

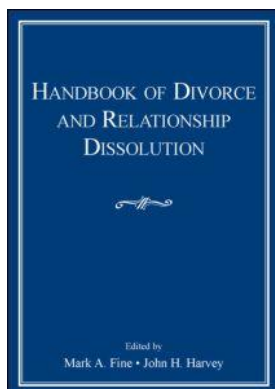
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Historical Trends in Divorce in the United States

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Throughout American history, marriage has been defined as a lifelong relationship between spouses. Of course, this definition represents a cultural ideal rather than a description of reality. Almost everyone knows that marital dissolution is common these days, and that nearly half of all first marriages are projected to end in divorce. Many people do not realize, however, that divorce has always been a fact of life in American society. Our goal in this chapter is to present a historical perspective on marital dissolution in the United States. We focus on three aspects of divorce that have changed significantly over time: (a) the frequency of divorce, (b) the legal regulation of divorce, and (c) public attitudes toward divorce.

Unfortunately, almost no historical information is available about the dissolution of non-marital relationships, including cohabiting unions. Living together outside of formal marriage, however, was not uncommon in the past, especially among the poor (Phillips, 1991). Moreover, prior to the Civil War, most slave couples, including those with children, were not allowed to marry. Living together was also common among couples in remote parts of the country who did not have access to clergy or a justice of the peace. To the extent that these frontier couples lived as “husband and wife,” most states recognized their unions as common-law marriages. That is, these couples had the same legal rights and responsibilities as other married couples, even though they did not have a license or participate in a formal ceremony. (Given the ease of marrying these days, as well as the legal complexities that these unions present, most states have since abolished common-law marriage.) Because cohabiting couples that split up did not obtain legal divorces, we know little about the frequency or causes of dissolution among these informal unions. Consequently, although the material in this chapter focuses on legal marriage and divorce, readers should keep in mind that a large number of unions in the United States were formed and dissolved without leaving tracks in the historical record.

To organize the material in this chapter, we have divided historical periods into three eras: the Colonial era, the period between the Revolutionary War and the end of the 19th century, and the 20th century. In the conclusion of our chapter, we summarize several general trends that a historical survey of divorce reveals. We also include some thoughts on how a consideration of historical trends can inform our current thinking about divorce.

THE COLONIAL ERA: FROM 1620 TO THE REVOLUTIONARY WAR

The Frequency of Divorce

Although divorce was rare in Colonial America, historical records indicate that it occurred at least occasionally. At least 9 divorces were granted during the 72-year history of Plymouth colony (established in 1620), the first European settlement in New England (Riley, 1991). Surviving records indicate that divorce was most common in the New England colonies, especially Connecticut and Massachusetts. Divorce was established in Massachusetts Bay colony in 1629, and at least 44 divorces occurred there prior to the end of that century. Similarly, Connecticut made provisions for divorce in 1640, and at least 40 divorces occurred there over the next six decades (Phillips, 1991). At the time, the Church of England, along with most Catholic European countries, did not allow divorce. The Pilgrims, however, had left Europe to be free from conservative religious restrictions, and, consequently, most of the New England colonies—although under English rule—instituted provisions for divorce.

Divorce policies and practices were more conservative in the middle colonies, such as New York and Pennsylvania, than in the New England colonies. Nevertheless, these colonies occasionally granted divorces in cases of adultery, desertion, or bigamy. Divorce was not possible in the southern colonies, largely because the founders of these colonies (in contrast to the founders of the New England colonies) closely followed the teachings of the Anglican church. The southern colonies, however, did allow for limited divorces, or “separation from bed and board” (Jones, 1987).

Because Colonial governments did not recognize marriage between slaves, it was unusual for African Americans to obtain divorces. Nevertheless, at least two divorces involving African American couples occurred in Massachusetts, with one case involving slaves and the other involving free Blacks (Riley, 1991). Formal divorce among Native Americans was essentially nonexistent in the colonies, largely because Native American cultures had their own procedures for ending marriages.

Records from New England indicate that wives were more likely to initiate divorce than were husbands (Phillips, 1991). This trend continues to the present day. Gender differences also occurred in the grounds for divorce. The majority of women’s petitions referred to their husbands’ desertion, whereas the majority of husbands’ petitions referred to their wives’ adultery. The former trend reflects the fact that husbands were more likely than wives to abandon their families, which was an option made possible by men’s greater economic independence. The latter trend, however, does not imply that wives were more likely than husbands to engage in adultery—only that people believed adultery to be a more serious marital offence when committed by wives than by husbands (Basch, 1999).

Although most of the colonies allowed for marital dissolution, attitudes toward divorce (as we note later) were negative. For this reason, and because formal divorces were difficult to obtain, many couples resolved their marital problems through informal separations. Because

these disruptions were undocumented, the true extent of marital breakdown during this period is impossible to estimate (Riley, 1991).

The Legal Regulation of Divorce

Each colony had different procedures for divorce (a pattern that continues to the present day, with each state enacting its own divorce statutes). For example, depending on the colony, divorces were granted by courts, governors, or colonial legislatures (Riley, 1991). Wherever divorce was allowed, however, it was permitted only on fault grounds; that is, one spouse had to prove that the other spouse had violated his or her marriage vows. Divorces were granted most commonly for reasons of adultery, desertion, or bigamy. Other grounds (available in some colonies, but not in others) included physical cruelty, threats to life, failure to provide, impotence, and refusal of intercourse (Basch, 1999; Riley, 1991). Adultery was considered to be the most serious marital offence, and it was the charge most likely to result in a successful divorce petition (Basch, 1999). Early courts took the notion of fault seriously and often ordered harsh punishments for “guilty” spouses, including whippings, fines, and incarceration in the stocks. Moreover, spouses found to be at fault for causing the divorce generally did not have the right to remarry (Jones, 1987).

