

Made for children

Why the institution of marriage has special status



Introduction

The marriage of a man and a woman has a special position in Irish society and in the Irish Constitution. It is the only form of human relationship that has the status of a social institution. This special status is now deemed by some people to be inherently discriminatory in that it 'discriminates' against all other types of families, including same-sex couples.

This short paper will briefly set out the argument in favour of giving opposite-sex marriage continued special status. It will set out the reasons why it deserves the standing of a social institution and it will explain why this special treatment is not discrimination and why the claim that it is, is a misapplication of the principle of equal treatment.

Part One

Made for children: Why marriage has special status

THE MARRIAGE of a man and a woman is a unique form of relationship. Out of all human relationships, sexual or otherwise, only it can provide a child with a mother and a father who have made a formal, public commitment to one another.

Studies demonstrate (see part two below) that children tend to fare best when raised by their biological parents in a low-conflict marriage. There are obviously exceptions, but this is the general rule. Therefore, from the point of view of children and from the point of view of society, there is a rational,

evidence-based reason for encouraging marriage through giving it special support and recognition. It is in the interests of children that as many as possible are raised by their own biological parents in marriage (apart obviously from those cases where married parents abuse or neglect their children or otherwise can't cope).

With the best interests of children in mind, society cannot afford to be indifferent to, much less celebrate, the growing number of children who are now being raised outside the marital family. Obviously this calls for sensitivity because there are many reasons why children find themselves in different family forms and obviously all families in need must receive appropriate support.



But the percentage of children who are not being raised by their own two married parents has increased very quickly in the last two decades. As at 2006, it stood at 26 percent of all children, a figure that has more than doubled from 12 percent in 1986. The current figure is only slightly below the equivalent figure for the US and the UK.

To repeat, many children are deprived of a parent through circumstance and these children must receive support. Nonetheless, social policy should be aimed at ensuring that as many children as is reasonably possible are raised by a married mother and father.

Marriage is a social institution, not just a private relationship

MARRIAGE IS not simply a private arrangement. It is also a social institution. As mentioned, no other form of relationship – friendship for example – is given the status of an institution.

When we describe marriage as a social institution we mean that it receives certain rights, benefits, obligations as well as recognition that are unique to it. It is these that make it an institution.

As mentioned, the marriage of a man and a woman receives this status because marriage is uniquely pro-child. Marriage as a social institution has evolved mainly for the benefit of children.

This is not the same as saying that marriage exists only for children, or that people marry simply in order to have children. People marry because they love each other. But children are the main reason why marriage receives special support and even though some married couples can't or won't have children, the vast majority of married couples will have at least one child during their lives together.

Giving marriage special status is not discrimination

THE PRINCIPLE of equal treatment says that similar situations should be treated in similar ways, but that it is acceptable to treat different situations in different ways.

In fact, it would be irrational to treat situations that are different in the same way and contrary to good public policy.

Because of its uniquely pro-child nature it makes sense to treat marriage in a unique way. Both logic and the facts require it.

A further word on the meaning of discrimination as commonly understood is in order here. When people complain of discrimination, they mean unjust discrimination. It is unjust to treat similar situations differently, for example, to refuse a suitably qualified person a job simply on the basis of their race or sex if their race or sex is irrelevant to that job.

'It is in the interests of children that as many as possible are raised by their own biological parents in marriage.'

However, everyone would agree that an 80 year old couple would be unsuitable candidates to adopt a child. No-one would suggest that they be treated the same as a 30 year old couple who also wanted to adopt.

The reason is obvious. The age of the 80 year old couple is relevant in this situation. A 30 year old couple is young enough to adopt a child whereas an 80 year old couple is not. This difference justifies treating the 80 year old couple and the 30 year old couple differently. This is not considered unjust discrimination by anyone.

Applying this principle to marriage, the reason, for example, that marriage and cohabitation are not given the same treatment in Irish law is because they are different in relevant and pertinent ways. A cohabiting couple is normally deliberately avoiding making a formal, public commitment to one another, as is their business.

