Sex and Marriage in the Protestant Tradition, 1500-1900

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CHAPTER 19

Sex and Marriage in the Protestant Tradition, 1500-1900

John Witte, Jr.[1]

Abstract

This Article analyzes the mainline Lutheran, Calvinist, and Anglican models of sex, marriage, and family and their gradual liberalization by Enlightenment liberalism. The theological differences between these models can be traced to their grounding in Lutheran two kingdoms doctrines, Calvinist covenantal theology, Anglican commonwealth theory, and Enlightenment contractarian logic. Lutherans consigned primary marital jurisdiction to the territorial prince or urban council. Calvinists assigned interlocking marital roles to local consistories and city councils. Anglicans left marital jurisdiction to church courts, subject to state oversight and legislation. The early Enlightenment philosophers, many of them Protestants, pressed for a sharper separation of church and state in the governance of marriage, and for stronger protections of the rights and equality of women and children within and beyond the marital household. But they maintained traditional Protestant prohibitions extramarital sex and no-fault divorce in an effort to protect especially women and children from exploitation. Later

Introduction

Sex, marriage, and family life were hotly contested issues during the 16th-century Protestant Reformation and one of the first institutions to be reformed. The leading Protestant theologians of the 16th century all prepared lengthy tracts on the subject, and scores of leading Protestant jurists worked together to develop a new family law for Protestant lands. Virtually every city and territory on the Continent that converted to the Protestant cause in the first half of the 16th century had new marriage laws on the books within a decade after accepting the Reformation. And, it was King Henry VIII's 'great marriage affair' with Catherine that prompted the English break with Rome.

The Protestant reformers' early preoccupation with marriage was partly driven by their critique of the Roman Catholic sacramental theology and canon law of marriage that had dominated the West for the prior half millennium. The medieval Church's expansive jurisdiction over marriage was, for Protestants, a usurpation of the state's authority. The sacramental concept of marriage on which the Church predicated its jurisdiction was for the reformers a self-serving theological fiction. The canonical prohibition on marriage of clergy and monastics ignored the Bible's warnings against sexual sin as the reformers understood them. The church's intricate rules governing sexual desire and expression, even within marriage, were seen as a gratuitous insult to God's gift of marital love. The canon law's many impediments to engagement and marriage and its prohibitions against complete divorce and remarriage stood in considerable tension with the Protestant understanding of the natural and biblical right and duty of each fit adult to marry.

Many Protestant theological leaders acted on these new teachings about sexuality and marriage in the first decades of the Reformation. The first Protestant clergy were mostly ex-priests or ex-monastics who had forsaken their orders and vows, and married shortly thereafter. New Protestant converts followed their examples by marrying, divorcing, and remarrying in open contempt of canon law rules. A few early Anabaptists even experimented with polygamy.[2] As Catholic Church courts and their secular counterparts firmly punished these flagrant sex crimes, Protestant theologians and jurists rose to the defence of their coreligionists, producing a new Protestant gospel of marital and sexual freedom.

Political leaders rapidly translated this new Protestant gospel into new civil laws in place of the Catholic Church's canon laws. Viewed together, these new state laws (1) shifted marital jurisdiction from the church to the state; (2) abolished monasteries and convents; (3) commended, if not commanded, the marriage of clergy; (4) rejected the sacramentality of marriage and the religious tests traditionally required for valid unions; (5) banned secret marriages and required the participation of parents, peers, priests, and political officials in marriage formation; (6) sharply curtailed the number of impediments used to annul engagements and marriages; and (7) introduced fault-based complete divorce with a subsequent right for divorcees to remarry. The Western legal tradition would not see such sweeping reforms of its marital laws again until the liberal, cultural and constitutional reforms of the last half century.

Mainline Protestant Models of Sex and Marriage

Mainline Protestants – Lutherans, Calvinists, and Anglicans – all started their marital teachings with the Bible. For them, Genesis 1 and 2 were axiomatic statements of the created order and natural law of marriage. God had created marriage as a 'two-in-one-flesh union' between a man and a woman designed for them to 'be fruitful and multiply' and to be protected from sexual sin. Also axiomatic was the Decalogue that commanded children to 'honour' their parents, and spouses to avoid adultery or even 'coveting' their neighbour's wife or maidservants. Instructive, too, were the intricate Mosaic laws on sex, marriage, and family life, which the Hebrew Prophets wove into a robust ethic of enduring and exclusive monogamous marriage modelled on Yahweh's covenantal love for his elect people.

From Matthew 19 and Romans 7, Protestants drew the lessons that a lawful Christian marriage should not be 'rent asunder' too easily and that a second marriage should not be entered too quickly. 1 Corinthians 7 stipulated the 'conjugal rights' that husbands and wives alike could enjoy in each other's bodies rather than 'burning' with lust, and allowed parties to separate in the event of desertion by one spouse. The household codes of Colossians 3, 1 Peter 2-3, and Ephesians 5-6 governed the interactions of husbands and wives, parents and children, masters and servants. These codes, together with sundry New Testament injunctions against sexual immorality, informed a rich Protestant tradition of confessional, catechetical, and casuistic teachings on sex, marriage, and family life that lasted into the 20th century.