The English government disapproved of these liberal practices and made numerous attempts to limit divorce in the colonies. The colonies differed, however, in the extent to which they complied with these demands. Massachusetts and Connecticut acted contrary to the English system, largely because the founders of these colonies were influenced by Protestant thought (which allowed for divorce). The middle colonies granted divorces only under extreme circumstances, and the southern colonies (following the English system) did not allow divorce under any circumstances. Despite variations in the extent to which colonies conformed with English law, it was only after the Revolutionary War that the American colonies were completely free to develop their own procedures for marital dissolution (Basch, 1999; Phillips, 1991; Riley, 1991).

Public Attitudes Toward Divorce

Despite the fact that most colonists strongly disapproved of divorce, the New England colonies quickly established divorce laws with relatively little public resistance. Most Puritans believed that troubled couples should be encouraged to reconcile, but many also believed that requiring hostile couples to stay together had the potential to undermine the social harmony of the community (Riley, 1991). In the eyes of many colonists, divorce was a necessary evil, even if scandalous and shameful (Phillips, 1991). Because adultery was the most commonly recognized cause of marital dissolution, many people assumed that divorced individuals (especially women) were adulterers and people of low moral character. For this reason, divorced individuals had relatively low status in most communities.

Despite these negative views, the topic of divorce appeared frequently in the popular literature of the time. For example, prior to the Revolutionary War, Tom Paine, who produced influential works on liberty and human rights, also wrote about the unfairness of loveless marriages from which individuals were unable to escape. Advice columns also became popular during the 1700s in magazines such as the *Columbian*, *Pennsylvania Magazine*, *Boston Magazine*, and *Gentlemen and Ladies Town and Country Magazine* (Basch, 1999). Many readers sent letters or questions about marital problems and divorce to these magazines, which suggests that, despite the low rate of divorce, the general public was concerned about the phenomenon of failing unions (Basch, 1999).

THE REVOLUTIONARY WAR THROUGH THE 19TH CENTURY

The Frequency of Divorce

Divorce statistics for the late 18th century and the first half of the 19th century are of poor quality. Nevertheless, available records suggest that divorce became more common after the Revolutionary War. This increase probably occurred for several reasons. First, some observers have suggested that the revolutionary notion of “liberation from oppression” spread to affect people’s views of unhappy marriages. For example, Basch (1999) stated, “No sooner, it seems, did Americans create a rationale for dissolving the bonds of empire than they set about creating rules for dissolving the bonds of matrimony” (p. 21). Second, during the Colonial era, in many places (such as Pennsylvania), divorces could be granted only by Colonial legislatures—a slow and awkward method. In the decades following the war, however, most states shifted jurisdiction for divorce to the courts. Because courts were more accessible to the public and could reach decisions more quickly than legislatures, marital dissolution became easier to obtain (Riley, 1991). Third, divorces began to occur in the southern states, where they had been illegal previously. Fourth, westward migration increased during the early 1800s, and the new territories and states had especially high rates of marital disruption (Phillips, 1991; Riley, 1991). As we describe in the paragraphs that follow, divorce laws in the West were relatively permissive, which prompted some people to migrate in search of easy divorces.

Shortly after the Civil War, the federal government began to collect divorce statistics for the first time, and these data confirmed what many people had expected: The divorce rate was rising. Some of this increase may have been due to the war itself. Wars tend to increase marital instability for several reasons, including the long separation of spouses, adultery that occurs during the period of separation (due to loneliness and unmet sexual needs), and the difficulty experienced by many veterans in readjusting to civilian life. Irrespective of the reason, the rising rate of divorce in the second half of the 19th century created a great deal of public controversy (as we subsequently note). Moreover, the United States began to gain a reputation as a divorce-prone society, and many Europeans believed that Americans not only had a fragile family system but also possessed weak moral values (Phillips, 1991).

A useful way to track the frequency of divorce is to calculate the refined divorce rate, which is the number of divorces in a given year per every 1,000 married women. The divorce rate doubled from about 2 in 1865 to about 4 by the end of the century. Of course, divorce rates do not capture the whole story of marital breakdown. Throughout the 19th century, divorced individuals were stigmatized. Moreover, although the number of divorce petitions increased steadily, many of these petitions were unsuccessful (Riley, 1991). Divorces also were expensive, and the majority were granted to relatively affluent couples (Basch, 1999; Phillips, 1991). Because of the stigma of divorce, the courts’ frequent refusal to grant divorces, and the expense of divorce, many couples resorted instead to informal separations (Riley 1991). For these reasons, official divorce rates substantially underestimate the true level of marital disruption during this period.

Nevertheless, the availability of reliable data on official divorces led to a series of empirical studies on this topic late in the 19th century. In one of the most comprehensive of these studies, Willcox (1891) examined the divorce rate in each state, along with the number of grounds for divorce allowed by each state and whether states restricted remarriage following divorce. By cross-tabulating these variables, he found that divorce rates did not appear to vary with either the number of grounds for divorce or restrictions on remarriage. These findings led him

to conclude that legal regulations had little influence on the occurrence of divorce. Willcox also noted that two thirds of divorces were granted to women. Moreover, wives were most likely to file for divorce in states where women had more possibilities for economic independence (the northern states) or where wives were in demand (the western states). Wives were least likely to file for divorce in the southern states, where social and economic conditions for women were most restrictive. As Willcox stated, "Divorces are most frequent where women are most emancipated, and the percentage granted to the wife in such communities is excessive" (p. 68). Willcox also demonstrated that divorce was more common in the United States than in Europe, that childless marriages were more likely to end in divorce than were marriages with children, that divorces tended to occur in the early years of marriage, and that African Americans were less likely to divorce than were Whites. With the exception of the latter finding, all of these trends persisted into the 20th century.

