

2004

# The Role of Socioeconomics in Teaching Family Law

Margaret F. Brinig

*Notre Dame Law School*, [mbrinig@nd.edu](mailto:mbrinig@nd.edu)

Follow this and additional works at: [https://scholarship.law.nd.edu/law\\_faculty\\_scholarship](https://scholarship.law.nd.edu/law_faculty_scholarship)



Part of the [Family Law Commons](#)

---

## Recommended Citation

Margaret F. Brinig, *The Role of Socioeconomics in Teaching Family Law*, 41 San Diego L. Rev. 177 (2004).

Available at: [https://scholarship.law.nd.edu/law\\_faculty\\_scholarship/584](https://scholarship.law.nd.edu/law_faculty_scholarship/584)

This Article is brought to you for free and open access by the Publications at NDLScholarship. It has been accepted for inclusion in Journal Articles by an authorized administrator of NDLScholarship. For more information, please contact [lawdr@nd.edu](mailto:lawdr@nd.edu).

# The Role of Socioeconomics in Teaching Family Law

MARGARET F. BRINIG\*

## TABLE OF CONTENTS

I.	INTRODUCTION .....	177
II.	THE RISE AND FALL OF DIVORCE RATES .....	180
III.	ADOPTION, FOSTER CARE, AND KINSHIP CARE .....	186
IV.	CHARTS AND TABLES .....	191

### I. INTRODUCTION

Applying knowledge from other social sciences makes particular sense with the law and economics of the family. Much of the behavior we see and experience within families is difficult to see or understand as economically rational, that is, narrowly self-interested.<sup>1</sup> Many of the legal changes we make that appear to be rational, at least from a cost-benefit perspective, turn out to be unsatisfying or even counterproductive. Though economists tend to view motivations or “utility functions” based

---

\* William G. Hammond Professor, University of Iowa. With deep thanks to my fellow panelists, June Carbone and Sarah Ramsey.

1. Perplexing examples include, on the negative side, unpremeditated family violence, and on the positive side, love itself. For Gary Becker’s attempts to fit abusers and lovers into the homo economicus paradigm, see generally GARY S. BECKER, *A TREATISE ON THE FAMILY* (2d ed. 1991); *ESSAYS IN THE ECONOMICS OF CRIME AND PUNISHMENT* (Gary S. Becker & William M. Landes eds., 1974). For a sympathetic view, see RICHARD A. POSNER, *SEX AND REASON* 3–5 (1992). For a more nuanced and less sympathetic approach, see JENNIFER ROBACK MORSE, *LOVE & ECONOMICS: WHY THE LAISSEZ-FAIRE FAMILY DOESN’T WORK* 174–77 (2001).

upon “revealed preference,”<sup>2</sup> extended models like that of socioeconomics go below what is revealed to measure, as best we can, people’s attitudes and feelings about what may be the same phenomena.<sup>3</sup> Motivation, in this view, is far more complex than economists’ simple rational actor model suggests.<sup>4</sup> In particular, the socioeconomics model presents worlds in which fairness and justice are explicitly taken into account. Good empirical research should track this difference in emphasis because fairness and justice, and feelings about them, matter. If researchers stop at the level of counting, important though this is, policy decisions that ought to be made on the basis of solid research may have what we call design defects in products liability. They will ultimately “crash” because they are based upon a skeletal model of human motivation that frequently does not include distributional concerns or feelings that go beyond narrow self-interest.

Further, we can distinguish socioeconomics as a discipline, or at least a subdiscipline, in part because empirical work plays such an important role for socioeconomics. Thus, we pay attention to Milton Friedman’s famous observation that the value of the rational actor model lies not in the truth of its depiction of human thinking, which we can only grasp at, in any event, but in its prediction of future behavior.<sup>5</sup> Many of the articles we can read in recent issues of the *American Economic Review* or the *Journal of Legal Studies* seem to use the model in ways that do not depend upon empirical confirmation.<sup>6</sup>

---

2. DONALD N. MCCLOSKEY, *THE APPLIED THEORY OF PRICE* 52–53 (2d ed. 1985); HAL R. VARIAN, *MICROECONOMIC ANALYSIS* 141–43 (2d ed. 1984).

3. For examples from the legal literature, see Gillian K. Hadfield, *An Expressive Theory of Contract: From Feminist Dilemmas to a Reconceptualization of Rational Choice in Contract Law*, 146 U. PA. L. REV. 1235, 1235–39 (1998); Robin West, *Submission, Choice, and Ethics: A Rejoinder to Judge Posner*, 99 HARV. L. REV. 1449, 1453–56 (1986).

4. MORSE, *supra* note 1, at 11–22 (discussing the difference between homo economicus—the rational economic actor—and most of us; the rational economic man might be a person with attachment disorder or a sociopath).

5. MILTON FRIEDMAN, *The Methodology of Positive Economics*, in *ESSAYS IN POSITIVE ECONOMICS* 3, 4–7 (1953).

6. Gillian Hadfield mentioned one talk she had heard about love being described completely as interlocking utility functions and then going on to derive various mathematical conclusions from the derivatives. I have used her story in class as a launching point for lively discussions about the validity of using economic theory in family law at all. This does not invalidate the simplification typical of economics. For example, when describing bargaining behavior at divorce, I frequently begin with Mnookin and Kornhauser’s *Bargaining in the Shadow of the Law*. Robert H. Mnookin & Lewis Kornhauser, *Bargaining in the Shadow of the Law: The Case of Divorce*, 88 YALE L.J. 950 (1979). Mnookin and Kornhauser reduce divorce bargaining, a complicated and multifaceted process at the very least, to two dimensions—money and time with children. *Id.* at 952–55. This simplification, typical of economics in general, sits uneasily in my students’ stomachs. The difference is that many of the points made in

This concern is not limited only to family researchers and policy gurus. Our students may suffer from the same myopia if they merely learn doctrine or even doctrine with a theory. One of my colleagues, at a highly ranked law school, taught family law for one term just to learn about it. He remarked to me recently that he had no idea how difficult it was. The students wanted to talk not just about the cases but about their own experiences and attitudes. He felt pulled in ways he had never been in his more typical classes, and though it was fun, he would not want to do it again. It was too “messy.”

On the other hand, law classes are not meant to work on group therapy or listen to strings of personal narratives, though our students may feel a bit of both goes on as they privately reflect on the material presented. In what we ask them to read and have them discuss in class, we are constantly challenged with how to broaden students as fledgling lawyers so they view their jobs as not only dealing with legal doctrine but also struggling with deep human and societal problems. Properly used, socioeconomics can change this lens for the literature and the classroom.

Thus, I argue here that family law should take into account underlying human and societal problems. Socioeconomics helps students systematically examine those issues in ways that go beyond the anecdotal. Empirical research can help set up such discussions.<sup>7</sup> I give two examples coming from my own empirical work that I use in my class. Both of the examples reflect significant policy debates: Divorce and child welfare law are taught in nearly every family law survey course. Both of these would seem to have relatively simple legal and economic explanations and solutions. But as we dig deeper, or go behind the usual market-based solutions, cases, and statutory law, the picture rapidly becomes more complicated. Closer analysis reveals the disutility of facile solutions,<sup>8</sup>

---

this article can be tested empirically, and both Mnookin and I, among others, have subsequently done so. See Margaret F. Brinig & Michael V. Alexeev, *Legal Rules, Bargaining, and Transactions Costs: The Case of Divorce*, in SYSTEMATIC ANALYSIS IN DISPUTE RESOLUTION 91, 98 (Stuart S. Nagel & Miriam K. Mills eds., 1991); see also ELEANOR E. MACCOBY & ROBERT H. MNOOKIN, DIVIDING THE CHILD: SOCIAL AND LEGAL DILEMMAS OF CUSTODY 1–5 (1992).

7. I am making simultaneous arguments that empirical work helps define socioeconomics and that socioeconomics frequently plays a major role in a full family law discussion. I thank June Carbone for pointing this complexity out to me.

