* note 70.

74. *Id.*

75. Cf. Roni Caryn Rabin, *Put a Ring on It? Millennial Couples Are in No Hurry*, N.Y. TIMES (May 29, 2018), <https://www.nytimes.com/2018/05/29/well/mind/millennials-love-marriage-sex-relationships-dating.html>; Michael Greenstone & Adam Looney, *The Marriage Gap: The Impact of Economic and Technological Changes on Marriage Rates*, BROOKINGS (Feb. 3, 2012), <https://www.brookings.edu/blog/jobs/2012/02/03/the-marriage-gap-the-impact-of-economic-and-technological-change-on-marriage-rates/> (discussing how numerous arguments for why marriage rates are declining among millennials ignores the changes in demand for marriage).

costlier for all as more and more women are financially stable outside of marriage.⁷⁶

Incentives have also changed for millennials compared to previous generations due to increased assortative mating affecting economic inequality,⁷⁷ female employment being less costly,⁷⁸ changing social norms,⁷⁹ and increased focus on self rather than children and family.⁸⁰ These are in addition to the massive effects of instant social media,⁸¹ as “online dating seems to have further complicated the already mysterious process of falling in love.”⁸² All of these factors analyzed above have caused millennial incentives for marriage, and hence the institution of marriage, to evolve for this generation, which affects individuals’ future choices regarding matrimony.⁸³

Marriage is in sharp decline among the millennial generation, as “the percentage of millennials marrying by age 40 will still decrease below the level for any previous generation of Americans.”⁸⁴ Just

76. See Claudia Goldin & Lawrence F. Katz, *The Power of the Pill: Oral Contraceptives and Women’s Career and Marriage Decisions*, 110 J. POL. ECON. 730, 763–64 (2002).

77. See Tyler Cowen, *The Marriage of Power Couples Reinforce Income Inequality*, N.Y. TIMES (Dec. 24, 2015), <https://www.nytimes.com/2015/12/27/upshot/marriages-of-power-couples-reinforce-income-inequality.html>.

78. See e.g., Livingston, *supra* note 11.

79. Fleming, *supra* note 1.

80. See Greenfield, *supra* note 47, at 1729.

81. See Elisabeth Sherman, *Inside the Awkward World of Millennial Dating*, ROLLING STONE (Nov. 16, 2016, 2:56 PM), <https://www.rollingstone.com/culture/culture-features/inside-the-awkward-world-of-millennial-dating-108651/>. Speaking as a millennial, Sherman states “[w]e proudly tout our dating hang-ups on a forum that lets us broadcast our problems in the moment.” *Id.*

82. *Id.* (discussing how millennials are handling sexuality differently). Sherman goes on to state “[w]ith that camaraderie comes a lessening of the shame that the generations before ours felt about sex. Our desires are no longer strange; we feel free to discuss all of our preoccupations with sex and dating, no matter how unusual or potentially embarrassing. Studies show that the stigma around sex is fading: One 2012 survey from the University of San Diego found that 58 percent of respondents said there was nothing wrong with sex before marriage, and another study in the Archives of Sexual Behavior found that 45 percent of us of have had casual sex, compared to only 35 percent in the Eighties.” *Id.*

83. See *supra* notes 39–82 and accompanying text.

84. STEVEN P. MARTIN, NAN MARIE ASTONE & H. ELIZABETH PETERS, URBAN INST., FEWER MARRIAGES, MORE DIVERGENCE: MARRIAGE PROJECTIONS FOR MILLENNIALS TO AGE 40, at 1 (2014), <https://www.urban.org/sites/default/files/publication/22586/413110-Fewer-Marriages-More-Divergence-Marriage-Projections-for-Millennials-to-Age-.PDF>.

26% of the millennial generation is married.⁸⁵ The median age at first marriage is 27 for women, 29 for men, and an unprecedented portion of millennials will remain unmarried through age forty, while 25% of millennials are likely to never be married.⁸⁶ Marriage projections suggest an American population dominated by singles could be imminent.⁸⁷

Millennials also present many a paradox.⁸⁸ “[T]hey are relatively unattached to organized politics and religion, linked by social media, burdened by debt, distrustful of people, in no rush to marry—and optimistic about the future.”⁸⁹ They are more upbeat about what could be forthcoming,⁹⁰ and tend to be the best educated generation in American history.⁹¹ Even though they are not in a rush to marry, most married millennials say they would like to marry.⁹²

Millennials are clearly delaying marriage longer than any generation before them, in spite of evidence suggesting that many millennials intend to marry at some point. For example, a 2013 Gallup poll found that 86% of single/never married Americans aged 18 to 34 (roughly equivalent to the millennial generation) wanted to get married someday.⁹³

For millennials, marriage has lost much of its social allure, possibly due to a culture of easy hookups⁹⁴ and easy divorce,⁹⁵ but it

85. PEW RES. CTR., *supra* note 49, at 2; *see also* Fleming, *supra* note 1, at 2 (noting that 26% of millennials were married in 2014). Portions of this data may be due to the fact that some millennials may still be considered too young to be married. For example, those born at the end of the generation are now in their early twenties, and may well not be ready for marriage.

86. Murphy, *supra* note 39.

87. MARTIN ET AL., *supra* note 84, at 4. The implications for national TFR (total fertility rate) could be staggering when fully one quarter of a nation’s millennial population may remain single. *See* Murphy, *supra* note 39. While an exploration of that prospect is beyond the scope of this article, it certainly deserves more comprehensive research.

88. *See infra* notes 89–93 and accompanying text.

89. PEW RES. CTR., *supra* note 49, at 4.

90. *Id.* at 7 (noting that 95% of millennials believe “the country’s best years are ahead”).

91. *Id.* at 9.

92. *Id.* at 5 (finding that 69% of unmarried millennials want to marry). Gallup found this number to be even higher. Fleming, *supra* note 1. “Millennials are clearly delaying marriage longer than any generation before . . .” *Id.*

93. Fleming, *supra* note 1.

94. *See* Sherman, *supra* note 81 (noting that a majority of millennials do not view premarital sex negatively and that a large percentage have had casual sex).

nonetheless remains a desired milestone.⁹⁶ Research suggests that marriage for millennials is “more prevalent among those with higher incomes and more education,” and may be economically out of reach for many millennials.⁹⁷ All data strongly suggests that millennials want happiness, but they are not convinced it is found in marriage.⁹⁸

Another key factor in this scenario is that sex outside of marriage has become less costly as children have been removed from the costs of sex.⁹⁹ This has created substitution and income effects on women as women choose to work more and have children later.¹⁰⁰ For both men and women, however, another effect has taken place. Hookups have nearly always occurred in American society, however, the prevalence of this behavior is beyond the level that previous generations have witnessed.¹⁰¹ As the social cost of having sexual relations outside of marriage has decreased,¹⁰² there has been an implied demand shift due to substitution and income effects as more millennials participate in such behavior.¹⁰³ Millennials consider social acceptance and tolerance of any kind of sexual behavior as a benefit they are entitled to, provided that others are not injured in the

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95. See Lawrence M. Friedman & Robert V. Percival, *Who Sues for Divorce? From Fault Through Fiction to Freedom*, 5 J. LEGAL STUD. 61, 80–81 (1976) (arguing that the evolution of no-fault divorce has made divorce easier and less costly both financially and socially); see also Lynn D. Wardle, *No-Fault Divorce and the Divorce Conundrum*, 1991 BYU L. REV. 79, 79 (1991) (noting that by 1985 all but one U.S. jurisdiction “had adopted some generally available, explicit non-fault ground for divorce”).
 96. Murphy, *supra* note 39 (suggesting that marriage is desired but economically out of reach for many millennials).
 97. *Id.* Money still makes a difference in marriage, and most women still will not marry a man until he has a stable job. See Luhby, *supra* note 6. See also our discussion on this *infra* Section II.
 98. Cf. Mark Hall, *What the Ideal Workplace Future Looks Like, According to Millennials*, FORBES (Nov. 8, 2017, 10:00 AM), <https://www.forbes.com/sites/mark-hall/2017/11/08/what-the-ideal-workplace-of-the-future-looks-like-according-to-millennials/#516de2bb4228> (explaining that a good workplace culture is important to millennials, including being happy with their surroundings and being in an environment where they feel valued).
 99. Goldin & Katz, *supra* note 76, at 731, 747.
 100. *Id.* at 731; see also VARIAN, *supra* note 70.
 101. Daniel Strunk, *How to End the Hook-up Culture: An Economic and Institutional Examination of the Hook-up Culture on College Campuses*, 6–7 (Apr. 21, 2014) (unpublished undergraduate thesis, Duke University) (on file with Duke University Libraries), <https://dukespace.lib.duke.edu/dspace/bitstream/handle/10161/8470/Strunk.Daniel.Final.Hook-Up%20Culture%20Paper.pdf?sequence=1>.
 102. See Goldin & Katz, *supra* note 76, at 747.
 103. See Strunk, *supra* note 101, at 7.