The Legal Regulation of Divorce

After the Revolutionary War, most states quickly formalized their divorce laws. As we noted earlier, a major change in the legal regulation of divorce during the 19th century was the shift in the jurisdiction of divorce cases from state legislatures to the courts (Basch, 1999; Riley, 1991). States defined divorce law carefully, largely because of the seriousness with which people viewed marital dissolution. The general consensus among lawmakers was that divorce laws should rest on "causative reasoning"—that is, courts had to firmly establish the cause of the divorce (the spouse who was at fault). Because of the focus on fault, many couples that mutually agreed to part found it difficult to obtain a divorce (Basch, 1999).

Although laws in all states were based on the concept of fault, many states expanded the legal grounds for divorce to include cruelty, insanity, imprisonment, and habitual drunkenness (Phillips, 1991). For example, California, in 1851, allowed divorce on the grounds of adultery, extreme cruelty, desertion, neglect, habitual intemperance, impotency, fraud, and conviction of a felony. Two decades later, California law became even more liberal when the legislature decreased the required period for intemperance, desertion, and neglect from 3 years to 1 (Griswald, 1982). Despite the expanding grounds for divorce, as in the Colonial era, the primary reasons for divorce continued to be desertion and adultery.

As the 19th century progressed, cruelty became an increasingly common ground for divorce (Basch, 1999). There was much debate about what constituted cruelty, but with the shift of jurisdiction from the legislature to the courts, the definition of cruelty gradually expanded (Riley, 1991). California courts, at the middle of the 19th century, broadened the definition even further to include psychological as well as physical harm. Moreover, California courts argued that wives were especially vulnerable to emotional abuse on the part of their husbands, even if no physical harm was involved (Griswald, 1982). In 1824, the territory of Indiana added an "omnibus clause," that allowed divorce for "any misconduct that permanently destroys the happiness of the petitioner and defeats the purpose of the marriage relation" (Jones, 1987, p. 23). Several other states, mainly in the West (but also in New England), added omnibus clauses to their laws in the following decades.

As in the Colonial era, divorce laws differed from state to state. Southern states moved cautiously after independence, but, by the middle of the 19th century, most southern states allowed divorce on several grounds, including imprisonment, adultery, impotence, and desertion (Phillips, 1991). South Carolina, the most conservative state, did not establish divorce until 1868. Despite South Carolina's efforts to allow marital dissolution, their divorce clause was repealed in 1878, even though relatively few divorces had been granted during the preceding 10 years (Jones, 1987).

In contrast to the South, divorce laws were especially liberal in the western part of the country. Shortly after an area gained status as a territory, most governments created laws that allowed divorce on a wide variety of grounds (Phillips, 1991; Riley, 1991). As we already noted, Indiana was the first place to introduce an omnibus clause for divorce. Moreover, most territories had minimal residency requirements. In Indiana, in particular, divorce was especially easy for residents and nonresidents alike. Petitioners could put notices of their divorce petitions in newspapers and did not have to personally inform their spouses. This procedure created numerous problems, because many people were unaware that they were being divorced, were absent from the divorce hearings, and were unable to defend themselves. By 1859, Indiana had changed the residency requirement and taken steps to make divorce more difficult to attain, but this did not lower the number of petitions for divorce (Riley, 1991).

The existence of liberal divorce laws, combined with lenient residency requirements, led many unhappy couples to move westward to end their marriages. When territories were granted statehood, however, the new governments often adopted more conservative divorce policies, forcing unhappy couples to look elsewhere for easy divorces (Riley, 1991). This trend led couples seeking to end their marriages to move increasingly westward during the 1800s: to Ohio in the 1840s, to Indiana in the 1850s, to Illinois in the 1870s, and to the Dakotas, Wyoming, Utah, and Idaho in the 1880s and 1890s (Jones, 1987).

Public Attitudes Toward Divorce

As divorce became more widespread, and as the laws regulating divorce became less restrictive, the public became increasingly fascinated with marital disruption. Newspapers in the 19th century often reported the details of divorce trials, and these stories were followed closely by readers across the country. Moreover, trial pamphlets emerged as a popular genre. These pamphlets compiled information on popular divorce cases and included extensive editorials on the background and implications of these events. Cases involving adultery or cruelty were especially popular with readers (Basch, 1999).

Not surprisingly, many individuals were uncomfortable with this new reality, and, during the second half of the 19th century, divorce became a major issue of public controversy and debate. Horace Greeley, founder and editor of the *New York Tribune*, wrote numerous editorials on the problem of excessive individualism in American life. Greeley believed that the high rate of divorce was one of the major outcomes of this destructive focus on the self, and he warned that widespread marital dissolution would lead to “corruption such as this country has never known” (cited in Riley, 1991, p. 62). He and other critics believed that “easy” divorce had the potential to undermine the institution of the family and literally bring forth the collapse of American society. From this perspective, the larger good of social stability was more important than the dissatisfaction of married spouses. Despite these objections, however, most opponents of liberal laws agreed that divorce should be available for reasons of adultery or other extreme marital offenses (Phillips, 1991; Riley, 1991).

In 1881, concerned individuals founded the New England Divorce Reform League—the first organization with the specific goal of restricting liberal divorce laws. In 1885, this group expanded into a national organization, the National Divorce Reform League, and the name of this group was later changed to the National League for the Protection of the Family (Phillips, 1991). This organization aimed to counter liberal social policies and permissive social trends with respect to sexuality, prostitution, and alcohol consumption. Its main goal, however, was to encourage state governments to make marital dissolution more difficult to obtain. The group had some success, and, in response to public pressure, a number of states removed omnibus clauses from their divorce laws or made residency requirements for divorce more stringent (Jones, 1987).