8. Of course, as Sarah Ramsey noted, there are problems with many of the social science studies used in family litigation and to support legislative reform. See Sarah H. Ramsey & Robert F. Kelly, *Using Social Science Research in Family Law Analysis and Formation: Problems and Prospects*, 3 S. CAL. INTERDISC. L.J. 631, 631–33 (1994); see also

the “polycentrism” of the problems (to quote Lon Fuller),<sup>9</sup> and, frequently, the unexpected results of legal change.<sup>10</sup> As an empiricist, I am struck with the power of these findings, and I have found that others, including students, react positively as well.

## II. THE RISE AND FALL OF DIVORCE RATES

Earlier pieces in this symposium by Professors Dallas and Carbone describe how socioeconomic is a process of going behind the observed data and particularly the utility functions assumed by economists. One example of a topic that could be considered using various tools is the national changes in divorce rates.<sup>11</sup> We typically present this fairly early in the family law course as part of our treatment of divorce reform, or, perhaps, the current backlash against no-fault divorce. As Figure 1 shows, the rates per 1000 population rose until the 1980s, leveled off, and have declined since then.<sup>12</sup>

A strictly legal approach, one favored by at least some of my students, might be not to care what has happened to divorce rates at all. Because most states have no-fault divorce, why not just skip ahead to the more controversial matters of property distribution and child custody? There will of course be debate about whether, as the Coase theorem<sup>13</sup> might predict, change in the law would not change the number of divorces (outcomes) but would change the distribution of wealth, as people would have to bargain out of instead of into divorce.<sup>14</sup> My own view, because even no-fault divorce does involve significant transaction costs, is to

---

Margaret F. Brinig, *Empirical Work in Family Law*, 2002 U. ILL. L. REV. 1083, 1084–86.

9. Lon L. Fuller, *The Forms and Limits of Adjudication*, 92 HARV. L. REV. 353, 393–400 (1978). “Polycentric” problems are those in which a change in one thing affects a host of others. Fuller uses the example of an art museum’s selection from the estate of a collector. *Id.* at 394.

10. For one such well-known (and flawed) study, see LENORE J. WEITZMAN, *THE DIVORCE REVOLUTION: THE UNEXPECTED SOCIAL AND ECONOMIC CONSEQUENCES FOR WOMEN AND CHILDREN IN AMERICA* ix–xi (1985); Lenore J. Weitzman, *The Economics of Divorce: Social and Economic Consequences of Property, Alimony and Child Support Awards*, 28 UCLA L. REV. 1181, 1183–84 (1981); see also Margaret F. Brinig & Steven M. Crafton, *Marriage and Opportunism*, 23 J. LEGAL STUD. 869, 869–70 (1994).

11. Professor Carbone has made much the same point in terms of spousal support. If the class is going to discuss the topic at all, conclusions will be shaped by assumptions foisted in socioeconomic analysis, which ought to be made explicit.

12. See *infra* Figure 1.

13. R.H. Coase, *The Problem of Social Cost*, 3 J.L. & ECON. 1, 1–6 (1960).

14. Compare H. Elizabeth Peters, *Marriage and Divorce: Informational Constraints and Private Contracting*, 76 AM. ECON. REV. 437, 437 (1986) (arguing that the change in the law would have no effect on the divorce rate), with Leora Friedberg, *Did Unilateral Divorce Raise Divorce Rates? Evidence from Panel Data*, 88 AM. ECON. REV. 608, 608 (1998) (arguing that the “no-fault revolution” will, and has, raised divorce rates).

ignore this debate in class.<sup>15</sup> The straight law and economic approach might suppose that the legal change brought about the observed change.<sup>16</sup> Then, if one supposed that divorce was bad, either because two households are less efficient or produce less wealth than one, or because kids are less well off in many cases,<sup>17</sup> a concerned and powerful lawyer might propose a change in divorce laws.<sup>18</sup>

However, a broader approach might use labor force data beginning at the same time to cast doubt that the legal change was the leading instrumental in the pattern of divorce rates. Figure 2 attempts to do this, using data from the Bureau of Labor Statistics.<sup>19</sup> The change in women's labor force participation shows a dramatic increase in both the numbers of women at every age who have entered the labor force and, especially as contrasted with the low divorce rate time of the 1950s, women's persistence in the labor force, even during prime childbearing age. The change apparently begins *before* the "divorce revolution" and does so in nearly every other industrialized country as well as in the United States.<sup>20</sup> This observation might lead one to think that law follows social change<sup>21</sup> and that a change in divorce rules now might be at best counterproductive.<sup>22</sup>

15. I have not done so in my writing. See Margaret F. Brinig & F.H. Buckley, *No-Fault Laws and At-Fault People*, 18 INT'L REV. L. & ECON. 325, 325 (1998); Margaret F. Brinig & Michael V. Alexeev, *Trading at Divorce: Preferences, Legal Rules and Transaction Costs*, 8 OHIO ST. J. ON DISP. RESOL. 279, 279-82 (1993). See generally Brinig & Crafton, *supra* note 10.

16. Brinig & Buckley, *supra* note 15, at 358.

17. This is certainly true in a financial sense, and may be in a psychological one, at least for the short term. For two contrasting analyses on the second point, compare JUDITH WALLERSTEIN ET AL., *THE UNEXPECTED LEGACY OF DIVORCE: A 25 YEAR LANDMARK STUDY* 297-98 (2000), with E. MAVIS HETHERINGTON & JOHN KELLY, *FOR BETTER OR FOR WORSE: DIVORCE RECONSIDERED* 7-8 (2002).

18. See generally LINDA J. WAITE ET AL., *DOES DIVORCE MAKE PEOPLE HAPPY? FINDINGS FROM A STUDY OF UNHAPPY MARRIAGES* (2002) (discussing the need to make marriage difference from divorce and suggesting strengthening divorce laws as part of the solution).

19. See *infra* Figure 2. The entire display, an animated PowerPoint series, is available at Margaret F. Brinig, *Powerpoint Display on Labor Force Participation*, at <http://www.uiowa.edu/~mfblaw> (last visited Jan. 20, 2004). The PowerPoint display contains men's (nearly constant) and women's (changing) labor force participation over the life course for years 1948-2001.

20. Douglas W. Allen, *No-Fault Divorce in Canada: Its Cause and Effect*, 37 J. ECON. BEHAV. & ORG. 129, 133-35, 147 (1998).

21. See WILLIAM J. GOODE, *WORLD CHANGES IN DIVORCE PATTERNS* 8-11 (1993).

22. *But see* Richard G. Wilkins, *International Law, Social Change and the Family*, Address Before the International Society of Family Law World Congress, Plenary Session (Aug. 9, 2002).

A thoughtful student might then want to go further. *Why* does women's labor force behavior increase the divorce rate (and the demand for no-fault divorce)? Is it because working women have more money and therefore can exit marriages they could not have left before?<sup>23</sup> Is it because a woman with a job—or, better yet, a career—has other things than the household to give her self-esteem and basically does not need her husband if he is not contributing emotionally? Men apparently benefit from, and stay in, even emotionally bankrupt marriages.<sup>24</sup> Women do not.