process of one's own gratification.¹⁰⁴ These two changes in the costliness of intimate relations outside of marriage have caused a massive disconnect between sex and marriage with absolutely no social, financial, or even moral constraints.¹⁰⁵

Even while the data suggests strong individualism among the millennial generation, they also highly value children, especially their own.¹⁰⁶ In his work on the rise in millennial search for purpose, Yale researcher Gabriel Grant discovered that purpose in life for millennials included the self, but also a component of “beyond-the-self,” which moved the GenMe to “a GenWe or purpose based generation . . .” with more of an integrated collectivist attitude.¹⁰⁷ He found the highest correlation of individualist indicators that trended away from individualistic values with highest value for words such as “decision” and “unique.”¹⁰⁸ Along those lines (possibly) 47% of births to women in the millennial generation were nonmarital,¹⁰⁹ though millennials seems to strongly disapprove of this trend.¹¹⁰ Pew Research Center found that “[a]bout six-in-ten adults in all four generations say that more children being raised by a single parent is bad for society; this is the most negative evaluation by the public of any of the changes in family structure tested in the Pew Research

104. Charlotte Alter, *Millennials More Tolerant of Premarital Sex, but Have Fewer Partners*, TIME (May 5, 2015), <http://time.com/3846289/boomers-generations-millennials-sex-sex-trends-sexual-partners/> (explaining that the majority of millennials are more tolerant of premarital sex than previous generations have been and stating that premarital sex has never been a taboo for millennials).

105. See Goldin & Katz, *supra* note 76 at 731, 747; Karen Kaplan, *The Paradox of Millennial Sex: More Casual Hookups, Fewer Partners*, L.A. TIMES (May 9, 2015, 7:00 AM), <http://www.latimes.com/science/sciencenow/la-sci-sn-millennials-sex-attitudes-20150508-story.html#>.

106. See WENDY WANG & PAUL TAYLOR, FOR MILLENNIALS, PARENTHOOD TRUMPS MARRIAGE, PEW RES. CTR. 1 (2011), <http://assets.pewresearch.org/wp-content/uploads/sites/3/2011/03/millennials-marriage.pdf> (citing another Pew Research Center analysis of attitudinal surveys, noting a 22% gap in the way millennials value parenthood over marriage).

107. Grant, *supra* note 47, at 10. His study used Google Book's “Ngram” viewer to test his hypothesis that interest in or demand for purpose in life is on the rise. *Id.* at 2. His study indexed frequencies of words and phrases used in currently digitized books spanning over the past 200 years; the study encompassed approximately 4% of books ever published. *Id.* at 4.

108. *Id.* at 7, Figure 6. These words ranked much higher on his frequency of use scale than “individual” and “self.” *Id.*

109. PEW RES. CTR., *supra* note 49, at 10.

110. *Id.*

survey.”¹¹¹ Despite these findings, a 2014 Gallup poll also found that there does not appear to be any evidence that millennials are forgoing having children simply because they are not married.¹¹² “[A]lmost half of the oldest millennials who have never married nonetheless have children,” and even among the youngest millennials less than half have no children.¹¹³ “Most millennials have not yet married, and they are waiting longer to marry. For 34-year-olds, just over half (56%) are married, and of these, 83% have children.”¹¹⁴ Therefore, this data reveals that when individuals do finally marry they almost always have children.

By understanding the millennial mindset a bit better through this research, it may be possible to unravel and even repair this marriage evolution through usage of the proper incentives.

II. INCENTIVES MATTER

The legal and economic incentives that connect intimate associations and economic success are key to this discussion on millennial marriage.¹¹⁵ While millennials have participated to a high degree in ushering in new forms of human romantic connection, from social media to online dating,¹¹⁶ marriage is still a transactional affair.¹¹⁷

As a bargained for exchange, marriage has its incentives, as well as its disincentives, and both are largely legal and economic.¹¹⁸

111. *Id.* at 4 (citing their own Chapter 3 data, and referring to the millennial, Gen X, baby boomer, and traditionalist or silent generations as the four generations).

112. Fleming, *supra* note 1.

113. *Id.*

114. *Id.* (noting, however, that “a substantial number (46%) of those who have never been married and are well into their 30s have children. This may represent a seismic shift in the connection between marriage and child-rearing because as recently as 2000, the comparable percentage of single/never married 30- to 34-year-olds with children was just 30%.”).

115. *See infra* Sections II.A–B.

116. *Cf.* ANDREW PERRIN, SOCIAL MEDIA USAGE: 2005-2015, PEW RES. CTR. 3 (2015), http://www.pewresearch.org/wp-content/uploads/sites/9/2015/10/PI_2015-10-08_Social-Networking-Usage-2005-2015_FINAL.pdf (showing that 90% of young adults use social media).

117. *See, e.g.,* Chen, *supra* note 5; *see generally* Kathleen Knudsen, Would Jane Austen be on eHarmony? How Changes in Women’s Legal Status Have Influenced the Choice of a Spouse (June 2, 2016) (unpublished manuscript), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2788753 (providing a 300-year overview of how the marriage bargain has changed for women).

118. BRIAN H. BIX, FAMILY LAW 153 (2013).

Marriage is a legal relationship which has a lot to do with economic success.¹¹⁹

A. *Legal Incentives*

There are both incentives and disincentives for marriage under the laws surrounding this intimate relationship.¹²⁰ Between spouses, marriage requires a mutual duty of support for food, shelter, clothing, medical needs, etc.¹²¹ Under the doctrine of necessities, everything that a married person legitimately needs is required by law as a spousal provision.¹²² Marriage advances property sharing and joint ownership of both real and personal property gained during the marriage.¹²³ Marriage also contains within itself a special confidential aspect of communication between spouses known as the marital privilege, which encourages and empowers spouses to protect each other, their privacy together, and their private confidential communications.¹²⁴ These principles originated in common law and have been codified in state domestic relations laws.¹²⁵ The joint ownership and care of income and other marital property assets creates strong momentum in building wealth, making marriage one of the best investments ever made by two people.¹²⁶ These are just the chief ways that marriage provides positive legal incentives. Conversely, these same obligations in marriage create duties in divorce, such as a requirement for spousal support for a needy spouse, or an equitable or equal share of property gained during the marriage.¹²⁷ These disincentives seem to have become a strong scapegoat for a desire to not enter into marriage at all.¹²⁸

119. See Singletary, *supra* note 20.

120. BIX, *supra* note 118, at 153.

121. LYNN D. WARDLE, MARK A. STRASSER & LYNNE MARIE KOHM, FAMILY LAW FROM MULTIPLE PERSPECTIVES 412 (2014).

122. *Id.*

123. See BIX, *supra* note 118, at 153, 156.

124. See James Joseph Duane, *The Bizarre Drafting Errors in the Virginia Statute on Privileged Marital Communications*, 12 REGENT L. REV. 91, 91–92 (1999).

125. WARDLE, *supra* note 121, at 412.

126. LINDA J. WAITE & MAGGIE GALLAGHER, THE CASE FOR MARRIAGE 109, at 123 (2000).

127. BIX, *supra* note 118, at 171–73 (offering as a justification for alimony the obligation to support a needy spouse after divorce); PETER N. SWISHER, LAWRENCE D. DIEHL & JAMES R. COTTRELL, Family Law: Theory, Practice and Forms §§ 9.1, 11.1, Westlaw (database updated Apr. 2018) (explaining the two theories of marital property systems used by all fifty states).

128. *Cf.* Fleming, *supra* note 1 (discussing millennials' hesitance to marry).