In addition, cohabitation is much less stable than marriage. According to the British Millennium Cohort study one in four children of cohabiting parents witnessed the break-up of their family before the age of five, compared with one in 10 children of married couples.

Therefore it is not discrimination to treat marriage and cohabitation differently.

Likewise it is not discrimination to treat the marriage of a man and a woman differently from a same-sex relationship. Crucially, a same-sex couple cannot give a child a mother and a father.

‘Crucially, a same-sex couple cannot give a child a mother and a father.’

Those who claim that same-sex couples and married opposite-sex couples should be treated identically must demonstrate that there is no advantage to children in encouraging men and women to marry. They must also demonstrate that children have no right to be raised by their own mother and father, even as a matter of first principle.

Only after demonstrating that there is no relevant difference between opposite-sex couples and same-sex couples, especially from the point of view of children, and that the right to a mother and father where possible does not exist, can same-sex marriage be justified.

It is also out-of-bounds to denounce as ‘bigots’ and ‘homophobes’ those who have perfectly rational, evidence-based reasons for believing that there is a relevant difference between opposite and same-sex couples. No such denunciation is aimed at those who believe there is good reason to treat marriage and cohabitation differently.

Part Two

The evidence for marriage

In this section we take quotes from a number of studies and publications testifying to the benefits of marriage for children.

Marriage from a Child's Perspective: How Does Family Structure Affect Children, and What Can We Do about It?

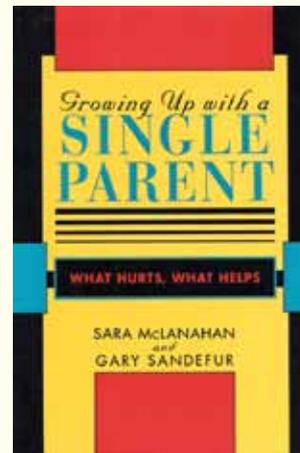
A Child Trends Research Brief (ref ED467554)

by Kristin Anderson Moore, Susan Jekielek and Carol Emig, June 2002

Excerpt:

Research clearly demonstrates that family structure matters for children, and the family structure that helps the most is a family headed by two biological parents in a low-conflict marriage ... There is thus value in promoting strong, stable marriages between biological parents.

Growing Up with a Single Parent: What hurts, What Helps



by Sara McLanahan and Gary Sandefur, 1994

Excerpt:

If I were asked to design a system for making sure that children's basic needs were met, we would probably come up with something quite similar to the two-parent ideal...The fact that both parents have a biological connection to the child would increase the likelihood that the parents would identify with the child and be willing to sacrifice for that child, and it would reduce the likelihood that either parent would abuse the child ...

Child Poverty in Perspective: An Overview of Child Wellbeing in Rich Countries

UNICEF Report Card 7, 2007

Excerpt:

At the statistical level there is evidence to associate growing up in single-parent families and stepfamilies with greater risk to well-being – including a greater risk of dropping out of school, of leaving home early, of poorer health, of low skills, and of low pay.

Do Mothers and Fathers Matter?: The Social Science Evidence on Marriage and Child Well-Being

by Maggie Gallagher & Joshua K. Baker

Institute for Marriage and Public Policy,
27th February 2004

Summary:

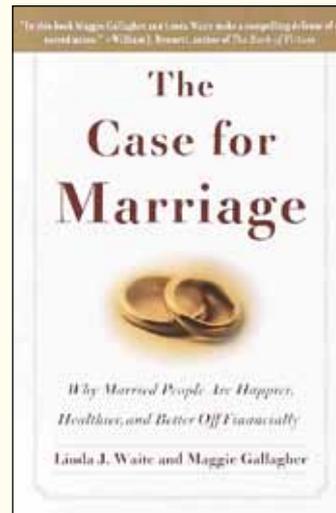
Marriage is an important social good associated with an impressively broad array of positive outcomes for children and adults alike.

The authors conclude that children in intact married homes are less likely to

- suffer child poverty,
- suffer sexual and physical child abuse,
- suffer physical and mental ill-health,
- misuse drugs
- commit crime,
- suffer educational and employment disadvantage,
- become divorced or unwed parents themselves.