Does the women's malaise stem, as Professor Dallas notes in her materials and others have noted elsewhere, from the fact that men have not picked up the household jobs as their wives' labor force behavior has changed? In other words, young men's roles today are remarkably similar to their grandfathers' roles, while women's roles are dramatically different.<sup>25</sup> Do the consequent "gender wars"<sup>26</sup> over household jobs increase wives' but not husbands' dissatisfaction, so that with lower cost divorces available and the means to support themselves, women will just leave? This might be the simple rational actor model. My own research with Steven Nock<sup>27</sup> indicates that the problem is still more complicated and resides at some distance from rational actor market behavior. If the household work that is picked up by men is "women's work" (dishes, cooking, laundry, grocery shopping, cleaning), marital stability decreases.<sup>28</sup> But if husbands realize that women are unfairly treated in the division of labor, the marriages tend to be very stable ones. Thus it is not just what is chosen that matters, but how the people involved feel about the choice. When I present students with this set of feelings, they tend to

---

23. A recent piece by demographers Liana Sayer and Suzanne Bianchi suggests that this is not a large part of the story. Liana C. Sayer & Suzanne M. Bianchi, *Women's Economic Independence and the Probability of Divorce: A Review and Reexamination*, 21 J. FAM. ISSUES 906, 908, 932–33 (2000). But financially powerful women, who could leave marriages, did not do so more often. The best predictor of divorce was the women's, not their husbands', dissatisfaction with the emotional quality of the marriages. *Id.* at 932–33.

24. A still more recent study, with a number of methodological problems, shows that children's depressive symptoms are most strongly linked to their *fathers'* level of marital satisfaction and marital stability. Linna Wang & D. Russell Crane, *The Relationship Between Marital Satisfaction, Marital Stability, Nuclear Family Triangulation, and Childhood Depression*, 29 AM. J. FAM. THERAPY 337, 337–43 (2001).

25. Steven L. Nock & Margaret F. Brinig, *Weak Men and Disorderly Women: Divorce and the Division of Labor*, in THE LAW AND ECONOMICS OF MARRIAGE AND DIVORCE 171, 172–73 (Antony W. Dnes & Robert Rowthorn eds., 2002).

26. Joan Williams, *Gender Wars: Selfless Women in the Republic of Choice*, 66 N.Y.U. L. REV. 1559, 1559–62 (1991).

27. Nock & Brinig, *supra* note 25, at 171–74.

28. See *infra* Table 1. When women add additional hours of women's work, marital stability decreases as well. Additional hours of "men's work" (household repairs, lawn care, car maintenance) by *either* spouse increase marital stability. *Id.*

become very involved in the discussion. They see the interaction between family issues and labor force problems<sup>29</sup> and the gendered nature of marriage.<sup>30</sup> I would then ask the following: What does this mean for family lawyers or law reformers? Mandating equal sharing of housework, despite its surface appeal, might be a really bad idea.<sup>31</sup> Getting people to think in terms outside those of an “exchange relationship”<sup>32</sup> (the sociologists’ term) or tit for tat<sup>33</sup> (the economists’ term) works much better for stabilizing marriage.<sup>34</sup> But is stabilizing inequality the same as stabilizing inequity?<sup>35</sup> The discussion might flow

29. See generally JOAN WILLIAMS, UNBENDING GENDER: WHY FAMILY AND WORK CONFLICT AND WHAT TO DO ABOUT IT 1–9 (2000); Gillian K. Hadfield, *Households at Work: Beyond Labor Market Policies to Remedy the Gender Gap*, 82 GEO. L.J. 89, 91–93 (1993); Amy L. Wax, *Bargaining in the Shadow of the Market: Is There a Future for Egalitarian Marriage?*, 84 VA. L. REV. 509, 514–15 (1998); Joan C. Williams, *Canaries in the Mine: Work/Family Conflict and the Law*, 70 FORDHAM L. REV. 2221, 2238 (2002).

30. See generally Martha M. Ertman, *Commercializing Marriage: A Proposal for Valuing Women’s Work Through Premarital Security Agreements*, 77 TEX. L. REV. 17, 33 (1998); William N. Eskridge, Jr., *Multivocal Prejudices and Homo Equality*, 74 IND. L.J. 1085, 1109 (1999); Martha Albertson Fineman, *Introduction to AT THE BOUNDARIES OF LAW: FEMINISM AND LEGAL THEORY* (Martha Albertson Fineman & Nancy Sweet Thomadsen eds., 1991); Nancy D. Polikoff, *We Will Get What We Ask For: Why Legalizing Gay and Lesbian Marriage Will Not “Dismantle the Legal Structure of Gender in Every Marriage.”* 79 VA. L. REV. 1535, 1537 (1993). For a sociological argument that marriage necessarily promotes gender, especially masculinity, see Steven L. Nock, *Time and Gender in Marriage*, 86 VA. L. REV. 1971, 1974, 1977 (2000).

Marriage is the primary locale in which gender is experienced because it is where our sexual lives are realized. . . .

....

The married household has been described as a “gender factory” because it is in the performance of routine and prosaic tasks that husbands and wives create and sustain their identities as men or women.

*Id.* (footnotes omitted).

31. The experiment was attempted in East Germany before reunification. While labor force participation increased, the divorce rate soared. See generally Margaret F. Brinig, *Equality and Sharing: Views of Household Across the Iron Curtain*, 7 EUR. J.L. & ECON. 55 (1998).

32. Gary L. Hansen, *Moral Reasoning and the Marital Exchange Relationship*, 131 J. SOC. PSYCHOL. 71, 72–73 (1991).

33. See ROBERT AXELROD, *THE EVOLUTION OF COOPERATION* 8–9 (1984); THOMAS C. SCHELLING, *THE STRATEGY OF CONFLICT* 5 (1980); Alvin E. Roth & Francoise Schoumaker, *Expectations and Reputations in Bargaining: An Experimental Study*, 73 AM. ECON. REV. 362, 371 (1983).

34. Steven L. Nock, *Turn-Taking as Rational Behavior*, 27 SOC. SCI. RES. 235, 243–44 (1998).

35. For an argument that they are not the same, see Nock, *supra* note 30, at 1977–78 (“Inequality in marriage is fair because it is how femininity and masculinity are created and defined.”).



easily, and has in some of my classes, into whether a lower divorce rate is something to strive for, or whether marriage itself is a flawed institution.<sup>36</sup> How would you write laws to discourage the exchange relationship? Covenant marriage with required counseling might be one solution.<sup>37</sup> Elizabeth Scott's long waiting period<sup>38</sup> or divorce only with mutual consent<sup>39</sup> are others. I am not convinced that any of these options presents a total solution and am more interested in getting rid of incentives to divorce that many laws, particularly custody laws, seem to provide.<sup>40</sup>

Nor is the solution apparently premarital cohabitation (or trial marriage), though it does produce more stable marriages in a few Western European countries.<sup>41</sup> This trend might explain the pattern we see in the United States after 1980, particularly the temporary rise in the age at first marriage.<sup>42</sup> Thus, we might see delays in marriage because of women's stronger ties to the labor force, cohabitation as a prelude to marriage because people (justly) feared divorce,<sup>43</sup> and some weeding out

---

36. For arguments that it is, see Fineman, *supra* note 30, at xi-xvi; Polikoff, *supra* note 30, at 1537. *But see* Margaret F. Brinig & Steven L. Nock, *Marry Me, Bill: Should Cohabitation Be the Default Option?*, in MARRIAGE: FOR AND AGAINST (A. Bernstein ed., forthcoming) (manuscript on file with author).

37. Covenant marriage is authorized in Arizona, Arkansas, and Louisiana. ARIZ. REV. STAT. §§ 25-901 to 25-906 (2000); Covenant Marriage Act of 2001, ARK. CODE ANN. § 9-11-801 to 9-11-811 (Michie 2002 & Supp. 2003); LA. REV. STAT. ANN. §§ 9:272-9:284 (West 2000); *see* Margaret Brinig & Steven Nock, *Covenant and Contract*, 12 REGENT U. L. REV. 9, 10-11 (1999); Alan J. Hawkins et al., *Attitudes About Covenant Marriage and Divorce: Policy Implications from a Three-State Comparison*, 51 FAM. REL. 166, 168 (2002).

38. Elizabeth S. Scott, *Rational Decisionmaking About Marriage and Divorce*, 76 VA. L. REV. 9, 76-78 (1990); *see also* Robert M. Gordon, *The Limits of Limits on Divorce*, 107 YALE L.J. 1435, 1464-65 (1998).