Marriage is considered as an economic partnership and the law treats it accordingly.¹²⁹ This is particularly evident in how married couples take title to property, as tenants by the entirety, with a full right of survivorship interest, meaning each spouse owns a one-half undivided interest in the property in life and by law passes it all to the surviving spouse in death.¹³⁰ These theories of economic partnership do not apply in cases of nonmarital cohabitation in most jurisdictions under a family law framework,¹³¹ though some states have chosen to view cohabitation as a form of quasi-contract rather than a relational status, even if the parties may not have any written or oral agreement to do so.¹³² These legal incentives and disincentives tend to create marital strength and stability over time.¹³³

B. *Economic Incentives*

Within marriage, spouses are equal not only legally but also economically.¹³⁴ This and the benefits of marriage are sometimes referred to as the “marriage premium,” a concept revealed in research demonstrating that marriage increases earnings for men, creates better economic stability for children, and can help lift individuals out of poverty.¹³⁵ Marriage can have a positive financial impact on earnings, for example, due to “the presence of positive female influences, happiness at home and ending discrimination by employers against unmarried men.”¹³⁶

Household specialization is a particular benefit to the marriage premium for millennials if the patterns of specialization are gender neutral, as “[w]omen’s participation in paid work and men’s involvement in family responsibilities are increasingly considered the

129. SWISHER ET AL., *supra* note 127, § 4.1.

130. 41 AM. JUR. 2D *Husband and Wife* § 18, Westlaw (database updated Aug. 2018). *But cf.* 41 AM. JUR. 2D *Husband and Wife* § 20, Westlaw (database updated Aug. 2018) (explaining that tenancy by the entirety is not an available estate in all jurisdictions).

131. *See, e.g.*, *Floyd v. Floyd*, 436 S.E.2d 457, 459 (Va. Ct. App. 1993) (stating that there is no economic partnership between unmarried cohabitants).

132. *Compare* *Marvin v. Marvin*, 557 P.2d 106, 110, 122–23 (Cal. 1976) (holding that cohabitation yielded a contract in quantum meruit), *with* *Hewitt v. Hewitt*, 394 N.E.2d 1204, 1210–11 (Ill. 1979) (holding that marriage is required for parties to be granted mutually enforceable property rights).

133. *See* discussion *supra* Section II.A.

134. *See* 41 AM. JUR. 2D *Husband and Wife* § 18 (database updated Aug. 2018); 41 AM. JUR. 2D *Husband and Wife* § 140 (database updated Aug. 2018).

135. Serena Elavia, *Is the ‘Marriage Premium’ Fact or Fiction?*, FOX BUS. (Dec. 10, 2015), <https://www.foxbusiness.com/features/is-the-marriage-premium-fact-or-fiction> (discussing the conventional wisdom and new research that opposes the idea).

136. *Id.*

normative ideal” since the early 1980s, the beginning of the millennial generation.¹³⁷ “Despite declining gender-traditional household specialization, the millennial cohort garnered larger marriage premiums for women and men.”¹³⁸ So while millennials may be shying away from marriage, they are the group who can benefit from it most.¹³⁹ And although cohabitation seems to be replacing marriage for many millennials,¹⁴⁰ as the benefits of specialization can be achieved in the short term under such arrangements, it is more the choice of less educated lower income individuals.¹⁴¹ Thus, the greater benefits of living together gained in marriage are not realized.¹⁴²

Additional economic benefits of marriage can include tax incentives, but those can be both bonuses and penalties.¹⁴³ A married couple receives a marriage tax bonus if they pay fewer taxes filing jointly than they would if they were single, but a married couple might incur a marriage tax penalty if filing jointly they pay more income taxes than they would pay if they were single and filed as individuals.¹⁴⁴

Married couples enjoy each other’s mutual financial support.¹⁴⁵ Though that support is required by family law code,¹⁴⁶ it also creates

137. Michelle J. Budig & Misun Lim, *Cohort Differences and the Marriage Premium: Emergence of Gender-Neutral Household Specialization Effects*, 78 J. MARRIAGE & FAM. 1352, 1352–53 (2016) (explaining that “[h]ousehold specialization mattered only among millennials, where it is gender neutral . . .”).

138. *Id.* at 1352. “These trends suggest that gender-traditional household specialization may be less predictive of marriage premiums among the newest cohort of young Americans engaged in family formation.” *Id.* at 1353.

139. *See id.* at 1352–53.

140. RICHARD FRY & D’VERA COHN, *LIVING TOGETHER: THE ECONOMICS OF COHABITATION; PREVALENCE AND GROWTH OF COHABITATION*, PEW RES. CTR. 7 (2011), <http://www.pewresearch.org/wp-content/uploads/sites/3/2011/06/pew-social-trends-cohabitation-06-2011.pdf>.

141. *Id.* (noting that “there are notable differences by educational attainment: Cohabitation is more prevalent among the less educated and its rise in this group has been accompanied by a decline in marriage rates.”). College-educated adults, on the other hand, are more likely to be married. *Id.*

142. *See* THE TAX POLICY BRIEFING BOOK: A CITIZENS’ GUIDE TO THE TAX SYSTEM AND TAX POLICY 176 (2016), https://www.taxpolicycenter.org/sites/default/files/briefing-book/tpc-briefing-book_0.pdf (examining marriage tax “penalties” and “bonuses”).

143. *Id.*

144. *Id.*

145. *See* Richard Satran, *Marriage Benefit: Couples’ Money Secrets Everyone Can Use*, U.S. NEWS & WORLD REP. (Sept. 20, 2013, 2:25 PM), <https://money.usnews.com/money/personal-finance/articles/2013/09/20/marriage-benefit-couples-money-secrets-everyone-can-use>.

an economic safety net for each partner.¹⁴⁷ In other words, if one career spouse has job or employment difficulties, he or she has a marriage partner to fall back on.¹⁴⁸ On the other hand, this could create a “free riding” problem, as economists call it, if the needy spouse takes lengthy advantage of that support.¹⁴⁹ Fully analyzing out this concept, one can see that a spouse who does not have a career can economically exacerbate this problem.¹⁵⁰ That mutual support, nonetheless, is generally an economic advantage of marriage.¹⁵¹

As seems to be evident in the millennial generation, particularly among lower income millennials, these benefits are most often outweighed by the incentives not to get married.¹⁵² Sexual intimacy is no longer a prominent reason favoring marriage due to altered sexual norms.¹⁵³ Millennials have essentially grown up in a sexual hookup culture, somewhat forcing out the traditional social checks on sexuality.¹⁵⁴ There is no longer any guilt or social remorse for hooking up, or at least there should be no appearance of anything similar to remorse, and there seems to be complete tolerance for any sexual behavior.¹⁵⁵ This may be one of the biggest changes for millennials that other generations have not faced because cultural

146. SWISHER ET AL., *supra* note 127, § 4.7.

147. *See* BIX, *supra* note 118, at 171–73 (explaining this foundational understanding, as reflecting “our society’s ideas about what the function of marriage is, what obligations spouses have to one another, the connection between those obligations and marital (mis-)behavior, and so forth”).

148. *Cf.* VARIAN, *supra* note 70, at 705–06 (showing that, unlike married partners who do not need to make the same analysis, people often decide how much of their “private good” to contribute towards the public good based on how much others are contributing).

149. *See id.* Free riding occurs in the case of a public good. *See id.* at 705–07. In the context of spousal support, one partner has turned his or her income (originally a private good) into a public good to be shared with his or her partner through the institution of marriage. *Cf. id.* at 706. Because of this, a free riding problem is created and, according to Varian, “the provision of a public good by any one person will tend to reduce the other peoples’ provision.” *Id.* at 707. “Thus in general there will be too little of the public good supplied in a voluntary equilibrium, relative to an efficient provision of the public good.” *Id.*

150. *See* VARIAN, *supra* note 70, at 706.

151. Sandra Alcaide & Lynne Marie Kohm, *Obergfell: A Game-Changer for Women*, 14 AVE MARIA L. REV. 99, 106 (2016).

152. *See* GOOD MEN PROJECT, *supra* note 4.

153. *See, e.g.*, Alter, *supra* note 104.

154. *Id.*; *see also* Lauren Winner, *Foreword* to DONNA FREITAS, SEX AND THE SOUL: JUGGLING SEXUALITY, SPIRITUALITY, ROMANCE, AND RELIGION ON AMERICA’S COLLEGE CAMPUSES, at xviii (2008).