Despite these conservative trends, it would be a mistake to conclude that public opinion was consistently against divorce during the second half of the 19th century. Many groups and individuals argued that widespread marital breakdown—rather than divorce—was the real problem. These individuals supported liberal divorce laws because they did not believe that it was humane to force two people to remain in a relationship when one or both partners were miserable (Basch, 1999; Phillips, 1991; Riley, 1991). Many women's rights activists, such as Susan B. Anthony and Elizabeth Cady Stanton, supported the *further* liberalization of divorce laws. As Stanton stated, "I think divorce at the will of the parties is not only a right, but that it is a sin against nature, the family, and the state for man or woman to live together in the marriage relation in continual antagonism, indifference, and disgust" (cited in Basch, 1999, p. 69). Moreover, given that marriage was a patriarchal arrangement, many feminists saw divorce as a way for wives to escape from oppressive, perhaps dangerous, marriages. Not all women's rights activists, however, were in agreement on this point. Some feminists were cautious about the further liberalization of divorce laws, because of their concern about women's ability to support themselves outside of marriage, as well as the difficulty that older women faced in remarrying (Basch, 1999). In the 19th century women's movement, as in the larger society, people held a variety of opinions on these issues.

THE 20TH CENTURY

The Frequency of Divorce

During the first half of the 20th century, the divorce rate rose and fell in response to specific events and changing social circumstances. The divorce rate increased gradually during the early years of the 20th century, and then it surged in the years following World War I. Presumably, this occurred for the reasons noted earlier; that is, couples were separated for long periods, some married individuals engaged in adultery during the time of separation, and many veterans had difficulty fitting into civilian life after the war. In addition, there was a rapid increase in the marriage rate during the war years. Given that some of these marriages were contracted hastily (before men left for military service), it is not surprising that many ill-considered matches were made. The divorce rate declined during the Great Depression of the 1930s—a time when many unhappy spouses literally could not afford to divorce. World War II pulled the United States out of the depression, and, consistent with earlier trends, divorce rates spiked sharply upward during the war. In the aftermath of the war, the divorce rate declined, and by the end of the 1950s, the rate of divorce was back to where it had been 20 years earlier.

The 1950s represented a relatively "profamily" period in U.S. history. In addition to the stable divorce rate, the marriage rate was high and fertility increased dramatically—a period known as the baby boom. Several forces came together to create the stable, two-parent, child-oriented family of the 1950s: a strong economy, increases in men's wages, veterans' taking advantage of the GI bill to obtain university educations, the growth of home construction in the suburbs, and a desire on the part of many people to move beyond the tumultuous war years and to concentrate on home and family life (Cherlin, 1992).

After being stable for more than a decade, the divorce rate increased sharply during the 1960s and 1970s. It reached an all-time peak in 1980 and then declined modestly. Currently, the rate of divorce is about 20, which means that about 2% of all marriages end in divorce every year $[(20/1,000) \times 100]$. Although the 2% figure may seem low, it is based on a single year. By applying duration-specific probabilities of divorce across all the years of marriage, it is possible to project the percentage of marriages that will end in divorce. Using this method, demographers

estimate that about one half of first marriages, and about 60% of second marriages, will end in divorce (Cherlin, 1992). These figures represent a historically high level of marital disruption in the United States. In comparison, about one eighth of all marriages ended in divorce in 1900, and about one fourth of all marriages ended in divorce in 1950 (Preston & McDonald, 1979).

The Legal Regulation of Divorce

As we noted earlier, throughout American history, divorces were granted only when one spouse demonstrated to the court's satisfaction that the other spouse was "guilty" of violating the marriage contract. This process required that courts gather evidence, including witness testimony, either from people familiar with the family or from the spouses themselves. Under this system, the "innocent" spouse often received a better deal than the guilty spouse with respect to the division of marital property, alimony, and child custody. In other words, the law punished the spouse who was responsible for undermining the marriage (Katz, 1994).

Fault-based divorce did not allow for the possibility that two spouses simply might be unhappy with their marriage and wish to go their separate ways. Instead, by making divorce difficult, and by requiring one spouse to accept responsibility for violating the marriage contract, the law affirmed its commitment to the norm of marital permanence. Despite the difficulty and cost of proving fault in court, however, demand for divorce increased throughout the first half of the 20th century. To accommodate this growing demand, courts broadened the grounds for marital dissolution, and an increasing proportion of divorces were granted on the relatively vague grounds of mental cruelty. More specifically, in the mid-19th century, only 12% of divorces occurred for reasons of cruelty. This figure rose to 28% in 1920, 40% in 1930, 48% in 1940, and 59% in 1950 (DiFonzo, 1997).

In 1933, New Mexico was the first state to add "incompatibility" as a ground for divorce (DiFonzo, 1997). Twenty years later, Oklahoma instituted a form of no-fault divorce based on mutual consent (Vlosky & Monroe, 2002). Although fault-based divorces still were possible in New Mexico and Oklahoma, spouses could dissolve their marriages even if neither spouse had committed a serious marital offense. Several other states added no-fault options during the next decade, including Alaska in 1963 and New York in 1967 (Vlosky & Monroe). It is important to note, however, that fault-based divorce existed side by side with no-fault divorce in each of these states.

The most dramatic change in divorce law occurred in California in 1969, when the state legislature eliminated fault-based divorce entirely and replaced it with no-fault divorce. Under the new legislation, only one ground for divorce existed: the marriage was "irretrievably broken" as a result of "irreconcilable differences" (Glendon, 1989). Moreover, courts in California granted divorces even if one spouse wanted the divorce and the other did not—a system known as unilateral no-fault divorce. The assumption underlying unilateral no-fault divorce was that it takes two committed spouses to form a marriage. If one spouse no longer wished to remain in the relationship, then the marriage was not practicable. California also removed the notion of fault from the award of spousal support and the division of marital property (Parkman, 2000; but note that the notion of fault was retained to a certain extent, however, in decisions about child custody).