Communities where good-enough marriages are common have better outcomes for children, women, and men than do communities suffering from high rates of divorce, unmarried childbearing, and high-conflict or violent marriages.

The Case for Marriage Why Married People Are Happier, Healthier and Better Off Financially



by Linda Waite and Maggie Gallagher

October 2001

A reviewer writes:

Professor Linda Waite's outstanding book restates and reconfirms the overwhelming evidence in favour of marriage as the best of all available family structures.

'The family structure that helps the most is a family headed by two biological parents in a low-conflict marriage.'



Marriage Facts

by Monte Neil Stewart

President of the Marriage Law Foundation
Harvard Journal of Law and Public Policy
1st July 2008:

Excerpt:

Ever stronger current, rigorous social science studies have ever more firmly established that family form matters and that children receive maximum private welfare when they are raised by a married mother and father in a low-conflict marriage ... This evidence has troubled many in the academy who believe that all family forms are normatively equal.

Marriage and the Public Good: Ten Principles

by the Witherspoon Institute, June 2006

by Maggie Gallagher

University of St Thomas Law Journal, Fall 2004

Excerpt:

Marriage ... is the only institution that can both (a) produce the next generation of babies and (b) connect these babies to both their father and the mother ... Getting men and women into stable marital unions was understood to protect the interests of children and society in a stable social order ... Babies are most likely to grow into functioning adulthood when they have the care and attention of both their father and their mother ... The weight of social science evidence strongly supports the idea that family structure matters and that children do best when raised by their own mother and father in a decent, loving marriage.

Fathers' involvement and children's developmental outcomes: a systematic review of longitudinal studies

by Anna Sarkadi

Department of Women's and Children's Health, Uppsala University, Sweden

Robert Kristiansson

Centre of Clinical Research, Västerås County, Sweden

Frank Oberklaid

Centre for Community Child Health, Royal Children's Hospital, Melbourne, Australia

Sven Bremberg

National Institute of Public Health, Östersund, Sweden

Acta Paediatrica, Volume 97, Issue 2 Page 153-158, Feb 2008

This is a systematic review of existing research into the effects of father involvement (both biological fathers and father-figures) on children's developmental outcomes.

Excerpts:

There is evidence to support the positive influence of father engagement on offspring social, behavioural and psychological outcomes.

High father engagement in poor families (with stable marriages) predicted lower incidence of delinquency during the early adult years for both sexes.

Current institutional policies in most countries do not support the increased involvement of fathers in child rearing.



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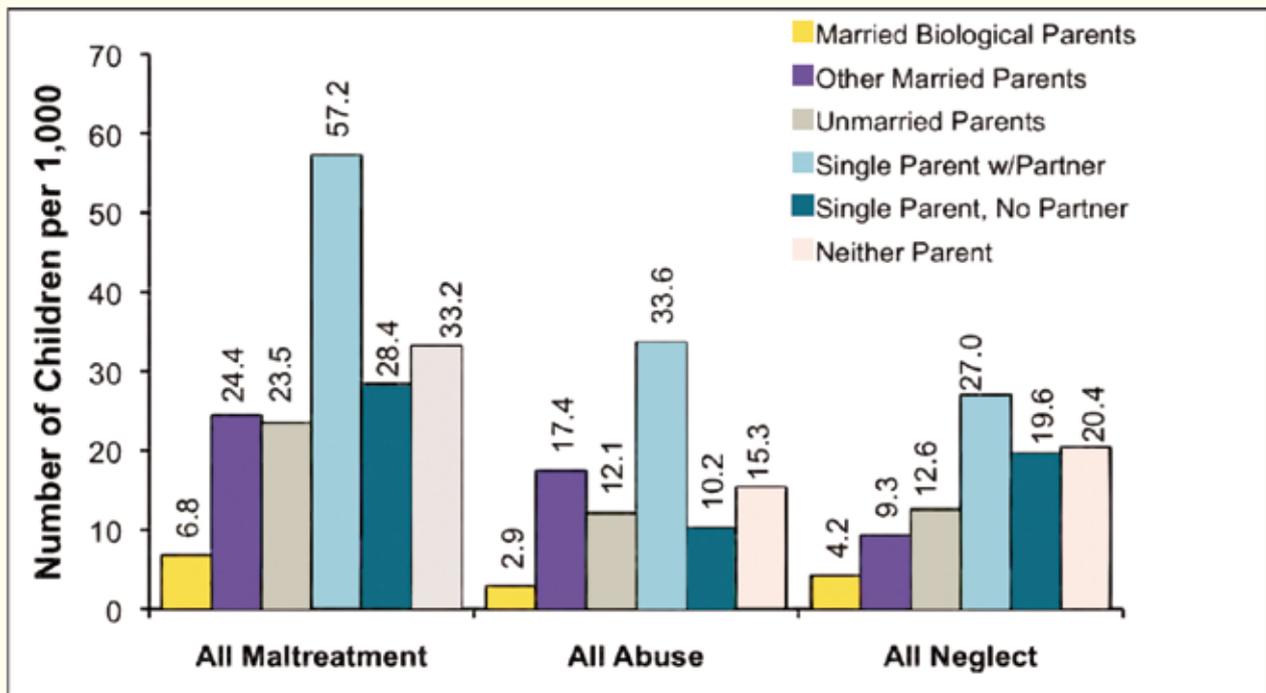