155. *See* Winner, *supra* note 154, at xiv; Strunk, *supra* note 101, at 5.

acceptance of sexual freedom has given license to unashamed sexual relations, with no other tangible benefits.¹⁵⁶ Furthermore, cohabitation is one of the most popular forms of economic advantage in minimizing living costs, and maximizing utility or happiness, and it seems to be a very rational choice until a breakup occurs and there is no compensation for those lost benefits.¹⁵⁷ Concurrently, having a sexual partner that one is not attached to for life may seem to increase the benefits of cohabitation over marriage, but it actually works to stifle long-term economic benefits.¹⁵⁸

C. *Social Incentives*

Some think not, but studies seem to show that the problem with marriage decline is the impact it has on children and long-term economics.¹⁵⁹ Social scientists have found:

Just when new legal and social freedoms, technological advances, and economic opportunities have given American women immense control over when (and if) they marry and when (and if) they choose to bear a child, social scientists have come to a troubling conclusion: children seem to benefit when parents get married and stay that way. Though many single mothers are admirable parents, it remains true that, on average, children raised outside of marriage typically learn less in school, are more likely to have children while they are teens, are less likely to graduate from high school and enroll in college, and have more trouble finding jobs as adults.¹⁶⁰

But the question at hand—why is marriage declining—broadens the scope of this economic discussion. Coupling the changes of

156. See Winner, *supra* note 154, at xvii. “At first, I was taken aback by students’ stories about the party scene and the degrading experiences that many of them, especially the women, endured regularly. We are ostensibly living in the era of feminism and post-sexual revolution. Weren’t my students supposed to be beneficiaries of these movements, empowered and in control of their sexuality? I was even more surprised to learn exactly how powerless they felt to change this culture that made them so unhappy—at least before they realized that the person next to them (and the person next to *that* person) wished she or he could change things, too.” *Id.* at xviii.

157. See Lynne Marie Kohm & Karen M. Groen, *Cohabitation and the Future of Marriage*, 47 REGENT U. L. REV. 261, 273–74 (2005).

158. See *id.*

159. See GOOD MEN PROJECT, *supra* note 4.

160. EDIN & KEFALAS, *supra* note 5, at 2–3.

social acceptance of sexual freedoms with the economic benefits of cohabitation seems to make marriage less likely for millennials, especially prior to attaining a successful career.¹⁶¹ Preferences and constraints determine economic outcomes in markets, including social markets.¹⁶² As previously noted, millennial women prefer a spouse with a secure income,¹⁶³ and millennial men prefer financial success and eventually a stable wife.¹⁶⁴ Based on these preferences, generally marriageable individuals with certain desired qualities will command a higher price in the marriage market, as increased demand apart from increased supply results in higher prices.¹⁶⁵ Transactions between an individual with few preferred qualities are constrained by what he or she could offer to a spouse, finding it difficult to marry an individual with many such preferred qualities.¹⁶⁶ The result is highly preferred individuals end up marrying other highly preferred individuals and vice versa, thereby dramatically increasing the economic inequality gap, and these are the effects of assortative mating discussed previously.¹⁶⁷ This effect is exacerbated by the fact that individuals are marrying later in life due to the desire to be self-sufficient, and maybe even having enough wealth to be desirable to another—or at least not undesirable.¹⁶⁸ Once career success is attained, personal success seems to become the next goal.¹⁶⁹ Marriage, after career success, acts as a social symbol of status and happiness; a sign that one has made it to a successful and secure point in one's career.¹⁷⁰ This makes sense, as millennials still respect prestige, or community stature, as evidenced in social media where social capital is aired on instant forums daily, even momentarily.¹⁷¹ An individual's possessions, opportunities, and good looks gathered together with his or her connections, at once seem to gain or lose

161. Rabin, *supra* note 75.

162. *See* VARIAN, *supra* note 70, at 92.

163. *See* ECONOMIST, *supra* note 6.

164. *See* Rabin, *supra* note 75.

165. *Cf.* VARIAN, *supra* note 70, at 3 (“Prices adjust until the amount that people demand of something is equal to the amount supplied.”).

166. *Cf.* VARIAN, *supra* note 70, at 96.

167. BECKER, *supra* note 53, at 108.

168. *See* ECONOMIST, *supra* note 6.

169. *See* Mercado, *supra* note 41.

170. Rachel Arocho & Claire M. Dush Kamp, *Distant Horizons: Marital Expectations May Be Dampened by Economic Circumstances*, 7 COUPLE & FAM. PSYCHOL. 1, 8 (2018).

171. *See* Carmen Fishwick, *I, Narcissist—Vanity, Social Media, and the Human Condition*, GUARDIAN (Mar. 17, 2016, 3:00 EDT), <https://www.theguardian.com/world/2016/mar/17/i-narcissist-vanity-social-media-and-the-human-condition>.

prestige. Jobs are one factor toward increasing social capital but equally important are relationship statuses and children, both of which enable an increase in social capital. Because social prestige is esteemed, it is also considered costly; therefore, it is highly valued.

D. Parenthood over Marriage for Millennials

Moreover, the data on millennials is revealing that “[t]oday’s 18- to 29-year-olds value parenthood far more than marriage.”¹⁷² While “the overall incidence of parenthood in young adults has declined[,]” just over half or 51% “of all births among [m]illennials in 2008 were to unwed mothers”¹⁷³ “Millennials are less likely than older generations to link marriage with parenthood[,]”¹⁷⁴ and young men are much less likely to live with their children than are young women.¹⁷⁵ Additional Pew Research Center research has illustrated that the more marriage has been legally expanded,¹⁷⁶ diluted by divorce, and economically supplanted by cohabitation, the more non-marriage has seemed to outweigh marriage.¹⁷⁷ Yet “being a good parent is one of the most important things in life”¹⁷⁸ for a millennial.

Childbearing apart from marriage is also incentivized for a portion of the population.¹⁷⁹ Prior to the tax changes implemented in 2017, a single parent could, in fact, face an effective marginal tax rate of over 100% if that single parent moves from the poverty level to 150% of

172. WANG & TAYLOR, *supra* note 106 (citing another Pew Research Center analysis of attitudinal surveys, noting a 22% gap in the way millennials value parenthood over marriage).

173. *Id.* at 2.

174. *Id.* at 3.

175. *Id.* at 6. Whether this phenomenon leaves men disadvantaged or off the hook, so to speak, is an excellent debate beyond the scope of this article. However, in our opinion, it is clear that children are most disadvantaged by this fact, as they are inevitably deprived of a strong relationship with their father by virtue of the fact that most do not live in a home with their father.

176. Marriage expansion has occurred legally by minimizing the requirements for marriage entry. *See generally* Alcaide & Kohm, *supra* note 151 (discussing the changes to marriage entry and the resulting harms to women).

177. *Cf.* WANG & TAYLOR, *supra* note 106, at 6 tbl.2 (revealing more similarity between these categories among millennials than Gen X).

178. *Id.* at 7–8 (“[T]his is the case regardless of their parents’ marital status.”). It is here that I remember one of my (Kohm) millennial students remark that her mother told her “spouses come and go, but children are forever,” foreshadowing how divorce may be one of the key factors in this millennial attitude on children, though that notion is more anecdotal than the result of scientific research.

179. *See* Elaine Maag et al., *How Marginal Tax Rates Affect Families at Various Levels of Poverty*, 65 NAT’L. TAX J. 759, 762 n.2 (2012).

the poverty level.¹⁸⁰ This effect was due to lost government transfers and increased taxes, in addition to the marginal cost of commuting to work, paying for child care, etc.¹⁸¹ Effectively, this created a strong economic incentive for single parents below the poverty level not to enter the workforce or marry.¹⁸² Additionally, many of these individuals would be fiscally punished for marrying rather than remaining a single parent:

Although the Economic Growth and Tax Relief Reconciliation Act of 2001 and subsequent related legislation did much to reduce or eliminate marriage penalties for many middle- and upper-middle-income families, many low- and moderate-income families still pay higher taxes as a married couple than they would if they were two households, each headed by one adult (Acs and Maag, 2005; Steuerle and Carasso, 2005). These marriage interactions extend up the income scale. For instance, the value of tax credits such as the Child and Dependent Care Tax Credit (CDCTC) is also altered according to the secondary earner's income. In this case, a family with \$45,000 of income earned by a single parent is eligible for the CDCTC while a married couple with the same income earned by one parent and no income earned by the other parent is ineligible for the CDCTC. Marriage bonuses have also been well-documented (Wheaton, 1998).¹⁸³

While we do not yet know the extent to which the tax changes in 2017 will affect marriage incentives for lower income levels and the middle class, it is clear that some of the changes may incentivize marriage and employment.¹⁸⁴ For example, a married couple earning \$100,000 per year could pay nearly \$4,000 less in taxes than a single parent with the same income.¹⁸⁵ Furthermore, the new tax code

180. *See id.* at 771.