39. ALLEN M. PARKMAN, GOOD INTENTIONS GONE AWRY: NO-FAULT DIVORCE AND THE AMERICAN FAMILY 188-90 (2000).

40. Margaret F. Brinig & Douglas W. Allen, "These Boots Are Made for Walking": *Why Most Divorce Filers Are Women*, 2 AM. L. & ECON. REV. 126, 130, 157-60 (2000).

41. For Britain, Kathleen Kiernan has estimated that eight percent of couples who get married before their first child is born split up within five years of the child's birth. The figure is twenty-five percent for cohabiting couples who marry after their babies are born and fifty-two percent for those cohabiting couples who never marry. Kathleen Kiernan, *Childbearing Outside Marriage in Western Europe*, POPULATION TRENDS, Winter 1999, at 19 tbl.11. Without children, if couples cohabit instead of "marrying directly," they are ten and one-half times more likely to experience dissolution. Kathleen Kiernan, *Cohabitation in Western Europe*, POPULATION TRENDS, Summer 1999, at 30 tbl.7. Only slightly more than twenty percent of cohabiting partnerships survive ten years. Note that because of the difference in time periods measured, the childless and childbearing couples cannot be compared directly. *Id.*

42. Larry Bumpass & Hsien-Hen Lu, *Trends in Cohabitation and Implications for Children's Family Contexts in United States*, 54 POPULATION STUD. 29, 32-33 (2000).

43. Thus, the cohabitation rate is higher for people who have previously divorced or whose parents have divorced. Margaret F. Brinig & Steven L. Nock, "I Only Want Trust": *Norms, Trust, and Autonomy*, 32 J. SOCIO-ECON. 471, 483-84 (2003).

of partnerships that does not work. We might expect as a consequence a smaller number of married people, affecting the raw divorce rate, and perhaps a lower rate of marriage breakdown, or divorces per married couple.<sup>44</sup> But, so far, and contrary to what economic search theory would predict, cohabitation without prior plans to marry is one of the best predictors of marital instability, not stability, even when controlling for socioeconomic status.<sup>45</sup>

Economists, many family law teachers, and even Professor Dallas in her teaching materials, tend to leave children as an afterthought when thinking about marriage and family issues. Martha Fineman does not, and focuses instead on dependency, direct and derivative.<sup>46</sup> A focus on children and what is best for them might point one, as in quite different ways it has Professors Fineman and Carbone,<sup>47</sup> in the direction of more state support for childrearing. For Elizabeth Scott,<sup>48</sup> Dean Bartlett,<sup>49</sup> other supporters of the ALI project,<sup>50</sup> and me,<sup>51</sup> changing child custody laws upon divorce and separation from nonmarital relationships seems more promising.

So, our discussion on divorce can lead to an introduction of alternatives to marriage, the gendered nature of marriage roles, and the centrality of children for thinking about families. These are sidetracks that may take at least one class period. For students to see their worth, returning the

44. Stéphane Mechoulan, *Divorce Laws and the Structure of the American Family* 28–30 (1999) (unpublished manuscript, on file with author).

45. Brinig & Nock, *supra* note 36, at 30–33 (extending this discussion); *see also* Nock & Brinig, *supra* note 25, at 180–81.

46. MARTHA ALBERTSON FINEMAN, *THE NEUTERED MOTHER, THE SEXUAL FAMILY AND OTHER TWENTIETH CENTURY TRAGEDIES* 161–64 (1995); Martha L.A. Fineman, *Masking Dependency: The Political Role of Family Rhetoric*, 81 VA. L. REV. 2181, 2200 (1995).

47. *See* June Carbone, *Has the Gender Divide Become Unbridgable? The Implications for Social Equality*, 5 J. GENDER RACE & JUST. 31, 53–59 (2001); June Carbone, *Morality, Public Policy and the Family: The Role of Marriage and the Public/Private Divide*, 36 SANTA CLARA L. REV. 267, 281–82 (1996).

48. Elizabeth S. Scott, *Pluralism, Parental Preference, and Child Custody*, 80 CAL. L. REV. 615, 618–19 (1992).

49. Katharine T. Bartlett, *Child Custody in the 21st Century: How the American Law Institute Proposes to Achieve Predictability and Still Protect the Individual Child's Best Interests*, 35 WILLAMETTE L. REV. 467, 480–83 (1999).

50. Ira Mark Ellman, *Chief Reporter's Preface to PRINCIPLES OF THE LAW OF FAMILY DISSOLUTION: ANALYSIS AND RECOMMENDATIONS* xiii–xiv (Tentative Draft No. 3, 1998) (“Children are necessarily at the heart of any set of principles of family law.”).

51. Margaret F. Brinig, *Feminism and Child Custody Under Chapter Two of the American Law Institute's Principles of the Law of Family Dissolution*, 8 DUKE J. GENDER L. & POL'Y 301, 301–04 (2001).

discussion to law at a number of junctures will be difficult but necessary. Thus, we could refer usefully to legal schemes for slowing down the divorce process, making cohabitation the legal equivalent of marriage,<sup>52</sup> or mandating—or assuming—equality in housework.<sup>53</sup>

### III. ADOPTION, FOSTER CARE, AND KINSHIP CARE

As a second example, I would like to talk about the politically divisive topic of child welfare and, in particular, foster care.<sup>54</sup> Why aren't these children, particularly African-American children, quickly moving into adoption, given the new emphasis on "protection" of the children?<sup>55</sup> Is the best solution here a legal one that mandates "colorblindness" in adoptive placement<sup>56</sup> (which, because adoption is less expensive for the state than foster care, would also be a cheap solution)? Is the best solution one that supports racial matching for reasons other than financial or economic considerations of maintaining cultural heritage or family ties?<sup>57</sup> The best solution may not be a legal one at all, if the original problems in the birth family simply manifested poverty.<sup>58</sup> But

---

52. PRINCIPLES OF THE LAW OF FAMILY DISSOLUTION: ANALYSIS AND RECOMMENDATIONS § 6.05, at 55 (Tentative Draft No. 4, 2000) ("Domestic-partnership property should be divided according to the principles set forth for the division of marital property . . ."); Wendy M. Schrama, *Registered Partnerships in the Netherlands*, 13 INT'L J.L. POL'Y & FAM. 315, 315–16 (1999) (noting that in 1998, legislation in the Netherlands made cohabitation the functional equivalent of marriage).

53. Brinig, *supra* note 31, at 55 (describing the former East Germany's statutory mandate for equal sharing of household tasks).

54. See *infra* Table 2. Professor Carbone makes the point that there are some topics socioeconomic analysis reveals that otherwise would not come up. She decided to discuss Norplant in class because of the gender issues it raised rather than because it was a doctrinal topic that necessarily needed to be included. Similarly, adoption might or might not be chosen for discussion in the basic family law course, but lends itself to in-depth socioeconomic analysis for those eager to discuss race and poverty. The foster care system is particularly suited for such discussions. Of the children in foster placement, an unequal number—thirty-nine percent—were black, compared to thirty-four percent who were white. Black children are also less likely to be adopted than are white children and remain longer in foster care. CHILDREN'S BUREAU, U.S. DEP'T OF HEALTH & HUMAN SERVS., THE AFCARS REPORT: INTERIM FY 1999 ESTIMATES AS OF JUNE 2001 (6), at 2 (2001), available at <http://www.acf.hhs.gov/programs/cb/publications/afcars/june2001.pdf>.

55. Adoption and Safe Families Act of 1997, Pub. L. No. 105-89, 111 Stat. 2115 (codified as amended at 42 U.S.C. §§ 629a, 671, 675, 1320a-9 (2000)).

56. See Small Business Job Protection Act of 1996, Pub. L. No. 104-188, 110 Stat. 1755, § 1808 (codified as amended at 42 U.S.C. § 671a (2000)) (removing barriers to interethnic adoption).