Figure 5-1. Incidence of Harm Standard Maltreatment by Family Structure and Living Arrangement.
 'Harm' comprises all maltreatment, abuse and neglect
 'All Abuse' comprises physical abuse, sexual abuse and emotional abuse
 'All Neglect' comprises physical neglect, emotional neglect and educational neglect

Fourth National Incidence Study of Child Abuse and Neglect (NIS-4)

Report to US Congress, 2010

by Sedlak, Andrea J, Mettenburg, Jane, Basena, Monica, Petta, Ian, McPherson, Karla, Greene, Angela, and Li, Spencer

Excerpt:

The rate of Harm Standard abuse for children living with two married biological parents [shown in yellow above] ... is significantly lower than the rate for children living in all other conditions of family structure and living arrangement ... The rates in the highest and lowest risk groups differ by more than a factor of 11.

Creating an Opportunity Society

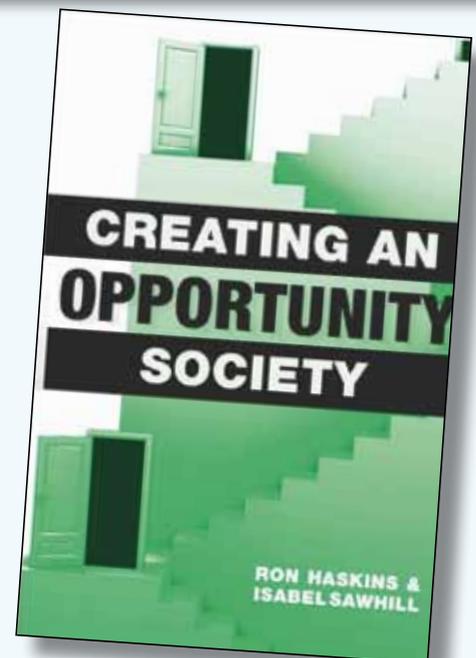
by Ron Haskins and Isabel Sawhill

The Brookings Institute in the US

The book, published in 2009, examines economic opportunity in the United States and explores how to create more of it. It recommends pro-marriage policies as one key way to help the poor, especially their children, climb out of poverty.

Excerpt:

There is a growing consensus that having two married parents is the best environment for children. Marriage brings not only clear economic benefits but social benefits as well, enabling children to grow up to be more successful than they might otherwise be ... To those who argue that this goal [promoting marriage] is old-fashioned or inconsistent with modern culture, we argue that modern culture is inconsistent with the needs of children.



About the Iona Institute

The Iona Institute promotes the place of marriage and religion in society. We defend the continued existence of publicly-funded denominational schools. We also promote freedom of conscience and religion.



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