Other states quickly followed California's lead, and, by the mid-1980s, all 50 states had adopted no-fault divorce. Most states adopted versions of unilateral no-fault divorce. A few states introduced no-fault divorce, but only by mutual consent. In Pennsylvania, for example, if one spouse wants a divorce and the other does not, then a no-fault divorce can be obtained only after the spouses are separated for 2 years. Otherwise, the spouse who wants the divorce must prove fault. Despite the fact that some states require mutual consent, and despite the fact that

some states have retained fault provision, the great majority of divorces in the United States today take place under unilateral no-fault divorce regimes (Katz, 1994).

States introduced no-fault divorce for several reasons. First, it was widely known that many spouses who wished to dissolve their marriages colluded to fabricate grounds for divorce. For example, spouses might claim that infidelity had occurred, even if it had not. The recognition that many couples were making a mockery of the law was one factor that led to divorce reformation (Katz, 1994). In addition, legal scholars increasingly accepted the proposition that spouses had a legal right to end their marriages if they were incompatible, had fallen out of love, or were no longer happy living together (Glendon, 1989). Finally, fault-based divorce is an inherently adversarial procedure. Many legislators believed that no-fault divorce would lessen the level of animosity between former spouses, and, hence, make it easier for them to cooperate in raising their children following marital dissolution (Glendon, 1989; Katz, 1994).

Some scholars believe that the liberalization of divorce laws stimulated further demand for divorce (for a review of this evidence, see Parkman, 2000). Other scholars disagree with this claim (e.g., Glenn, 1999). Nevertheless, even if legal changes encouraged some couples to divorce, this effect was modest. Most scholars believe that changes in divorce laws were more a consequence than a cause of marital breakdown (e.g., Cherlin, 1992).

Not everyone was happy with the shift to no-fault divorce, especially after the sharp increase in divorce during the 1970s. Some conservative reformers hoped to lower the frequency of marital dissolution by placing restrictions on unilateral no-fault divorce. For example, during the 1990s, legislators in nearly a dozen states that had unilateral divorce laws introduced bills that required the consent of both spouses for a no-fault divorce, provided that they had dependent children. In some attempted reforms, fault-based divorce would be available without mutual consent in cases of abuse, desertion, or adultery. Other bills attempted to lengthen the waiting period prior to divorce or to require marital counseling (with the goal of attempting a reconciliation) before divorce. Despite attracting a good deal of media attention, none of these bills was passed in any state (DiFonzo, 1997).

Divorce law reformers were more successful with the introduction of covenant marriage in three states. Louisiana was the first state to introduce this legislation in 1997, followed by Arizona and Arkansas. Under this system, couples choose between two types of marriage: a standard marriage or a covenant marriage. To obtain a covenant marriage, couples must attend premarital education classes and promise to seek marital counseling to preserve the marriage if problems arise later. Unilateral no-fault divorce is not an option for ending a covenant marriage. Instead, to terminate a covenant marriage, one spouse must prove fault, although a couple can also obtain a divorce after a 2-year separation. (For a detailed description of covenant marriage in Louisiana, see Thompson & Wyatt, 1999.) Although proponents of covenant marriage see it as a way to strengthen marriage and lower the divorce rate, only a small percentage of couples in Louisiana have chosen covenant marriages (Sanchez, Nock, Wright, Pardee, & Ionescu, 2001). For this reason, the introduction of covenant marriage has, so far, been unsuccessful in lowering the rate of divorce.

Public Attitudes Toward Divorce

As the divorce rate surged following World War I, divorce emerged again as a major social issue. During the 1920s and 1930s, articles on divorce appeared frequently in the media, including in magazines such as the *Saturday Evening Post*, *Vanity Fair*, *Ladies Home Journal*, and *Good Housekeeping*. Echoing the concerns of a half-century earlier, conservative writers felt that divorce posed a threat to the family and to the larger society, and that divorcing couples were placing their own needs ahead of the needs of their children. Many of these critics placed

the blame for marital instability on increases in wives' employment, rising expectations for personal satisfaction from marriage, and the declining stigma of divorce (DiFonzo, 1997).

Many early family scholars also took a dim view of divorce. Developmental theories of the time, such as Freudian theory, assumed that children need to grow up with two parents to develop normally. For this reason, most social scientists in the first half of the 20th century saw the rising level of marital disruption as a serious social problem. Sociologists were concerned that one of the fundamental institutions of society—the family—was being undermined. In the 1920s and 1930s, social scientists published books with titles such as *The Marriage Crisis* (Groves, 1928), *Family Disorganization* (Mowrer, 1927), and *Marriage at the Crossroads* (Stekel, 1931). Curiously, few studies focused on children, presumably because the idea that divorce was bad for children seemed self-evident. Instead, researchers focused primarily on factors that promote or erode marital happiness (e.g., Burgess & Cottrell, 1939; Terman, 1938).

The debate over divorce subsided during the 1950s and early 1960s. As we noted earlier, this was a profamily time in American history, with high marriage rates, a stable divorce rate, and rising levels of affluence. Nevertheless, many people continued to see divorce as being unrespectable. As an illustration, Adlai Stevenson (who was divorced in 1949) served as the Democratic Party's candidate for President in 1952. During the campaign, Dwight Eisenhower (the Republican Party candidate) raised Stevenson's divorce as a campaign issue—an issue that resonated strongly among women voters (Rothstein, 2002). Partly for this reason, Stevenson lost the election.