181. *See id.*

182. *Cf. id.* at 761.

183. *Id.* at 762 n.2.

184. Michael Durkheimer, *Under the GOP Tax Bill, Not Being Married Could Cost You*, FORBES (Dec. 17, 2017, 3:08 PM), <https://www.forbes.com/sites/michaeldurkheimer/2017/12/17/under-the-gop-tax-bill-not-being-married-could-cost-you/#24a8805b3dae>.

185. *Id.*

provides for additional tax deductions for childcare for married and single parents.¹⁸⁶

Parenthood is a central factor incentivizing marriage for millennials.¹⁸⁷ The key then, is finding the best way to use that incentive to accomplish desired objectives to unravel and amend the millennial marriage evolution.

Today's 18- to 29-year-olds value parenthood far more than marriage . . . 52% of [m]illennials say being a good parent is – one of the most important things in life. Just 30% say the same about having a successful marriage – meaning there is a 22 percentage point gap in the way [m]illennials value parenthood over marriage.¹⁸⁸

Connecting the millennial desire to be a good parent with the necessity of marriage in order to be a more successful parent appears to be the key to solving millennial marriage evolution.¹⁸⁹ The perceived costs of marriage, career sacrifice, lifelong permanence, and monogamy must be less than the benefits of being a good parent and the reward of successful children.¹⁹⁰

III. GETTING THE INCENTIVES RIGHT IN POLICY

The dependence of national economic success on the marital commitment is true not only for a nation, but for generations.¹⁹¹ “Intergenerational persistence of poverty is generally linked to the reduced capacity of poor families to foster human capital accumulation of their children and pull them out of poverty.”¹⁹² Income inequality in the marriage divide can quickly become the

186. Beverly Bird, *How Will Trump's Proposed Tax Changes Affect Single Parents?*, BALANCE (Apr. 8, 2018), <https://www.thebalance.com/proposed-trump-tax-changes-single-parents-4127164>.

187. This will in turn benefit future generations of children, as numerous studies have shown that children benefit from married parents. See Lynne Marie Kohm, *Rethinking Mom and Dad*, 42 CAP. U. L. REV. 441, 454 (2014).

188. WANG & TAYLOR, *supra* note 106, at 1.

189. See *supra* note 187 and accompanying text.

190. See generally WANG & TAYLOR, *supra* note 106, at 3–5, 7–9, 11–12 (showing millennials place a higher value on the benefits of being a parent than on the benefits of being married).

191. See LERMAN & WILCOX, *supra* note 14, at 3.

192. Nora C. Lutig, *Foreword* to ARIANNA LEGOVINI & FERDINANDO REGALIA, TARGETED HUMAN DEVELOPMENT PROGRAMS: INVESTING IN THE NEXT GENERATION 1, 1 (2011) (ebook).

culprit of this dilemma,¹⁹³ but in the midst of a growing class divide between who gets and stays married in the United States, there is virtually no divide in the aspiration to marry.¹⁹⁴ According to marriage researcher Bradford Wilcox:

It doesn't matter if you're rich, poor, white, black, Hispanic. Most Americans are married or would like to marry. The challenge . . . facing the United States is bridging the gap between the nearly universal aspiration to marry and the growing inability of poor and working-class Americans to access marriage.¹⁹⁵

Economics teaches us that getting the incentives right is the key.¹⁹⁶ Proper application of the right incentives can make all the difference.¹⁹⁷

A. *Millennial Productivity*

Productivity and output, which determine GDP, simplistically depend on capital, labor, and the efficiency with which these inputs are utilized.¹⁹⁸ Economists, after some simplifying assumptions, such as constant returns to scale, competitive markets, etc., mathematically determine that production and output follow the following function: $Y = F(K, L)$ where K is the level of capital and L is the amount of labor.¹⁹⁹ Economists then can assert that this function takes the Cobb-Douglas form: $Y = \bar{A}K^\alpha L^{1-\alpha}$ where \bar{A} represents “Total Factor Productivity” or TFP.²⁰⁰ TFP represents innovation and the efficiency by which labor and capital are used.²⁰¹ Increasing TFP results in significantly higher output than increases in labor or capital alone.²⁰² In recent years, productivity has declined and economists have been focused on determining how to increase

193. See Murphy, *supra* note 39; see also CARBONE & CAHN, *supra* note 2, at 58 (“[G]reater inequality segments marriage markets.”).

194. Murphy, *supra* note 39.

195. *Id.*

196. See CHARLES WHEELAN, *NAKED ECONOMICS: UNDRRESSING THE DISMAL SCIENCE* 33 (2002).

197. *See id.*

198. See N. GREGORY MANKIW, *MACROECONOMICS* 47–48 (7th ed. 2010).

199. *See id.*

200. *See id.* at 57, 249–50.

201. *See id.*; Gavyn Davies, *Is US Productivity (Finally) Perking Up?*, *FIN. TIMES* (Apr. 30, 2017), <https://www.ft.com/content/9e97073c-e883-3372-904d-8a903aed001d>.

202. *See* Davies, *supra* note 201.

this factor because of its major effect on GDP.²⁰³ Increasing productivity will increase GDP and American quality of life overall, particularly for individuals.²⁰⁴

As output per person, or labor productivity, rises, individual and community benefits will be much better off.²⁰⁵ Research shows that marriage increases productivity growth factors, particularly among men with lower incomes.²⁰⁶ The microeconomic effects of individual marriage decisions undeniably affect the broader macroeconomic health of a nation.²⁰⁷ Thus, positive growth rates of marriage affect greater national GDP.²⁰⁸ Therefore, the importance of determining what incentivizes couples to marry and remain that way to better the lives of their children is of utmost importance.²⁰⁹

The decline of marriage as an institution among Americans who lack a college education is relevant to the future rate of productivity growth, because children—particularly boys—who grow up in households lacking a father are less likely to graduate from high school and complete college and more likely to drop out of high school and become engaged in criminal activity. An important source of this sociological change is the evaporation of good, steady, high-paying blue-collar jobs. Partly because men without a college education have lacked the incomes and steady employment to be attractive marriage partners, and partly because women have become more independent as opportunities in the labor market have opened up for them, fewer couples are getting married and as a result an ever-

203. *See id.*; Chad Syverson, *What Determines Productivity?*, VOX – CEPR POL’Y PORTAL (Jun. 25, 2010), <https://voxeu.org/article/what-determines-productivity>; Davies, *supra* note 201.

204. *See* Ana Maria Santacreu, *What Causes a Country’s Standard of Living to Rise?*, FED. RES. BANK ST. LOUIS: ON ECON. BLOG (Dec. 28, 2015), <https://www.stlouisfed.org/on-the-economy/2015/december/what-causes-countrys-standard-living-rise>.

205. *See id.*

206. Rachel Sheffield, *Strong Families Increase Economic Growth*, CNSNEWS.COM (Oct. 30, 2015, 11:02 AM), <https://www.cnsnews.com/commentary/rachel-sheffield/strong-families-increase-economic-growth> (“[M]arriage leads to higher participation in the workforce and productivity for men.”).

207. *See id.* (“The well-being of the family and the economy go hand in hand. America can thrive only if its most vital institution, the family, is strong.”).

