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978-1-107-05992-4 - Conjugal Union: What Marriage is and Why it Matters

Patrick Lee and Robert P. George

Excerpt

[More information](#)

I

Introduction

During a recent daytime television talk show, a young woman was informed that her husband had offered her best friend five hundred dollars to have sex with him. Needless to say, the young woman (the wife) became very angry, and she (along with the talk show host and most of the audience present) viewed this act as an egregious betrayal. During the heated argument that ensued, it emerged that the unfortunate wife would have been just as angry if her husband had offered a much smaller sum; and, by contrast, she would have been much *less* angry if he had offered even a larger sum in return for something other than sex. What particularly hurt her (and angered the host and the live audience) was, not the money, but the fact that her husband was seeking sex from her friend. The husband objected that if he had had sex with his wife's friend, it would not have been an expression of love and would not have detracted from what *they* had, which was very special. However, neither the young lady nor the audience seemed impressed by this logic. It was clear that, according to the wife, the in-studio audience, and the talk show host, the young man's sexual acts, both real and hoped for, could not be described (as he sought to describe them) as meaningless.

Who was right, the young woman or the young man? Is there something special about sexual acts, or do they have meaning only if we choose to impose it on them? Why should a wife care

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[More information](#)

if her husband engages in “meaningless” sex with her best friend? What makes sexual acts so different – at least in our perception – from other types of activities? Someone might say that the young man in question had promised to have sex only with his wife, and that she felt betrayed only because he broke that promise. But of course, breaking a promise about some other issue would not have been so serious a matter. Moreover, this pushes the question back: why are people even inclined to promise to have sex only with their wives or husbands to begin with? The fact that at least many people are inclined to do so suggests that there is *something* special about sex. But what is it? What makes sex so much more meaningful (in most cases, anyway) than playing tennis together, sharing an interest in nineteenth-century English literature (or contemporary Hollywood gossip), or forming a business partnership?

And yet, since the 1960s, the idea that sex can be just a fun thing to do, without serious meaning or consequences, has gained significant ground in our culture. The central idea of the sexual revolution was that young men and (especially) women should shake themselves free of the “benighted” and “repressive” idea that sexual acts should be reserved for marriage and embrace a “liberated” view of sex as a form of recreation bound only by the principle of “consent.” In certain circles, young women and men, and increasingly, girls and boys, are *expected* to think and behave according to this idea. The view that sex lacks any inherent meaning is conveyed in countless television shows – sitcoms, dramas, and talk shows – in movies, and in sex education (and “health”) classes.

Of course, this shift in attitudes toward sex was precipitated, at least in part, by the introduction of the anovulent birth control pill in the early 1960s. It was then generally thought that unmarried men and women could now have sex without fear of the bad consequences that had held them (especially women) back before. In addition, the conviction that sex should be reserved for marriage was viewed as part of Victorian repression. The revolution was supposed to liberate women (and men, if they needed such liberation) so they could now have sex without worrying

Cambridge University Press

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Excerpt

[More information](#)*Introduction*

3

about physical and emotional consequences – pregnancy, guilt, and emotional entanglements. This idea has persisted: on television or in the movies, one only occasionally sees anyone become pregnant, discover that he or she has an incurable sexually transmitted disease, or experience emotional difficulties resulting from what were meant to be casual sexual encounters.

And yet the promise of consequence-free sex has for many men and women turned out to be illusory. For one thing, contraceptives have a significant failure rate. Even the pill has a significant user rate of failure – as is made clear when it is argued that abortion must be available as a backup for contraceptives.¹ Then, too, abortion is never merely a minor inconvenience – it often has significant negative effects on the emotional well-being of women who undergo the procedure, and always on the unborn human beings whose lives are extinguished.

Moreover, the increase in nonmarital sexual activity has led to a dramatic increase in sexually transmitted infections and diseases – some of which were exceedingly rare or even unknown before the 1970s and 1980s.