Public attitudes toward divorce became more liberal during the 1960s and 1970s. For example, surveys indicate that *disagreement* with the statement, "When there are children in the family, parents should stay together even if they don't get along" increased from 51% in 1962 to 80% in 1977 (Thornton & Young-DeMarco, 2001). As noted earlier, Adlai Stevenson's divorce was a major campaign issue in the 1952 presidential election. In contrast, Ronald Reagan ran successfully for President in 1980, and the fact that his first marriage had ended in divorce was never raised as a campaign issue (Rothstein, 2002). By the end of the 1970s, the great majority of Americans viewed divorce as an unfortunate but common event, and the stigma of divorce, although still present, was considerably weaker than in earlier eras.

The growing acceptance of divorce was consistent with a larger cultural shift that occurred during the 1960s and 1970s. During these decades, personal happiness and self-fulfillment came to be seen as the main goals of marriage (Bellah, Madsen, Sullivan, Swidler, & Tipton, 1985; Cherlin, 2004; Popenoe, 1996). During the same time, people's expectations for sexual satisfaction with marriage also increased (Seidman, 1991). With the satisfaction of personal needs becoming the main criterion by which people judged their marriages, spouses tended to seek divorces when they became dissatisfied with their relationships, even if their marriages did not include serious problems such as cruelty or adultery. Moreover, rather than condemning the decision to divorce, friends and family members tended to support spouses who left unsatisfying marriages.

The last two decades of the 20th century, however, saw a reaction to the liberal views of the 1960s and 1970s. Two national surveys, one carried out in 1980 (Booth, Johnson, White, & Edwards, 1991) and the other carried out in 2000 (Amato, Johnson, Booth, & Rogers, 2003), provide the latest information on this issue. These surveys revealed that agreement with the statement, "Couples are able to get divorced too easily today," increased from 33% in 1980 to 47% in 2000. Correspondingly, agreement with the statement, "The personal happiness of an individual is more important than putting up with a bad marriage," declined from 74% in 1980 to 64% in 2000. Overall, scores on a scale based on these and other items (coded to reflect support for the norm of lifelong marriage) increased by more than one fourth of a standard deviation (0.27) during this 20-year period. Moreover, growing support for the norm of lifelong

marriage was apparent among wives as well as husbands. A similar trend can be observed in the General Social Survey. This annual survey of the American population revealed that the percentage of people who believe that divorce should be more difficult to obtain increased from 44% in 1974 to 51% in 2002 (see <http://webapp.icpsr.umich.edu/GSS>).

Although attempts to scale back no-fault divorce during the 1990s were unsuccessful (as we noted earlier), legislative efforts to strengthen marriage (rather than restrict access to divorce) met with some success. Although not widely recognized at the time, the 1996 federal welfare reform legislation referred to promoting marriage and encouraging the formation and maintenance of two-parent families as explicit policy goals (Ooms, 2002). Since that time, several state governments have enacted legislation and programs to strengthen marriage. For example, Oklahoma (as part of the Oklahoma Marriage Initiative) currently provides publicly funded premarital education classes to a wide range of couples, including poor, unmarried parents. Florida decreased the fee for a marriage license, along with the waiting period between obtaining a license and getting married, for couples that have taken a premarital education course. Florida also requires all high school students to take a course on marriage skills. In Arizona, Florida, Louisiana, and Utah, couples are given marriage materials (booklets or videos) that include information on how to build strong marriages, the effects of divorce on children, and available community resources (see Parke & Ooms, 2002, for details on these policies.)

Despite this recent shift in attitudes and policy, it would be a mistake to conclude that the American public is generally against divorce. Instead, people appear to be deeply ambivalent. For example, in the 2000 survey described earlier (Amato et al., 2003), only a minority of people (17%) agreed with the statement, “It’s okay for people to get married thinking that, if it does not work out, they can always get a divorce.” However, as also noted earlier, the majority of people continue to believe that personal happiness is more important than remaining in an unhappy marriage. Similarly, a poll by *Time Magazine* in 2000 found that 66% of people believed that children are better off in a divorced family than in “an unhappy marriage in which parents stay together mainly for the kids.” At the same time, however, 64% of people believed that children always or frequently are harmed when parents get divorced (Kern, 2000). It appears that many people today hold contradictory, unresolved views on divorce.

Public confusion about divorce is reflected in (and may have been shaped partly by) debate among family scholars during the last two decades of the 20th century. Some scholars view the retreat from marriage and the corresponding spread of single-parent families as a cause for alarm (Glenn, 1996; Popenoe, 1996; Waite & Gallagher, 2000; Whitehead, 1993; Wilson, 2002). These scholars believe that American culture has become increasingly individualistic, and people have become inordinately preoccupied with the pursuit of personal happiness. Because people no longer wish to be hampered with obligations to others, commitment to traditional institutions that require these obligations, such as marriage, has eroded. Indeed, in a society that encourages the maximization of self-interest, people are more concerned about their own well-being than the well-being of their spouses or children. For example, Popenoe (1996) made this argument:

Traditionally, marriage has been understood as a social obligation—an institution designed mainly for economic security and procreation. Today, marriage is understood mainly as a path toward self-fulfillment. . . . No longer comprising a set of norms and social obligations that are widely enforced, marriage today is a voluntary relationship that individuals can make and break at will. (p. 533)

According to Popenoe, people are no longer willing to remain married through the difficult times, for better or for worse, until death do us part. Instead, marital commitment lasts only as long as people are happy and feel that their own needs are being met.