57. Gilbert A. Holmes, *The Extended Family System in the Black Community: A Child-Centered Model for Adoption Policy*, 68 TEMP. L. REV. 1649, 1658–69 (1995); Twila L. Pery, *The Transracial Adoption Controversy: An Analysis of Discourse and Subordination*, 21 N.Y.U. REV. L. & SOC. CHANGE 33, 39–40 (1993–94).

58. Dorothy E. Roberts, *Kinship Care and the Price of State Support for Children*,

in those cases where jobs, training, education, and financial assistance will not resolve the problem in the birth family,<sup>59</sup> what legal solutions might make a difference?

Again, a quick solution, and one familiar to family law students, would be to ignore the problem. Many states have ignored the problem, with increasingly higher proportions of African-American children remaining until “graduation” from foster care.<sup>60</sup> All economists would suggest that at least part of the problem is the inefficiency of government actors, with bureaucrats failing to sever parental rights quickly enough in cases appropriate for adoption and lacking the flexibility to arrange in-home support or kinship care in other cases. Conversely, more direct subsidization of the custodial parent would then arguably increase the number of children born to parents who lack the resources, emotional as well as monetary, to care for them in the first place. The law and economics or market solution would be to allow whites to adopt children of color.<sup>61</sup> A bow to cultural sensitivity suggests kinship care, currently an alternative to the termination of parental rights and adoption under the 1997 Adoption and Safe Families Act.<sup>62</sup> Recently, though, this solution has come under attack from critical race theorist Dorothy Roberts, who notes that kinship care might make economically marginalized mothers place children in foster care with close relatives

76 CHI.-KENT L. REV. 1619, 1620–21 (2001); see also Leslie Doty Hollingsworth, *Symbolic Interactionism, African American Families, and the Transracial Adoption Controversy*, 44 SOC. WORK 443, 445–46 (1999).

59. Roberts, *supra* note 58, at 1623 (citing “[s]kyrocketing female incarceration rates, cutbacks in social services, the AIDS epidemic, and maternal substance abuse” as the reasons for placement with relatives, especially grandmothers).

60. In April 2001, 39% of the 581,000 children in foster care were black, non-Hispanic. Only 29% of the exits to adoption were black, while 42% of the children awaiting adoption were black. ADMIN. FOR CHILDREN AND FAMILIES, *supra* note 54. All of these numbers are in excess of the 15.89% of children under 18 in the United States who are African-American, as of March 2000. U.S. CENSUS BUREAU, POPULATION BY AGE, SEX, AND RACE AND HISPANIC ORIGIN: MARCH 2000 (2001), <http://www.census.gov/population/socdemo/race/black/pp1-142/tab01.txt>.

61. See RITA J. SIMON & HOWARD ALTSTEIN, ADOPTION, RACE, AND IDENTITY: FROM INFANCY THROUGH ADOLESCENCE 1–2 (1992); RITA JAMES SIMON & HOWARD ALTSTEIN, TRANSRACIAL ADOPTION 26–29 (1977); Rita J. Simon, *Transracial Adoptions: Does the Law Matter?*, AM. EXPERIMENT Q., Fall 1999, at 90.

62. Adoption and Safe Families Act of 1997, Pub. L. No. 105-89, 111 Stat. 2115, (codified as amended in scattered sections of 42 U.S.C.) (providing that “in determining reasonable efforts to be made with respect to a child, as described in this paragraph, and in making such reasonable efforts, the child’s health and safety shall be the paramount concern”).

solely to take advantage of slightly more generous than welfare foster care subsidies.<sup>63</sup>

In turn, a strong focus on child welfare leads to one of two solutions: subsidize adoption because of problems with any type of foster care,<sup>64</sup> which, upon empirical study, seems to be the appropriate solution for all except African-American children,<sup>65</sup> or increase subsidies to poor mothers who take advantage of extended families, which seems the best for African-American children.<sup>66</sup> This focus might lead us to look at the impact of various legal choices about child placement from the child's perspective.

This theoretical solution, like the analysis of the divorce rate question, can be tested empirically. Steven Nock and I utilize the National Longitudinal Survey of Adolescent Health (Add Health) dataset<sup>67</sup> to examine the effects of family form (living with birth mothers, adoption, kinship care, foster care) on a group of outcomes. Specifically, we were trying to isolate the effect of family form on (1) depression (measured on the nineteen-item Centers for Epidemiological Studies (CESD2) depression scale, mean = 13.4, standard deviation = 5.9),<sup>68</sup> (2) drug usage (monthly

---

63. Roberts, *supra* note 58, at 1629–30; see also Naomi R. Cahn, *Children's Interests in a Familial Context: Poverty, Foster Care, and Adoption*, 60 OHIO ST. L.J. 1189, 1200 (1999).

64. This is the position I urge. Margaret F. Brinig, *Moving Toward a First-Best World: Minnesota's Position on Multiethnic Adoptions*, 28 WM. MITCHELL L. REV. 553, 592–93 (2001).

65. Margaret F. Brinig & Steven L. Nock, *How Much Does Legal Status Matter? Adoptions by Kin Caregivers*, 36 FAM. L.Q. 449, 466–67 (2002) (arguing that while for African-American children, kinship care functions very much like adoption or living with a birth parent, for other groups it functions like foster care, with less desirable outcomes).

66. Roberts, *supra* note 58, at 1626–27.

67. Carolina Population Center, *National Longitudinal Study of Adolescent Health*, at <http://www.cpc.unc.edu/projects/addhealth/design> (last modified July 25, 2003). The description, found on their website, reads as follows:

Add Health is a school-based study of the health-related behaviors of adolescents in grades 7 to 12. It has been designed to explore the causes of these behaviors, with an emphasis on the influence of social context. That is, Add Health postulates that families, friends, schools, and communities play roles in the lives of adolescents that may encourage healthy choices or may lead to unhealthy, self-destructive behavior. Data to support or refute this theory were collected in surveys of students, parents, and school administrators. . . .

Add Health has been funded by the National Institute of Child Health and Human Development (NICHD) and 17 other federal agencies. Field work for Waves I and II was conducted by the National Opinion Research Center of the University of Chicago.

*Id.* The study is available at <http://www.cpc.unc.edu/projects/addhealth>. Again, the regression analysis was done by Steven L. Nock, Department of Sociology, University of Virginia.

68. See *infra* Table 3.

use of alcohol, tobacco, and marijuana, mean = 1.55, standard deviation = 3.45),<sup>69</sup> (3) juvenile delinquency (measured on a 15-point scale developed by the Add Health researchers, mean = 5.22, standard deviation = 6.83),<sup>70</sup> and (4) morbidity, or the fear of dying or being killed young. The results differ for white and black adolescents.<sup>71</sup> While drug usage and juvenile delinquency might be viewed as typical fodder for economists because they reveal preferences, depression and morbidity again reveal attitudes and not just choices.

In the socioeconomics tradition, Nock and I report that these regressions reveal differences that are not merely statistically noteworthy, but are also meaningful in a real sense. This is another point worth mentioning to classes. Even if research is set up according to established academic practice, it may reveal statistically significant differences that have almost no real impact in real life. Policymakers should be slow to act on results of statistical significance alone.<sup>72</sup> Further, expert witnesses should not add much weight to court decisions when they can show no real impact of one variable on another.<sup>73</sup>

69. *Id.*

70. See Brinig & Nock, *supra* note 65, at 464 n.54.

The questions were recorded and played for the respondent over a headset. The adolescent answered the questions on a laptop computer provided to assure greater confidentiality: 1) In the past 12 months, how often did you paint graffiti or signs on someone else's property or in a public place[?] 2) In the past 12 months, how often did you deliberately damage property that didn't belong to you[?] 3) In the past 12 months, how often did you lie to your parents or guardians about where you had been or whom you were with? 4) How often did you take something from a store without paying for it? 5) How often did you get into a serious physical fight? 6) How often did you hurt someone badly enough to need bandages or care from a doctor or nurse? 7) How often did you run away from home? 8) How often did you drive a car without the owner's permission? 9) In the past 12 months, how often did you steal something worth more than \$50? 10) How often did you go into a house or building to steal something? 11) How often did you use or threaten to use a weapon to get something from someone? 12) How often did you sell marijuana or other drugs? 13) How often did you steal something worth less than \$50? 14) In the past 12 months, how often did you take part in a fight where a group of your friends was against another group? 15) How often were you loud or unruly in a public place?