208. *See id.*

209. *See id.*

larger share of children are growing up without a father in the household.²¹⁰

Connecting marriage with productivity, particularly for future children, is essential.²¹¹ So while millennials have made it clear that they value a firm economic foundation,²¹² research has also revealed that they value parenthood over marriage.²¹³

Connecting the millennial desire to be a good parent with the necessity of marriage in order to be a more successful parent can work to create marital incentive.²¹⁴ “[H]igh quality men and women are more efficient in producing higher quality children, which generates a comparative advantage for high quality parents in raising higher quality children.”²¹⁵ In a recent study on marriage and human capital, researchers in the Middle East studied the value of monogamy versus polygyny in developed countries,²¹⁶ noting that “[i]n more advanced economies, human capital plays a larger role in determining the level of income and inequality.”²¹⁷ “The value of women in the marriage market [was] shown to be directly linked to the importance of her children’s human capital[,]”²¹⁸ thereby producing a more monogamous equilibrium.²¹⁹ Understanding that norms and economic motives work together and reinforce each other, researchers also argue that “although laws and norms may affect behavior, they rarely evolve and are maintained if personal incentives are very weak to uphold them.”²²⁰ These aspects of productivity can help to form the right incentives.

210. Robert J. Gordon, *Secular Stagnation on the Supply Side: U.S. Productivity Growth in the Long Run*, 100 DIGIWORLD ECON. J., 19, 30 (2015), http://repec.idate.org/RePEc/idd/journal/CS10001/CS100_GORDON.pdf.

211. *See id.*

212. *See* Murphy, *supra* note 39.

213. *See supra* note 172 and accompanying text.

214. *See* Kohm, *supra* note 187, at 453.

215. Eric D. Gould, Omer Moav & Avi Simhon, *The Mystery of Monogamy* 1 (Hebrew Univ. Econ., Working Paper No. 2003, 2004), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=437960.

216. *See id.*

217. *Id.* at 2 (“The increased demand for quality children increases the demand for quality in women in the marriage market, since high quality men and women are complements in the production of quality children.”).

218. *Id.* Their analysis model also “offer[ed] an explanation of why and how the ‘power of women’ is higher in advanced societies.” *Id.* at 3–4, tbl.3.

219. *Id.* at 18.

220. *Id.* at 4.

B. *Human Capital*

One driver of labor productivity is human capital.²²¹ Human capital can be defined as an investment in people toward wealth creation.²²² University of Chicago family economics researcher Dr. Gary Becker has found that “optimal stock of human capital would rise at a diminishing rate, reach a peak, then decline toward the end of life as depreciation exceeds gross investment.”²²³ “[H]uman capital is a multidimensional object with . . . various constituents[,]” including health, cognitive ability, social ability, etc.²²⁴ Human capital policy has in the past rightly focused on education.²²⁵ Early family factors seemed to indicate that education tuition assistance for poor families was the solution, but the importance of cognitive and noncognitive skills formed early in life have a larger impact than tuition funding assistance for college/high school on closing the income inequality gap.²²⁶ There is more to this problem than simply throwing additional funding into the mix. The relationship between parents and their children’s education seems to be a more significant factor for increasing the human capital of children.²²⁷ While education is still a key factor, quality parenting rather than financial subsidies seem to be the solution, as human capital in children increases most under married parents.²²⁸ It appears that the perceived costs of marriage—career, permanency, monogamy, etc.—are worth the risk to gain the benefits that being a good parent offers in the

221. See WHEELAN, *supra* note 196, at 33.

222. *See id.*

223. BECKER, *supra* note 53, at 27 (discussing investment in human capital).

224. Oazio Attanasio, Costas Meghir, Emily Nix & Francesca Salvati, *Human Capital Growth and Poverty: Evidence from Ethiopia and Peru*, 25 REV. ECON. DYNAMICS 234, 234–35 (2017).

225. *See* BECKER, *supra* note 53, at 29.

226. Pedro Carneiro & James J. Heckman, *Human Capital Policy 1* (Inst. for the Study of Labor, Working Paper No. 821, 2003), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=434544.

227. Juan Carlos Campaña, J. Ignacio Gimenez-Nadal & Jose Alberto Molina, *Increasing the Human Capital of Children in Latin American Countries: The Role of Parents’ Time in Childcare*, 53 J. DEV. STUD. 805, 813, 819–21 (2016) (finding that “the time devoted to educational childcare by parents is positively related” in Mexico, Peru, Ecuador, and Colombia).

228. *See* BECKER, *supra* note 53, at 30–31.

reward of successful children.²²⁹ This notion of building successful children is central to the concept of developing human capital.²³⁰

Developing human capital in children has its opportunity costs.²³¹ A recent empirical study done in rural India demonstrates that the opportunity cost of schooling, even for very young children, is an important factor in determining overall human capital investment.²³² Another study from Peru and Ethiopia found that higher income parents invest more, particularly at younger ages when investments have the greatest impacts.²³³ A study of American children under age six showed increased preparation for school by parental involvement made a tremendous difference in child development.²³⁴ The accumulation of skill prior to school entry resulted in higher scores on achievement tests.²³⁵ To develop human capital in children, parents need to be involved with their children and their children's education.²³⁶

Economic researchers have extensively studied the effect that parents' educational background and socioeconomic status have on children's educational attainment.²³⁷ One such study has found that factors shared by siblings account for approximately 50% of the variation in years of schooling for individuals.²³⁸ While parental education explains much less of this variation (below 20%), the shared sibling factors examined include common genes, common environment, sibling influence on each other, etc.²³⁹ This finding

229. *See id.* at 31–37.

230. *See* WHEELAN, *supra* note 196, at 99–100, 105–06, 111 (discussing how investment in human capital, including children, will produce higher future wealth).

231. *See* Manisha Shah & Bryce Millett Steinberg, *Drought of Opportunities: Contemporaneous and Long-Term Impacts of Rainfall Shocks on Human Capital*, 125 J. POL. ECON. 527, 554–55 (2017).

232. *Id.*

233. Attanasio et al., *supra* note 224, at 235, 243–44 (discussing the process of human capital development).

234. *See* Todd E. Elder & Darren H. Lubotsky, Kindergarten Entrance Age and Children's Achievement: Impacts of State Policies, Family Background, and Peers 17–18, 21 (June 2006) (unpublished manuscript), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=916533.

235. *Id.* at 5, 29 (noting that this result was especially pronounced among children from upper-income families).

236. *See id.* at 4, 17–18, 21, 30 (discussing the positive effects of pre-kindergarten preparation and parental schooling decisions).

237. Anders Björklund & Kjell G. Salvanes, *Education and Family Background: Mechanisms and Policies* 4 (NHH Dept. of Econ., Discussion Paper No. 14, 2010), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1620398.

238. *Id.* at 7.

239. *Id.* at 7, 9.

suggests that family and parental choices affect the outcome of their children's future.²⁴⁰

A tremendous additional advantage of building human capital became ostensible in another study that showed parental benefits of a child's improved education included better parental health and increased longevity.²⁴¹ Expending effort toward building human capital apparently helps to create the skill and ability to beget future skill and ability, breaking the intergenerational poverty cycle.²⁴²

C. Prestige

A possible factor toward resolution to this growing dilemma in increasing marriage incentives may include a level of prestige.²⁴³ For millennials to esteem marriage they must value what it can do for them—it must be appropriately incentivized in order to be the optimal choice for individuals.²⁴⁴ The previous subsection illustrated that millennials' value for parenthood can greatly work to their benefit by pouring effort into their children, thereby building human capital.²⁴⁵ The social status involved in raising a child can also carry with it tremendous prestige.²⁴⁶

Millennials respect prestige.²⁴⁷ Professional and personal respect can often transform into social prestige, which is valued, and hence costly.²⁴⁸ A great job is one factor in increasing social capital, but relationship status and progeny enable an individual's social capital

240. *See id.* at 6.

241. Petter Lundborg & Kaeh Majlesi, *Intergenerational Transmission of Human Capital: Is It a One-Way Street?*, 57 J. HEALTH ECON. 206, 207 (2018).

242. *See* Björklund & Salvanes, *supra* note 237, at 6, 20.

243. *See infra* notes 244–56 and accompanying text.

244. *Cf.* Grant, *supra* note 47, at 15–16, 19.

245. *See supra* notes 221–42 and accompanying text.

246. *See, e.g.*, Ronald Bailey, *Kids as Status Symbols*, SLATE (June 28, 1997, 3:30 AM), http://www.slate.com/articles/briefing/articles/1997/06/kids_as_status_symbols.html (suggesting that having children acts as “the ultimate symbol[] of worldly success and status” for Americans).