Finally, many women commenting on the shift in sexual attitudes and behaviors in the last few decades have explained that sexual acts that were supposed to be casual or recreational often turn out not to be so emotionally meaningless for one of the parties. According to these writers, after such sexual activity, women frequently experience a feeling of being used or of hollowness. As Canadian journalist and author Danielle Crittenden explains:

Indeed, in all the promises made to us about our ability to achieve freedom and independence as women, the promise of sexual emancipation may have been the most illusory. Yes, we can do “anything a man does” (except maybe in terms of bench pressing). And yet, all the sexual bravado a young woman may possess evaporates the first time a man she truly cares for makes it clear that he has no further use for her after his own body has been satisfied. No amount of feminist posturing, no amount of reassurances that she doesn’t need a guy like that anyway, can protect her from the pain and humiliation of those awful moments

¹ See *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 856 (1992).

Cambridge University Press

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Excerpt

[More information](#)

after he's gone, when she's alone – and feeling not sexually empowered, but discarded . . . This “used” feeling among women is one that has not gone away after 30 years of experimentation with casual sex.²

This observation is commonplace, offered by writers of widely varying political outlooks. Describing the hookup culture found these days on many college campuses in the United States, Kathleen Bogle explained that women's experiences are often quite different from those of men:

Many of the women I interviewed had a story similar to Raquel's: a woman who was involved, sexually and otherwise, with a man often wanted that man to be in an exclusive relationship with her. When the two parties were not on the same page, women struggled with whether to “hang on” with the hope of a happy ending or to “move on” and start searching for a new partner. These women found it very difficult to end a relationship, even when they were not satisfied with its quality. For college women this sometimes came in the form of booty-call relationships or repeat hookup relationships.³

One part of an interview was particularly revealing for the overall results of the sexual revolution – specifically on college campuses but by implication for the culture as a whole:

ROBERT: It almost seems like [the hookup scene] is a guy's paradise. No real commitment, no real feeling involved, this is like a guy's paradise. This age [era] that we are in I guess.

KB [KATHLEEN BOGLE]: So you think guys are pretty happy with the [hookup] system?

ROBERT: Yeah! I mean this is what guys have been wanting for many, many years. And women have always resisted, but now they are going along with it. It just seems like that is the trend.⁴

Thus, the sexual revolution held out the promise that, with the pill and a “progressive” attitude to sex, women could now experience sex the way some men always had been able to in the past. What the culture of the sexual revolution could not deliver,

² Danielle Crittenden, *What Our Mothers Didn't Tell Us* (New York: Simon and Schuster, 1999), 31.

³ Kathleen Bogle, *Hooking Up: Sex, Dating, and Relationships on Campus* (New York: New York University Press, 2008), 177.

⁴ *Ibid.*, 183.

Cambridge University Press

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Patrick Lee and Robert P. George

Excerpt

[More information](#)*Introduction*

5

however, was the same dualistic detachment in women from their bodies that many promiscuous males had seemed able to achieve (to their own detriment, we submit, but lay that aside for now). This fact is evidenced by the dramatic increase in emotional problems, suicides, self-mutilation (“cutting”), and eating disorders among young women.⁵ As the social scientist Sheetal Malhotra, discussing such practices, indicated, “early sexual activity and multiple partners are also associated with pain and suffering from broken relationships, a sense of betrayal and abandonment, confusion about romantic feelings, altered self-esteem, depression, and impaired ability to form healthy long-term relationships.”⁶ So, while the culture in many ways suggests that sexual activity need have no profound consequences and is of itself meaningless – though able somehow to be transformed by choice into something meaningful – the experience of many women and men has been quite different.

Something similar has occurred regarding marriage, namely, a dramatic change in our culture’s perception of it combined with serious concrete problems in reality. Fifty years ago, it was viewed as a *conjugal union*, that is, a specific type of bodily and spiritual union of complementary persons oriented to procreation and education of children. It was generally thought that marriage has an objective structure, that, while people are free to marry or not, people are not free to change marriage’s basic structure. This was why marriage was believed to be for life, the kind of relationship that requires permanence. Also, marriage was viewed as intrinsically linked to procreation – as the kind of relationship that is characteristically fulfilled by having and raising children. However, in the last few decades, a different idea of “marriage” has become influential, namely, that it is basically an emotional tie that can be shaped in different ways by choice.