*Id.*

71. See *infra* Tables 4 & 5. A summary table is reported as Table 6.

72. Deirdre N. McCloskey & Stephen T. Ziliak, *The Standard Error of Regressions*, 34 J. ECON. LITERATURE 97, 104-06 (1996).

73. Martha L. Fineman & Anne Opie, *The Uses of Social Science Data in Legal Policymaking: Custody Determinations at Divorce*, 1987 WIS. L. REV. 107, 108, 138, 152; Ramsey & Kelly, *supra* note 8, at 648-55.

Nock and I find that for white children, being in foster care increases the monthly frequency of drug usage by nearly four occurrences, or more than a standard deviation,<sup>74</sup> where the average reported monthly usage was 1.55. The juvenile delinquency scale increases by more than five, where the average was five—nearly a standard deviation. Now the socioeconomics point: For African-American adolescents, foster care increases the depression index by more than five, where the average is thirteen, an increase of nearly a standard deviation, and morbidity by .08, an increase of more than half a standard deviation. Yet on any of these four measures, kinship care is not statistically different from living with one's birth mother.

What can the class learn? A facially neutral law can have very different effects on culturally distinct groups. Culture matters and differences may turn up on hard-to-measure dimensions such as attitudes and fears. Finally, a solution that seems to work well for one subset of the population (African-Americans) may be very dangerous or counterproductive when applied to others (whites or other ethnic groups). These lessons about culture, race, and overgeneralization from local experiences, even studied well, need to be taught again and again in family law. We have shown how they affect state intervention for child welfare. They also can be applied to discussions about mandatory arrests for family violence,<sup>75</sup> division of labor in the household, as reported earlier, and child custody, particularly transracial adoption.<sup>76</sup>

What lessons can we learn from considering socioeconomics in family law? First, we can learn that our initial conjectures, even while well-informed, may be misleading and simply wrong. Second, we can learn that public policy implemented without delving more deeply, as we have begun to do here, may create perverse incentives or results. Third, we can learn just how much we do not know. At a time when more than half a million children are in foster care, it makes sense to see whether we should encourage kin foster parents, move the children to adoptive homes, or simply increase the provision of services to birth parents. It also makes sense to know that the cultural heritage of the child may make a difference in terms of what is best for him or her.

---

74. See *infra* Table 3.

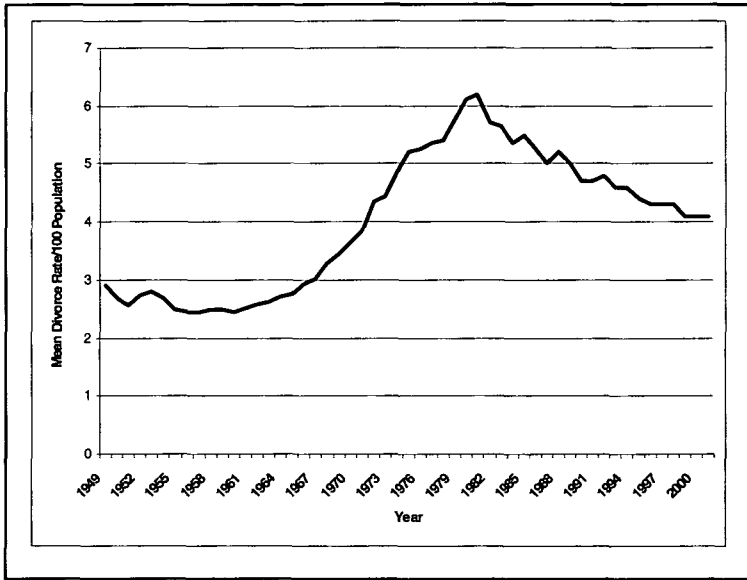
75. Brinig, *supra* note 8, at 1083–84.

76. See Brinig, *supra* note 64, at 583 (describing generally transracial adoption and policies, pro and con).

IV. CHARTS AND TABLES

FIGURE 1

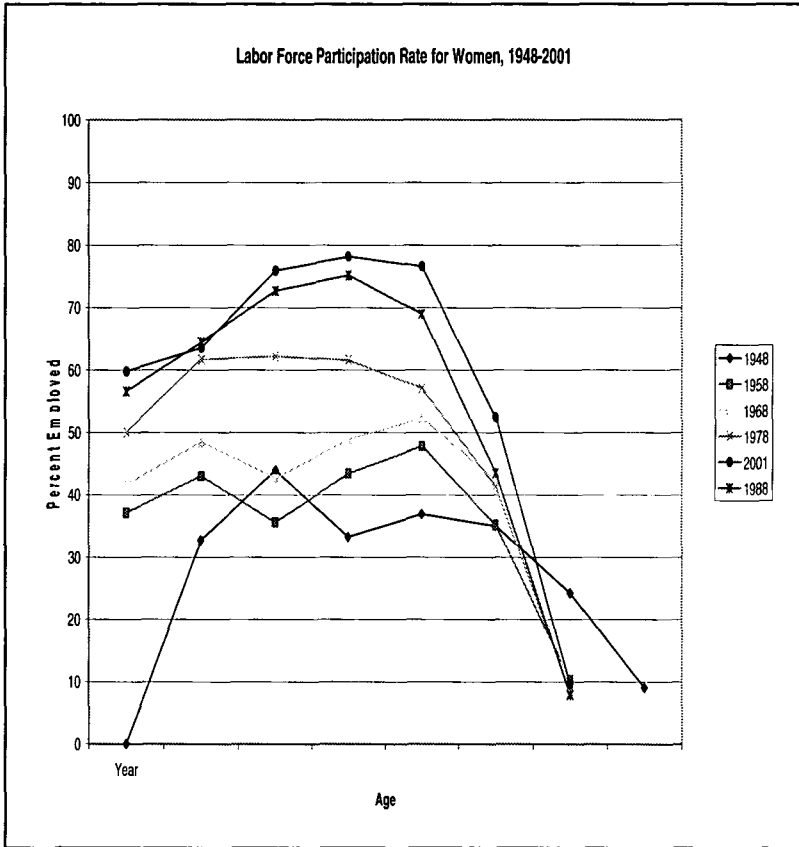
U.S. DIVORCE RATES, 1949–2001<sup>77</sup>



77. Data compiled from NAT'L CENTER FOR HEALTH STATISTICS, CENTERS FOR DISEASE CONTROL & PREVENTION, MONTHLY VITAL STATISTICS REPORTS (2001), available at <http://www.cdc.gov/nchs/> (last modified July 19, 2002).



FIGURE 2  
 CHANGING LABOR FORCE PARTICIPATION<sup>78</sup>



78. U.S. DEP'T OF LABOR, BUREAU OF LABOR STATISTICS, LABOR FORCE PARTICIPATION RATES FOR WOMEN, 1948-2001 (2003), available at <http://www.bls.gov> (last modified Sept. 3, 2003).