Other scholars reject the notion that our culture has shifted toward greater individualism and selfishness in recent decades (Coontz, 1988, Scanzoni, 2001; Skolnick, 1991; Stacey, 1996). These scholars also are skeptical of claims that the proportion of unsuccessful marriages has increased. According to this perspective, marriages were as likely to be troubled in the past as in the present, but because obtaining a divorce was time consuming and expensive, and because divorced individuals were stigmatized, these troubled marriages remained “intact.” Rather than view the rise in marital instability with alarm, advocates of this perspective point out that divorce provides a second chance at happiness for adults and an escape from a dysfunctional and aversive home environment for many children. Moreover, because children are adaptable and can develop successfully in a variety of family structures, the spread of alternatives to mandatory lifelong marriage poses few problems for the next generation. Coontz (2000) stated the following:

The amount of diversity in U.S. families today is probably no larger than in most periods of the past. . . . Most of the contemporary debate over family forms and values is not occasioned by the existence of diversity but by its increasing legitimation. Historical studies of family life . . . make it clear that families have always differed. Many different family forms and values have worked (or not worked) for various groups at different times. There is no reason to assume that family forms and practices that differ from those of the dominant ideal are necessarily destructive. (p. 28)

Feminist scholars, in particular, have argued that changes in family life during the past several decades have strengthened, rather than undermined, the quality of intimate relationships. For example, Stacey (1996, p. 9) stated that “changes in work, family, and sexual opportunities for women and men . . . open the prospect of introducing greater democracy, equality and choice than ever before into our most intimate relationships, especially for women and members of sexual minorities.”

GENERAL TRENDS AND EXPLANATIONS

Four General Trends

Looking at the broad sweep of American history leads to four general conclusions about divorce trends. First, despite the fact that the divorce rate in the United States increased during some periods and decreased during others, the overarching trend—starting in the 17th century and continuing through the 20th century—has been a gradual rise in the rate of divorce. The roots of our current high divorce rate are over 300 years old. The fact that half of all current first marriages end in divorce, therefore, cannot be a function of relatively recent social conditions, such as the shift to no-fault divorce. Instead, the seeds of widespread marital instability were present in American society from its very beginning. Any theoretical explanation for the current high rate of divorce must take this fact into account.

Second, the conditions that courts, state legislatures, and the public view as justifying divorce have expanded continuously throughout American history. During the Colonial era, divorces were granted for a limited number of causes, such as desertion and adultery. These grounds expanded significantly during the 19th and 20th centuries. The ground of cruelty is particularly noteworthy, as it referred to relatively severe forms of physical abuse in the early 1800s and later incorporated acts of emotional cruelty and unkindness. A particularly dramatic shift occurred in the 1970s and early 1980s, when all states accepted versions of no-fault divorce. This change eliminated the necessity of proving that the marriage contract had been violated and made it

possible for couples to divorce for virtually any reason. Moreover, unilateral no-fault divorce (available in most states) meant that one spouse could obtain a divorce, even if the other spouse wanted the marriage to continue. The gradual expansion of the grounds for divorce suggests that the law was responding to an ever-increasing demand from the American public, along with rising expectations for what constitutes a good marriage.

A third noteworthy trend is the tendency for wives to initiate divorce more often than husbands. This gender difference existed during the Colonial era (Phillips, 1991), the 19th century (Willcox, 1891), and the 20th century (Braver, 1998; Kitson, 1992; Maccoby & Mnookin, 1992). Why are wives more likely than husbands to seek a divorce? One explanation is that men are more likely to behave badly within marriage than are women. For example, men are more likely than are women to engage in serious forms of violence, both inside and outside of marriage (Felson, 2002). Men also are more likely than women to abuse alcohol and other substances, and husbands are more likely than wives to engage in infidelity (See Hall & Fincham, chap. 5, this volume). Recent research shows that wives are especially likely to end their marriages because of their spouses' cruelty, adultery, or drunkenness (Amato & Previti, 2003)—a difference that appears to have been as true in the past as it is today.

In addition, in the Colonial era through the 19th century, husbands were considerably more likely than wives to desert their families, largely because men had more opportunities for economic independence. Given that desertion was one of the few grounds for divorce in many states, it is not surprising that wives were especially likely to file for divorce. However, with the industrialization of the American economy, women gained greater access to employment, and, correspondingly, the means to live independently from men (albeit at a lower standard of living). Economic autonomy made it possible for wives to leave their marriages, just as husbands had left (deserted) their marriages in earlier eras. Rather than deserting their husbands, however, wives were able to obtain divorces on the expanding grounds of cruelty, and later, on the basis of no-fault provisions. In other words, although wives have always been more likely than husbands to initiate divorce, their reasons for doing so shifted as social conditions changed.

The feminist perspective, which argues that marriage provides substantially greater benefits to husbands than to wives, provides another explanation for the tendency for wives to initiate divorce. This point was articulated by 19th century feminist activists, such as Susan B. Anthony and Elizabeth Cady Stanton, and it has been echoed in the writings of more contemporary feminist scholars (e.g., Bernard, 1972; Stacey, 1996). For example, Bernard argued that “marriage introduces such profound discontinuities into the lives of women as to constitute genuine emotional health hazards” (p. 37). Some empirical work supports the notion that marriage improves the mental and physical health of husbands and lowers the mental and physical health of wives (e.g., Gove & Tudor, 1973). The great majority of recent longitudinal studies, however, indicate that marriage generally improves the mental and physical health of *both* sexes (e.g., Ross, 1995; Waite & Gallagher, 2000; Williams, 2003)—a finding that contradicts the feminist hypothesis.

Despite the lack of empirical support for the feminist hypothesis (that marriage benefits husbands more than wives), this notion is partly consistent with our claim that men are especially prone to exhibit behaviors that undermine the quality and practicability of marriage. As we noted earlier, men are more likely than women to abuse alcohol and other substances, to engage in severe violence, and (especially in the past) to desert their families. Nevertheless, only a minority of husbands engage in these behaviors. In most cases, therefore, marriage benefits wives as well as husbands. However, in a minority of marriages, wives suffer from their husbands' antisocial behavior. Consistent with this interpretation, if we eliminate badly behaved husbands from the married population, then wives and husbands are equally likely to initiate divorce (Amato & Previti, 2003).