247. *See* Guido Stein, *Nine Tips for Managing Millennials*, FORBES (Sept. 8, 2016, 7:25 AM), <https://www.forbes.com/sites/iese/2016/09/08/managing-millennials-nine-tips/#7a3011f1cd8a> (discussing the millennial respect for professional prestige). Another researcher revealed that this sense of prestige is all the stronger in Chinese millennials. *See* Maya Hu-Chan, *Think You Know Millennials? Think Again*, INC. (Sept. 18, 2017), <https://www.inc.com/maya-hu-chan/the-fascinating-chinese-millennial-worker.html>. “The concept of ‘face’ (*mianzi*) plays an important role in business and society. It is much more nuanced than the American understanding of ‘face.’ *Mianzi* is about dignity, status, prestige, respect, and honor all at once.” *Id.*

248. *See, e.g.*, Stein, *supra* note 247.

to increase as well—this is called prestige.²⁴⁹ Dr. Carle Zimmerman was prescient in this regard, applying prestige to marriage and families.²⁵⁰ “The family will have to be activated emotionally, morally, economically, intellectually, and from the standpoint of prestige . . . [t]he modern mind doesn’t seem to care for any other kind of nonselfish leadership. Familism will have to become a way of life because it has prestige over other ways.”²⁵¹ The desire for millennials to attain prestige through a successful career, and later successful children, is likely a powerful driving force in the millennial desire to parent.²⁵² Incentivizing marriage for high- and low-income millennials may indeed rest on the desire for prestige and simple monetary incentives.²⁵³ Prestige also accompanies a child’s wealth potential.²⁵⁴ For example, parents in elite urban neighborhoods seek the most elite education for their children because that child’s future is perceived to be nearly completely dependent upon attendance at the right schools.²⁵⁵ These motivations can work to incentivize behavior toward marriageability.²⁵⁶

D. Policy Proposals

Based on the discussion above, it is necessary to incentivize parents on a microeconomic level to marry and stay married for as long as possible to create positive macroeconomic outcomes on society.²⁵⁷ Incentivizing marriage for low-income millennials may also be jump-started by these opportunities.²⁵⁸ Policy suggestions can be based on this notion, and can prove to be very effective in providing both legal and economic incentives toward greater millennial marriage.²⁵⁹ To incentivize marriage through parenting, we suggest three economic and legal policy proposals.

249. See Stein, *supra* note 247; see *supra* notes 169–71 and accompanying text.

250. See FAMILY OF TOMORROW, *supra* note 59, at 234.

251. *Id.*

252. See WANG & TAYLOR, *supra* note 106, at 1.

253. *Cf. id.* at 12 (showing that most millennials do not value marriage for its financial security).

254. See Björklund & Salvanes, *supra* note 237, at 5–6.

255. *Id.*

256. See WANG & TAYLOR, *supra* note 106, at 9–11 (outlining millennials’ attitudes on ideal marriage partners).

257. See Kohm, *supra* note 187, at 454–55.

258. See *id.*

259. See *id.* at 456 (arguing that poverty rates increase if marriage rates decline).

1. Improve Access to Public Benefits After Single Parents Wed

Currently, single mothers with low incomes are incentivized to have more children without being married, as their benefits are limited by work requirements, which “significantly reduce the chances that a single mother will wed.”²⁶⁰ This norm must change so that children are provided better opportunities by reaping the benefits of having two married parents.²⁶¹ Our policy suggestions seek to align incentives of marriage-age millennials²⁶² with incentives of children, which is to have a mom and dad for the duration of their childhood.²⁶³ Removing the marriage prohibition from public benefits will begin to stem the tide of nonmarital childbearing.²⁶⁴ To apply and enforce such a change would require parents to provide proof of sharing the same address, evidence of actively seeking minimal employment for at least one parent, and loss of benefits only when economic stability is attainable.²⁶⁵ This proposal could effectively assist low-income millennials to choose marriage because the benefits of marriage would outweigh those of remaining single.

2. Offer an Initial Marriage Subsidy

Consider a cash incentive to marry, particularly for low-income millennials who are having children apart from marriage.²⁶⁶ This type of proposal is not without precedent, as in 2009 President Barack Obama’s Economic Stimulus Plan sent a \$250 check to recipients of Social Security, Supplemental Security Income, and

260. See Bernstein, *supra* note 52.

261. See generally Kohm, *supra* note 187, at 453 (explaining that there are a myriad of benefits for children who enjoy living with married parents).

262. See *supra* Part I.

263. See Kohm, *supra* note 187, at 453–55.

264. See Bernstein, *supra* note 52.

265. Such requirements will help to allow married couples to keep public benefits. Cf. Maag et al., *supra* note 179, at 764 (“[A] growing body of literature points to the inability of the nation’s current tax and transfer system to reward upward mobility as the loss of benefits and other costs of working — child care and transportation costs — enter into the equation.”).

266. See Beauchamp & Pakaluk, *supra* note 51, at 1–2; Fleming, *supra* note 1.

veterans' benefits "to jumpstart the economy."²⁶⁷ Doing something similar to encourage millennial marriage could be a viable concept.²⁶⁸

A unique Austrian marriage policy experience presents evidence that policy-making does indeed offer solutions, as three Austrian researchers studied the results of a 1987 marriage policy that ended a subsidy for marriage.²⁶⁹

In late August of 1987, the Austrian Minister of Finance quite unexpectedly announced the suspension of the marriage subsidy that had been in place since 1972: couples marrying before the end of 1987 would receive it, but there would be no subsidy thereafter. Not surprisingly, the marriage rate spiked in late 1987.²⁷⁰

The key methodological point was that marginal marriages declined after the subsidy ended.²⁷¹

The couples who married during that time are an unknown combination of those who would have married then anyway, those who rushed their planned weddings to capture the subsidy before it went away, and those who would not have married in the near future were it not for the policy change.²⁷²

This unknown combination became "somewhat known by [considering] the marriage dearth in early 1988 to estimate the number of accelerated marriages, and then attributing the rest of the excess marriages in late 1987 to 'marginal marriages,' i.e., those that would not have occurred without the policy change."²⁷³ The

267. Kimberly Amadeo, *Who Received Stimulus Checks? How Much Was Spent?*, BALANCE, <https://www.thebalance.com/stimulus-checks-3305750> (last updated Mar. 25, 2018).

268. See Wolfgang Frimmel, Martin Halla & Rudolf Winter-Ebmer, *Can Pro-Marriage Policies Work? An Analysis of Marginal Marriages*, 51 DEMOGRAPHY 1357, 1359, 1362 (2014).

269. *Id.*

270. Laurie DeRose, *Assessing Pro-Marriage Policy: Which Comparisons?*, INST. FOR FAM. STUD. (Aug. 21, 2014), <https://ifstudies.org/blog/assessing-pro-marriage-policy-which-comparisons/>.

271. See Frimmel et al., *supra* note 268, at 1366.

272. DeRose, *supra* note 270.

273. *Id.* Marginal marriages were defined as those marriage matches that "became acceptable only because of the increased cost of a longer search. 'Consequently, marginal marriages should be of lower match quality than average marriages, whose

researchers “then analyze[d] the stability of marginal marriages not just because ‘the benefits of marriage require a certain level of marital stability to materialize,’ but also because ‘expected or actual stability is a prerequisite for marital investment.’”²⁷⁴ Because “it takes expected or actual stability to promote investing in children[,]” the research was trying to determine whether that stability could be accomplished in marginal marriages.²⁷⁵ The results were surprising in that marginal marriages appeared to be just as stable as average marriages.²⁷⁶ Therefore, the “outcomes in marriages promoted by state policy do not have to match those in other marriages to represent an improvement.”²⁷⁷ Even marginal marriages promoted purely by Austrian state policy created family stability across that society.²⁷⁸

We can learn from this example and draw some inferences for solutions. This type of a marriage subsidy—a one-time payment in the year of marriage for the next ten years for all those born between 1980 and 2010 whose income is under \$100,000 annually—could begin to lay the foundation for a better future for millennial families, particularly those low-income millennials who are not marrying, by monetarily incentivizing marriage.²⁷⁹

3. Implement an Incremental Marriage Tax Credit

Because the benefits of marriage increase with time,²⁸⁰ a government—federal, state or both—credit that increases with each year of marriage would incentivize marital longevity.²⁸¹ This credit need not be related to other tax credits, but tax forms could provide an easy and efficient way to report the number of years couples have been married.²⁸² As the years of marriage between couples increase, the tax credit would increase. This structure would incentivize

match quality would be sufficient even without state intervention.” *Id.* (quoting Frimmel et al., *supra* note 268, at 1362).