TABLE 1  
CONTRIBUTORS TO DIVORCE OR SEPARATION—NSFH FIRST  
MARRIAGE<sup>79</sup>

Variable	Model 1		Model 2		Model 3		Model 4	
	Coefficient	Risk of Divorce	Coefficient	Risk of Divorce	Coefficient	Risk of Divorce	B	Risk of Divorce
<b>I: Control Variables</b>								
Cohabited	1.7717	5.8808**	1.6776	5.3528**	1.6677	5.2998**	1.6651	5.2863**
Number of Children	-0.6076	0.5447**	-0.6187	0.5387**	-0.6291	.5331**	-0.6475	0.5234**
Husband's Wages	-0.0019	0.9981	-0.0047	0.9953	-0.0046	0.9954	-0.005	0.9951
Wife's Wages	-0.0101	0.9899	-0.013	0.987	-0.0108	0.9893	-0.0103	0.9898
Husband Black	0.4167	1.5169*	0.3728	1.4519*	0.3759	1.4562*	0.4213	1.5239*
Husband Hispanic	0.308	1.3607	0.2441	1.2765	0.2716	1.312	0.3054	1.3572
Husband Asian	0.3517	1.4215	0.2471	1.2804	0.2455	1.2783	0.2506	1.2848
Husb. American Indian	0.591	1.8058	0.4515	1.5707	0.3698	1.4475	0.3338	1.3962
Different Races	0.0184	1.0186	0.0492	1.0505	0.0402	1.041	0.0396	1.0404
Husband's Education	0.0017	1.0017	-0.0141	0.986	-0.0164	0.9837	-0.0219	0.9783
Wife's Education	0.0017	1.0017	-0.0083	0.9918	-0.0154	0.9847	-0.0142	0.9859
Husb. Age at Marriage	0.0002	1.0002	0.0041	1.0041	0.0039	1.0039	0.0055	1.0055
Wife Age at Marriage	-0.0757	0.9271**	-0.0689	0.9334**	-0.07	0.9324**	-0.0745	0.9282**
Husb.'s Parents Divorced	0.6762	1.9665**	0.6231	1.8648**	0.5941	1.8115**	0.5326	1.7033**
Wife's Parents Divorced	0.6771	1.9681**	0.6203	1.8594**	0.6096	1.8396**	0.608	1.8368**
<b>II: Division of Labor</b>								
Husb. Hours Paid Work			0.0154	1.0155**	0.0154	1.0155**	0.009	1.0091
Wife Hours Paid Work			0.0019	1.002	0.0015	1.0015	0.036	1.0367*
Husb. Hours Male Tasks			-0.0244	.9759**	-0.0253	.9750**	-0.0926	0.9115
Husb. Hrs Female Tasks			0.0133	1.0134**	0.015	1.0151**	0.1142	1.1210*
Wife Hours Male Tasks			-0.0417	.9592*	-0.0386	.9621*	-0.2882	.7496*
Wife Hrs Female Tasks			0.0065	1.0065*	0.0066	1.0066*	0.0497	1.0509**
<b>III. Sense of Fairness</b>								
Husband Household					-0.1558	0.8557	0.1775	1.1942

79. Steven L. Nock & Margaret F. Brinig, *Weak Men and Disorderly Women: Divorce and the Division of Labor*, in MARRIAGE AND DIVORCE: AN ECONOMICS PERSPECTIVE 171, 181–82 tbl.10.4 (Robert Rowthorn & Antony W. Dnes eds., 2002). Cox Proportional Hazards Regressions comparing unit change in variable to change in divorce or separation risk for each month elapsing.

Wife Household					-0.2478	0.7805**	-0.4391	.6446*
Husband Paid Work					-0.3753	0.6871**	-0.6066	.5452*
Wife Paid Work					-0.0176	0.9825	0.7369	2.0895**
<b>III: Fairness-Hours Interaction</b>								
Husband Fairness Paid x Hours Male Tasks							0.0201	1.0203
Husband Fairness Paid x Hours Female Tasks							-0.0218	0.9784
Husband Fairness H'hold x Hours Paid							-0.0054	0.9946
Wife Fairness Paid x Hours Male Tasks							0.0884	1.0925*
Wife Fairness Paid x Hours Female Tasks							-0.0141	0.9860**
Wife Fairness H'hold x Hours Paid							0.0092	1.0093*
Husband Fair H'hold x Hours Male Tasks							0.0029	1.0029
Husband Fair H'hold x Hours Female Tasks							-0.0117	.9883*
Wife Fair H'hold x Hours Male Tasks							-0.0079	0.9922
Wife Fair H'hold x Hours in Female Tasks							-0.0002	0.9997
Husband Fair Paid x Hours Paid Work							0.0083	1.0084
Wife Fair Paid x Hours Paid Work							-0.0199	0.9803**
N	2858							
-2LL	778.31							
Change (-2LL)		443.766**		44.070**		20.076**		24.066**

TABLE 2

RACE/ETHNICITY AND NUMBER OF CHILDREN IN FOSTER CARE<sup>80</sup>

<b>Race/Ethnicity</b>	<b>Percent of Total in Foster Care</b>	<b>Number of Children</b>
<b>White Non-Hispanic</b>	36	203,001
<b>Black Non-Hispanic</b>	42	239,516
<b>Hispanic</b>	15	84,924
<b>AI/AN Non-Hispanic</b>	2	8910
<b>Asian/PI Non-Hispanic</b>	1	6304
<b>Unknown/unable to Determine</b>	4	25,346
<b>Total children in care</b>	100	568,001

---

80. CHILDREN'S BUREAU, U.S. DEP'T OF HEALTH & HUMAN SERVS., THE AFCARS REPORT: CURRENT ESTIMATES AS OF OCTOBER 2000 (4), at 2 (2000), available at <http://www.acf.hhs.gov/programs/cb/publications/afcars/ar1000.pdf>.

TABLE 3  
DESCRIPTIVE STATISTICS<sup>81</sup>

<b>Descriptive Statistics</b>	<b>Mean</b>	<b>Standard Deviation</b>	<b>N</b>
<b>CESD2 19—Item Depression Scale</b>	13.3566	5.9787	15,315
<b>Monthly Use of Cigarettes, Alcohol or Marijuana</b>	1.55	3.45	15,024
<b>Delinquency Scale, # Last Month (of 15)</b>	5.22	6.83	15,177
<b>Chances of Dying &lt; 35 or Being Killed &lt; 21</b>	0.13	0.15	15,271
<b>Child Lives with Mother Only</b>	.2759	.4470	15,315
<b>Child Lives with Dad Only</b>	.0001	.0114	15,315
<b>Child's Age</b>	16.0201	1.7146	15,315
<b>Child's Sex</b>	1.5149	.988	15,315
<b>Household Income (000)</b>	45.8461	49.7273	15,315
<b>Mother's Age</b>	41.8328	6.5310	15,315
<b>Mother Never Married</b>	.0572	.2322	15,315
<b>Mother is Married</b>	.7198	.4491	15,315
<b>Mother is Widowed</b>	.0333	.1796	15,315
<b>Mother Divorced-Separated</b>	.1875	.3903	15,315
<b>Mother's Prior Relationship Ended in Divorce</b>	.2297	.4207	15,315
<b>Mother's Years of Schooling</b>	12.9383	2.3667	15,315
<b>Mother is Hispanic</b>	.0026	.0510	15,315
<b>Mother is Black</b>	.2075	.4055	15,315
<b>Mother is Asian</b>	.0553	.2286	15,315
<b>Mother is Native American</b>	.0129	.1130	15,315
<b>Mother is Other Race</b>	.0556	.2292	15,315
<b>Child Adopted, Lives with Adopted Parent(s)</b>	3.461E-02	.1828	15,315
<b>Child Fostered, Lives with Foster Parent(s)</b>	.0027	.0517	15,315

---

81. Brinig & Nock, *supra* note 65, at 472 tbl.1.

TABLE 4

NATIONAL LONGITUDINAL STUDY OF ADOLESCENT HEALTH:  
 DETERMINANTS OF ADOLESCENT PROBLEMS: WHITE MOTHERS<sup>82</sup>  
 ( COEFFICIENT/STANDARD ERROR IN PARENTHESES)