⁵ Please note that we are not asserting that every case of each of these pathologies is caused by sexual promiscuity.

⁶ Sheetal Malhotra, “Impact of the Sexual Revolution: Consequences of Risky Sexual Behaviors,” *Journal of American Physicians and Surgeons* 13, no. 3 (2008): 89.

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[More information](#)

Several important changes in the institution of marriage indicate this shift in viewpoint.

First, the divorce rate in America has dramatically risen in the last fifty years. In fact, the rate of divorce is nearly twice what it was fifty years ago. “The average couple marrying for the first time now has a lifetime probability of divorce or separation somewhere between 40 and 50 percent.”⁷ This fact suggests that marriage is now viewed with less seriousness than previously.

Second, a significantly higher percentage of men and women today, as compared to fifty years ago, are opting for cohabitation as opposed to marriage. Sociologists conclude that between 1960 and 2009, the number of cohabiting couples in the United States has increased more than fifteenfold. Today about one-fourth of unmarried women age twenty-five to thirty-nine are living with a sexual partner, and an additional one-fourth have lived with a sexual partner (without marriage to that partner) at some time in the past.⁸

Third, there is a strong trend toward disconnecting marriage and child rearing. Fewer women are having children: in 1960, the birthrate (the average number of births per woman during her lifetime) was 3.65; today the birthrate in the United States is down to 2.09 (just about the replacement level), while in many other countries, it is even lower – in some cases, much lower. For example, in Germany, Spain, Italy, Greece, and Japan, the number is closer to 1. The separation between marriage and procreation in our culture is also shown by the dramatic increase in the percentage of children born outside marriage – to single or cohabiting parents. Since 1960, the percentage of children born to unmarried mothers has increased more than eightfold; in 2009, more than four in ten births were to unmarried mothers.⁹ The percentage of children growing up in single-parent families or stepfamilies has grown enormously in the last fifty years.

⁷ W. Bradford Wilcox and Elizabeth Marquardt, eds., *The State of Our Unions*, 2010 (Charlottesville, VA: National Marriage Project, 2010), 71, <http://www.stateofourunions.org/>.

⁸ *Ibid.*, 76.

⁹ *Ibid.*, 95.

Cambridge University Press

978-1-107-05992-4 - Conjugal Union: What Marriage is and Why it Matters

Patrick Lee and Robert P. George

Excerpt

[More information](#)*Introduction*

7

Fourth, although the traditional conception did not deny the desirability of emotional closeness in marriage, there was an emphasis on the idea that marriage involved a durable bond and that it normally enlarged into family. By contrast, there is a growing tendency in the last fifty years to view the central point of marriage to be emotional intimacy. (Vows composed by brides and grooms tend to emphasize emotions rather than marriage as an objective state or bond.) As Bradford Wilcox explains, over the last several decades, many Americans have moved away from an “institutional” model of marriage (which seeks to integrate sex, parenthood, economic cooperation, and emotional intimacy in a permanent union) to a “soul mate” model. On this model, marriage is seen “as primarily a couple-centered vehicle for personal growth, emotional intimacy, and shared consumption that depends for its survival on the happiness of both spouses.”¹⁰

Many Americans believe that any relationship worth calling “marriage” must have an emotional closeness or emotional match. Hence the idea that spouses sometimes “just grow apart” and that, when this occurs, the marriage has “died” – an idea assisted by no-fault divorce laws – is part of the contemporary conception of marriage. Thus, whereas there is more freedom regarding marriage in one respect (with respect to its structure), there is less freedom regarding marriage in another respect – regarding its existence, since a large number of couples no longer feel themselves able to commit their future selves to marriage as a durable bond and so are not actually free to vow marriage “until death do [they] part” (for no one can guarantee emotional intimacy for a lifetime).

These points reflect a dramatic change in people’s idea of what marriage is and of its purposes and norms. Fifty years ago, the predominant notion of marriage was that it is a conjugal union that men and women can choose to enter but whose structure they cannot alter. Today there is a strong trend toward viewing the structure of marriage as negotiable. Many view marriage as a construct that is created by its participants and shaped in its

¹⁰ Ibid., 38.