274. *Id.* (quoting Frimmel et al., *supra* note 268, at 1359).

275. *Id.*

276. *See* Frimmel et al., *supra* note 268, at 1371–72. *But see* DeRose, *supra* note 270 (stating that birth rates in marginal marriages were found to be lower and the babies were more susceptible to health complications).

277. DeRose, *supra* note 270.

278. *See* Frimmel et al., *supra* note 268, at 1377.

279. *See supra* notes 266–78 and accompanying text.

280. *See infra* notes 288–98 and accompanying text.

281. *See* LERMAN & WILCOX, *supra* note 14, at 4, 8–9, 51–52.

282. *See* FORM 1040: U.S. INDIVIDUAL INCOME TAX RETURN, INTERNAL REVENUE SERV. (2017), <https://www.irs.gov/pub/irs-pdf/f1040.pdf>.

couples to 1) marry and 2) stay married.²⁸³ This graduated tax credit, based on length of marriage, would have a structure similar to a spousal elective share, a quantity proportional to marital length that is received by a spouse at the death of a spouse.²⁸⁴ For example, in Tennessee, spouses who are married three years or less receive 10% of the marital estate, but three to six years receive 20% of the marital estate, six to nine years 30% and ten or more years a share of 40%.²⁸⁵ Some states, like North Carolina, have recently revised their spousal elective share statute to be based on length of the marriage.²⁸⁶ Similarly, tax credits could be granted initially upon marriage, then increased incrementally with each year of sustained marriage.

A marital longevity incentive could motivate the millennial generation to see why it is necessary to stay married and have children.²⁸⁷ Marital strength in parenting will be based on its longevity, for the best interests of all the parties—both parents and children.²⁸⁸ It is essential for both parents to work together while raising children in order for those children to reap the positive effects of having two married parents.²⁸⁹ Zimmerman proffers:

Modern women simply are not going to stay at home and rear families unless the responsibility is jointly shared between themselves and their husbands, who at least must appear to be trying to act in a seemly fashion. Our current divorce rate clearly shows that.

If this new movement is to be one of mutual freedom of both husbands and wives, the situation becomes more unworkable.

Further, can you ask parents, in a world already so disjointed that familism and parenthood is our “most dangerous and least flourishing business” to sacrifice themselves over many years for the sole purpose of rearing children for selfish, unprofitable, and aimless lives? What

283. See LERMAN & WILCOX, *supra* note 14, at 4–5, 8–9, 12, 14–15, 43, 51–52, 54.

284. See *supra* notes 179–85 and accompanying text.

285. TENN. CODE ANN. § 31-4-101 (West 2018).

286. N.C. GEN. STAT. ANN. § 30-3.1 (West 2018) (showing this revised Act makes the amount contingent solely on the length of the marriage, receiving 15% for five years of marriage or less, 25% for five to ten years, 33% for ten to fifteen years, or 50% if married at least fifteen years).

287. See Singletary, *supra* note 20.

288. See LERMAN & WILCOX, *supra* note 14, at 17, 20, 23–25, 27.

289. *Id.* at 20, 23–25, 27.

parent will say that he is willing to do the things necessary to launch children in this world if it is openly and avowedly only for them to waste their heritage in a few years of random, purposeless, and nonchanneled sex-expression? Very few to my knowledge, are willing to do this.²⁹⁰

It may be that millennials value children and their relationships with them more than they might a relationship with a spouse.²⁹¹ The results of a recent study, however, suggest that in addition to leisure spending and health status, spousal and friend relationships contribute to retiree life satisfaction, while children do not.²⁹² Renowned Harvard sociologist Carle Zimmerman noted at the end of his work *Successful American Families*, “[t]he new world needs a new person who is both learned and familistic.”²⁹³ He further noted, “[t]hose families which succeed in meeting the challenge do so by increased devotion to successful principles.”²⁹⁴ A key successful principle is marriage.²⁹⁵ “Marriage is society’s least restrictive means of ensuring the well-being of children. State recognition of marriage protects children by encouraging men and women to commit to each other and take responsibility for their children.”²⁹⁶ As Zimmerman so presciently points out: “Thus the choice facing our present family system is that between leadership or cultural determinism. As a matter of fact, it is *the* basic problem. We can allow the system to continue to complete exhaustion or we can refresh it now with the necessary creative ideas.”²⁹⁷ These policy proposals could make a tremendous difference in the incentivization of millennial marriage.

IV. CONCLUSION

This article has examined the millennial desire for employment, financial security, happiness, and parenthood, and the impact these

290. FAMILY OF TOMORROW, *supra* note 59, at 227.

291. *See supra* Section II.D.

292. Michael Finke, Nhat Ho & Sandra Huston, Spending, Relationship Quality, and Life Satisfaction in Retirement 14 (Sept. 23, 2017) (unpublished manuscript), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3041761.

293. SUCCESSFUL, *supra* note 14, at 218.

294. MARRIAGE AND THE FAMILY, *supra* note 14, at 98.

295. *See* RYAN T. ANDERSON, TRUTH OVERRULED: THE FUTURE OF MARRIAGE AND RELIGIOUS FREEDOM 207 (2015).

296. *Id.*

297. FAMILY OF TOMORROW, *supra* note 59, at 178 (discussing solutions to preventing decaying family systems).

have on any decision toward marriageability.²⁹⁸ It studied the legal and economic incentives for marriage, as well as the economics behind America's marriage decline.²⁹⁹ Considering childbearing, child-rearing, and family strength as qualitatively dependent upon the marital commitment, it has proffered that the solution to incentivize marriage for millennials may be increasing an understanding of the connection between human capital in children and prestige.³⁰⁰ Connecting prestige to human capital in children offers new esteem to marriage and family strength, and based on evidence to date, this connection could diminish the income inequality gap currently evident in millennial marriages.³⁰¹

Millennials value parenthood,³⁰² and children with married parents clearly obtain significant benefits and positive outcomes in society.³⁰³ This article outlined policy suggestions to incentivize millennials away from their current nonmarital decisions by providing benefits to marriage.³⁰⁴ This article offered three proposals that are based on structural formulas and verified in other legal and economic contexts to protect families and incentivize marriage.³⁰⁵ Incentives are the basis for effective policy decisions,³⁰⁶ and this article proposed three legal and economic incentives to increase the value of and connect the most beneficial intimate relationships—those of marriage and parenting.³⁰⁷

Because incentives are the basis for effective policy decisions and affect national and world powers,³⁰⁸ this article has presented the

298. *See supra* Part I.

299. *See supra* Part II.

300. *See supra* Sections III.B–C.

301. *See supra* Sections III.A–C.

302. *See supra* Section II.D.

303. *See Kohm, supra* note 187, at 453–54.

304. *See supra* Section III.D.

305. *See supra* Section III.D.

306. *See infra* note 308 and accompanying text.

307. *See supra* Section III.D.

308. Professor Carle Zimmerman noted that a nation's national family policy will impact global society:

This fragility of world powers, and their disastrous decay, leads to a discussion of the present family system of the United States of America. It is an attempt to probe a little into what may be signs of cultural longevity within the North American culture.

The family system in the United States is scrutinized because this is believed to have a causal relation with cultural longevity and hence economic and social prosperity.

economic perspective that good family policy should provide incentives for consistent and supportive behavior between individuals.³⁰⁹ By examining this millennial marriage evolution and exploring the likely future effects of these shifting elements on America,³¹⁰ this article worked to analyze legal and economic incentives toward increasing marriage stability,³¹¹ parenting toward human capital,³¹² and family strength,³¹³ all three of which can effectively work to decrease the income inequality gap expanding among millennial Americans.³¹⁴

SUCCESSFUL, *supra* note 14, at 190. The first person to analyze “the idea of the relation between a cultural system and a ‘social prosperity’” is unknown. *Id.* at 190 n.2.

309. *See supra* Section II.B.

310. *See supra* Part I.

311. *See supra* Sections II.A–B.

312. *See supra* Section III.B.

313. *See supra* Section II.A.

314. *See supra* Section III.D.