Variable	Depression	Drug Use	Delinquency	Morbidity
Constant	6.127 (1.680)**	-3.655 (1.130)**	5.970 (1.99)**	7.619E-02 (.041)*
Child Fostered	1.796 (1.338)	3.737 (.925)**	5.257 (1.584)**	6.79E-02 (.033)**
Child Adopted	.564 (.285)**	.107 (.187)	.692 (.611)**	1.415E-02 (.007)**
Child in Kin Care	1.621 (.516)**	.625 (.340)*	2.284 (.611)**	2.00E-02 (.013)
Child Lives with Mom Only	.700 (.230)**	.642 (.151)**	1.077 (.273)**	1.287E-02 (.006)**
Child Lives with Dad Only	1.013 (4.017)	2.912 (2.691)	.910 (4.755)	9.053E-02 (.098)
Child's Age	.416 (.034)**	.448 (.022)**	.108 (.041)**	6.711E-03 (.001)**
Child's Sex 1=m, 2=f	1.169 (.113)**	-3.807E-02 (.074)	-1.945 (.134)**	-1.232E-03 (.044)
Household Income (000)	-2.166 <sup>E</sup> -03 (.001)*	-9.251 <sup>E</sup> -04 (.001)	4.29 <sup>E</sup> -04 (.001)	-7.972 <sup>E</sup> -05 (.000)**
Mother's Age	-.162 (.026)**	-2.098 <sup>E</sup> -02 (.007)**	-2.966 <sup>E</sup> -02 (.013)**	-5.568 <sup>E</sup> -04 (.000)**
Mother Never Married	2.220 (1.569)	-.507 (1.060)	2.429 (1.858)	2.964E-02 (.038)
Mother is Married	1.077 (.478)	-8.454E-02 (1.026)	1.587 (1.796)	1.482E-02 (.037)
Mother is Widowed	1.653 (1.565)	.117 (1.057)	1.673 (1.852)	3.412 <sup>E</sup> -02 (.038)
Mother Divorced or Separated	1.092 (1.526)	-3.461E-02 (1.033)	1.662 (1.806)	1.404E-02 (.037)
Mother ever Divorced?	.483 (.152)**	.413 (.100)**	.202 (.181)	-4.210E-04 (.004)
Mother's Years of Schooling	-.162 (.026)	-5.550 <sup>E</sup> -02 (.017)**	-3.229 <sup>E</sup> -02 (.031)	-4.542 <sup>E</sup> -03 (.001)**
Child Hispanic	.983 (1.890)	-2.051 (1.169)	.152 (2.123)	-1.204E-03 (.044)
Child Black	2.519	-.857	.682	4.929E-02

82. The regression analysis for these tables was first reported in Brinig & Nock, *supra* note 65.

	(.779)**	(.512)	(.922)	(.019)**
<b>Child Asian</b>	-.395 (.766)	-.836 (.495)*	5.056E-02 (.891)	1.177E-02 (.018)
<b>Child Native American</b>	1.045 (.681)	.489 (.447)	1.149 (.830)	7.056E-02 (.017)**
<b>Child Other Race</b>	.474 (.275)*	-1.015 (.181)**	1.369 (.327)**	2.577E-02 (.007)**

\* Indicates that coefficient is significant at  $p \leq .05$ ;

\*\* Indicates that coefficient is significant at  $p \leq .01$ .

A total of 403 children were adopted by both parents, of whom 78 were black. A total of 61 children were foster children, of whom 22 were black. A total of 484 children did not have their mother or father living with them, but listed their aunt or grandmother as the person "who acts in the place of a mother to you."

TABLE 5

NATIONAL LONGITUDINAL STUDY OF ADOLESCENT HEALTH:  
DETERMINANTS OF ADOLESCENT PROBLEMS: BLACK MOTHERS<sup>83</sup>  
( COEFFICIENT/STANDARD ERROR IN PARENTHESES)

Variable	Depression	Drug Use	Delinquency	Morbidity
Constant	9.908 (2.269)**	.129 (.731)	11.286 (2.322)**	.124 (.062)**
Child Fostered	5.170 (1.577)**	-.558 (.500)	8.422E-02 (1.656)	8.482E-02 (.043)**
Child Adopted	1.387 (.823)*	.205 (.254)	.953 (.833)	-9.613E-03 (.022)
Child in Kin Care	7.642E-02 (.595)	-3.953E-02 (.185)	.523 (.609)	-1.472E-02 (.016)
Child Lives with Mom Only	-9.883E-02 (.352)	.316 (.110)**	-.374 (.362)	1.264E-03 (.010)
Child's Age	.380 (.066)**	8.642E-02 (.021)**	-4.873E-02 (.068)	6.941E-03 (.069)
Child's Sex 1=m, 2=f	1.229 (.224)**	-.473 (.070)**	-1.666 (.230)**	-4.096E-03 (.006)
Household Income (000)	-4.164 <sup>E-03</sup> (.003)	-4.048 <sup>E-05</sup> (.001)	3.545 <sup>E-03</sup> (.003)	-2.919 <sup>E-05</sup> (.000)
Mother's Age	-1.395 <sup>E-03</sup> (.017)	4.478 <sup>E-03</sup> (.005)	-2.435 <sup>E-02</sup> (.017)	8.124 <sup>E-04</sup> (.000)*
Mother Never Married	.186 (1.588)	-.201 (.523)	-1.780 (1.618)	-5.345E-03 (.043)
Mother is Married	-.270 (1.584)	-.278 (.521)	-2.072 (1.614)	-1.580E-02 (.043)
Mother is Widowed	-.483 (1.636)	-.371 (.537)	-1.821 (1.668)	-2.243 <sup>E-02</sup> (.043)
Mother Divorced or Separated	-.352 (1.583)	-.161 (.521)	-.828 (1.612)	1.036E-03 (.043)
Mother ever Divorced?	1.380E-02 (.317)	-.197 (.099)**	-.374 (.326)	-1.724E-02 (.009)**
Mother's Years of Schooling	-.314 (.052)**	-2.857 <sup>E-02</sup> (.016)*	-5.455 <sup>E-02</sup> (.0107)	-6.037 <sup>E-03</sup> (.001)**
Child Black	.439 (.833)	3.521E-02 (.263)	.136 (.856)	-6.731 <sup>E-03</sup> (.032)
Child Asian	.160 (3.704)	3.521E-02 (1.143)	3.763 (3.774)	-1.061E-02 (.101)
Child Native American	1.441 (1.150)	.986 (.360)**	3.622 (1.181)**	-6.678E-03 (.032)
Child Other Race	-.578 (1.134)	.2550 (.358)	-.960 (1.169)	1.191E-02 (.031)

\* Indicates that coefficient is significant at  $p \leq .05$ .

\*\* Indicates that coefficient is significant at  $p \leq .01$ .

---

83. The regression analysis for these tables was first reported in Brinig & Nock, *supra* note 65.



TABLE 6  
EFFECTS OF ADOPTION, KINSHIP CARE, AND  
FOSTER PLACEMENT BY RACE<sup>84</sup>

Effect by Race	Depression	Drug Use (#/ month)	Juvenile Delinquency	Perceived Chance of Dying
Adopted Child:				
- White	.564**	.107ns	.692**	1.415E-02**
- Black	1.387*	.205ns	.953ns	-9.613E-03ns
Fostered Child:				
- White	1.796	3.737**	5.257**	6.79E-02**
- Black	5.170**	-.558ns	8.422E-02ns	8.482E-02**
Child in Kinicare:				
- White	1.621**	.625*	2.284**	2.00E-02ns
- Black	7.642E-02ns	-3.953E-02ns	.523ns	-1.472E-02ns
	N = 15,314	15,083	15,176	15,270

\*\* = Statistical significance is .01 or less

\* = Statistical significance is .05 or less

n.s. = Not statistically significantly different from zero

---

84. Brinig & Nock, *supra* note 65, at 474 tbl.3. All equations control for household structure, child's gender, household income, mother's age, mother's current and previous marital status, mother's education, mother's race, and child's race.