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Excerpt

[More information](#)

meaning and norms by their subjective purposes and desires. A concrete sign of this is how brides and grooms approach their wedding vows. Fifty years ago, the traditional wedding vows were recited in nearly all weddings:

I, John, take you, Mary, to be my wife, to have and to hold from this day forward, for better or for worse, for richer, for poorer, in sickness and in health, to love and to cherish; from this day forward until death do us part.

These vows convey the idea that although marriage begins only with the spouses' consent, that consent is given to enter into a state that has an objective structure and is of itself meant to be lifelong. By contrast, today it is not uncommon for brides and grooms to compose their own vows and deviate significantly from the historical norm.

These changes in how sexual activity and marriage are experienced and understood raise several vital ethical questions: Does sex have by its nature a profound importance, or can it be meaningful or not simply dependent on the intentions of the parties involved? If sexual activity does have an inherent profundity, what moral implications does this – together with basic moral principles – have? What is marriage? Does marriage have an objective structure, and if so, what is that structure? How, if at all, is marriage related to procreation and the rearing of children? Is there an intrinsic link, whether direct or indirect, between marriage and procreation? Is marriage permanent, or at least, should marriage be permanent – should marriage really be “for better or for worse, for richer, for poorer, until death do us part”? Is marriage exclusive, or can marriage exist between a man and several wives, or a wife and several husbands, or by groups of three or more in polyamorous sexual ensembles? Is sex outside marriage necessarily wrong? Is marriage necessarily between a man and a woman? What should the law say about marriage? Should our society redefine marriage, at least as a legal entity, to include same-sex partners? Should it include polyamorous groups of persons? What should the law be with respect to divorce?

Cambridge University Press

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Excerpt

[More information](#)*Introduction*

9

Of course, many of these questions are addressed by various religious bodies and creeds. But in this book, we examine these issues from the standpoint of reason unaided by faith; that is, we do not presuppose here any revealed source of truth – we do not presuppose the truth of any sacred writings or the teachings of any authoritative religious body. The arguments we propose are ones that can be accepted by anyone, without regard to religious conviction and commitment. Thus, we will set out philosophical arguments (sometimes called “natural law” arguments) to defend traditional morality on the questions of what marriage is; whether it should be exclusive, permanent, between a man and a woman, and restricted to two persons, not three or more; whether sexual acts outside marriage are morally right; and whether marriage should be defined by the political community as an exclusive union of husband and wife.

Our approach is distinct from the approaches of many others who defend traditional sexual morality. In Chapter 2, we clarify the ethical approach we commend by distinguishing it from some inadequate arguments often advanced in support of traditional sexual morality, on one hand, and from hedonistic arguments advanced to defend a liberationist sexual ethic, on the other.

Chapter 3 explains what marriage is, both as a community and as an institution, and criticizes competing views. We show that marriage is the community formed by a man and a woman who publicly consent to share their whole lives, on every level of their being, including the bodily, in a type of relationship that would be fulfilled by begetting, nurturing, and educating children together (even if in fact this or that marriage does not result in children). In this chapter, we also show that marriage is by its nature exclusive and binding until the death of one of the spouses.

Chapter 4 sets out our argument for the proposition that sexual acts outside marriage are objectively immoral. Our argument centers on the choice to engage in a nonmarital sexual act and the relationship between this choice, on one hand, and what is genuinely fulfilling for the persons involved in that act, on the other hand. We argue that loving marital intercourse embodies

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Excerpt

[More information](#)

marital communion and that it consummates or renews the marriage, that is, the two-in-one-flesh union of a man and a woman. And we argue that if sexual acts do not consummate or renew marriage, they involve a violation of the basic human good of marriage itself.

In Chapter 5, we consider how the law should view marriage. Here we examine the claim that marriage should be redefined to include same-sex and polyamorous unions and reject that claim. We also argue that the law should set forth the permanence of marriage as the norm and therefore that the laws that grant no-fault divorces should be repealed.