Finally, our review indicates that divorce always has been controversial in American society. During the Colonial era, sharp differences existed between New England and the southern colonies about whether divorce should be allowed at all. In the latter part of the 18th century, divorce became a matter of widespread and contentious debate in the media and among policy-makers. After World War I, many observers (including many social scientists) believed that the family was in danger, with harmful consequences for children and society in general. During the last two decades of the 20th century, this debate emerged yet again among policymakers, the media, the general public, and family scholars. Curiously, many of the arguments that are advanced today (both in favor of and against divorce) are similar, if not identical, to arguments made in previous centuries.

The Deinstitutionalization of Marriage

We believe that these various historical trends—along with differences of opinion among contemporary family scholars, policy-makers, and the general public about the meaning and implications of these trends—can be explained with reference to the *deinstitutionalization* of marriage. The view was originally put forward by Ernest Burgess, a sociologist who wrote on marriage and family life in the first part of the 20th century (Burgess & Cottrell, 1939; Burgess, Locke, & Thomes, 1963; Burgess & Wallin, 1953). Burgess argued that marriage was in a process of transition from a social institution to a private arrangement based on companionship. By *institution*, Burgess meant a fundamental unit of social organization—a formal status regulated by social norms, public opinion, law, and religion. In contrast, the emerging form of marriage was based primarily on emotional bonds between two autonomous individuals.

According to Burgess, the industrialization and urbanization of the United States weakened the institutional basis of marriage. Prior to the second half of the 19th century, the United States was predominantly a rural society, and most adults and children lived and worked on family farms. During this era, marriage was essential to the welfare not only of individual family members but also to the larger community. Before the development of specialized services and institutions, family members relied on each other to meet a wide range of needs, including child care, economic production, job training, and elder care. Because cohesive families were necessary for survival, the entire community had an interest in ensuring marital stability. Once married, spouses were expected not only to conform to traditional standards of behavior but also to sacrifice their personal goals, if necessary, for the sake of the marriage. Of course, because marriages were patriarchal, wives made more sacrifices than did husbands. Nevertheless, through marriage, men and women participated in an institution that was larger and more significant than themselves. For these reasons, divorce was frowned on and was allowed only if one partner had seriously violated the marriage contract, such as by engaging in physical abuse or desertion.

By 1900, the United States had become industrialized, and two-parent breadwinner-homemaker families replaced farm families as the dominant family form (Hernandez, 1993). Burgess believed that industrialization and urbanization provided individuals with more control over their marriages. Several factors were responsible for this change, including the greater geographical mobility of families (which freed spouses from the domination of parents and the larger kin group), the rise of democratic institutions (which increased the status and power of women), and a decline in religious control (which resulted in more freedom to adopt unconventional views and behaviors). As we noted earlier, the growth of employment opportunities for women also gave wives more economic independence from their husbands. As parents, religion, community expectations, and patriarchal traditions exerted less control over individuals, marriage was based increasingly on the mutual affection and individual preferences of spouses.

Burgess referred to the new model (and ideal) of marriage as *companionate marriage*. According to Burgess, companionate marriage is characterized by egalitarian rather than patriarchal relationships between spouses. Companionate marriage is held together not by bonds of social obligation but by ties of love, friendship, and common interest. Unlike institutional marriage, which emphasizes conformity to social norms, companionate marriage allows for an ample degree of self-expression and personal development. Of course, people in the United States have always expected marriage to be a source of love and emotional support. Furthermore, growing support for companionate marriage can be traced from the Revolutionary War through the end of the 19th century (Griswald, 1982). However, the notion that marriage should be based *primarily* on mutual satisfaction began to gain widespread public acceptance only during the early decades of the 20th century. Psychologists, educators, and social service providers applied these ideas in their professional practice, and it was in this context that marital counseling emerged as a discipline, with its goal being to help couples achieve emotional closeness and sexual satisfaction through improved communication and conflict management. By the 1950s, the great majority of Americans, irrespective of social class, accepted the companionate model of marriage as the cultural ideal (Mintz & Kellog, 1988).

The concept of deinstitutionalization helps to explain the historical trends described in this chapter. Because marriages held together by mutual satisfaction are intrinsically less stable than are marriages held together by community expectations, legal requirements, and religious restrictions, the gradual decline of institutional constraints made the long-term rise in divorce inevitable. Moreover, as people's standards for a good marriage increased, so did the percentage of marriages that failed to live up to these standards. As a result, marriages that were seen as being tolerable in the 19th century came to be seen as intolerable in the 20th century. It seems likely that rising standards for a "good" marriage fueled public demand for divorce, which in turn placed pressure on the states and courts to liberalize the grounds for marital dissolution (see DiFonzo, 1997, for a historical argument along these lines).

Finally, it is not surprising that the gradual deinstitutionalization of marriage has been generating debate for three centuries. Public controversies usually revolve around strongly held values, and values related to marriage and family life are anchored deeply in the American psyche. Americans, it seems, have always had a love-hate relationship with divorce. On the one hand, people value the freedom to leave unhappy unions, correct earlier mistakes, and find greater happiness with new partners. On the other hand, people are deeply concerned about social stability, tradition, and the overall impact of high levels of marital instability on the well-being of children. The clash between these two concerns reflects a fundamental contradiction within marriage itself; that is, marriage is designed to promote both institutional and personal goals. Happy and stable marriages meet both of these goals without friction. In contrast, when unhappy spouses wrestle with the decision to end their marriages, they are caught between their desire to further their own personal happiness and their sense of obligation to others, including their spouses, their children, their churches, and their communities. Because tension between the values of freedom and obligation is inherent in marriage, controversies over marital stability will always be common in American society.

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