While a few early Protestant groups used the Bible alone, most Protestants also drew heavily on the Western tradition – the marital wisdom of Aristotle, the Stoics, and the Church Fathers, the domestic norms of pre- and post-Christianized Roman law, and, before long, even some of the marital theology and law of the medieval Church. Protestants accepted the traditional teaching that marriage was both a natural institution created by God and a contractual unit formed in its essence by the mutual consent of the parties. The marital contract prescribed for couples a life-long relation of love, service, and devotion to each other, and proscribed any unwarranted breach or relaxation of their connubial and parental duties. Protestants also accepted traditional sex crimes like adultery, concubinage, prostitution, incest, polygamy, sodomy, abortion, infanticide, and child abuse as violations of natural and biblical morality.

Unlike medieval Catholics, however, Protestants rejected the medieval Church's subordination of marriage to celibacy and its celebration of marriage as a sacrament. According to common Protestant lore, the person was too tempted by sinful passion to forgo God's soothing remedy of marriage, and the celibate life had no superior virtue and was no prerequisite for ecclesiastical service. Moreover, Protestants did not believe marriage to be a sacrament. The marital household was, in their view, a social order ordained by God and equal in dignity to the church, state,

and other estates. From this common foundation, Lutherans, Calvinists, and Anglicans each constructed their own models of sex, marriage, and family life.

Lutheranism

The Lutheran tradition that dominated Germany and Scandinavia from the 16th to the 19th centuries, developed a social model of marriage, grounded in the two kingdoms theory of Martin Luther (1483-1546) (Ozment 2001; Dieterich 1970). Marriage, Luther and his colleagues taught, was a social estate of the earthly kingdom of creation, not a sacred estate of the heavenly kingdom of redemption. Though divinely ordained and biblically governed, marriage was directed to human ends and social 'uses.' Marriage revealed to persons their sin and their need for God's marital gift: this was its theological use. Marriage restricted prostitution, promiscuity and other public sexual sins: this was its civil use. Marriage taught love, restraint, and other public virtues: this was its pedagogical use.

All fit men and women were free and encouraged to marry or remarry, clerical and lay alike, unless they had the rare gift of continence. We are all sinful creatures, Lutherans argued; lust has pervaded the conscience of everyone. Marriage is thus not just an option but a necessity. For without it, a person's distorted sexuality becomes a force capable of overthrowing the most devout conscience. A person is enticed by nature to concubinage, prostitution, masturbation, voyeurism, and other sexual sins. 'To spurn marriage is to act against God's calling ... and against nature's urging,' Luther wrote. The calling of marriage should be declined only by those who have received God's special gift of continence. 'Such persons are rare, not one in a thousand, for they are a special miracle of God.' (Luther [LW] 1955: vol.28: 912, 927-31; vol.45: 18-22).

This understanding of marriage as a protection against sin undergirded Lutheran and other Protestants' bitter attacks on the Catholic tradition of mandatory clerical celibacy. To require celibacy of clerics, monks, and nuns, the reformers believed, was ultimately a source of great sin. Celibacy was a gift for God to give, not a duty for the church to impose. It was for each individual, not for the church, to decide whether he or she had received this gift. By demanding monastic vows of chastity and clerical vows of celibacy, the church was seen to be intruding on Christian freedom and contradicting Scripture, nature, and common sense. By institutionalizing and encouraging celibacy the church preyed on the immature and the uncertain. By holding out food, shelter, security, and economic opportunity, the monasteries enticed poor and needy parents to oblate their minor children to a life of celibacy, regardless of whether it suited their natures. Mandatory celibacy was not a prerequisite to true clerical service of God. Instead, wrote Luther, a former monk, it led to 'great whoredom and all manner of fleshly impurity and . . . hearts filled with thoughts of women day and night.' It was far safer that all clergy be married. And, indeed, marriage would enhance a pastor's ministry to couples and families, and his marital parsonage could provide a model for proper Christian domestic living.

Marriage not only protected humanity against sexual sin, Lutherans insisted, but also offered them the sublime divine gift of marital love. Luther extolled the 'love' of husband and wife to be 'over and above' all other loves,' indeed a 'foretaste of the love of heaven.' (Luther [WA] 1883-1987: vol. 2:167; see also 13:11, 17/2:350 on) He did not deny the traditional leadership of the *paterfamilias* within the marital household, but he also did not betray these warm sentiments to the point of becoming the grim prophet of patriarchy, paternalism, and procreation *über alles* that some modern critics make him out to be. For Luther, love was a necessary and sufficient good of marriage. He supported marriages between loving couples, even those between young men and older women beyond child-bearing years or between couples who could not have children. He stressed repeatedly that husband and wife were spiritual, intellectual, and emotional 'partners,' each to have regard and respect for the strengths of the other. He called his own wife Katharine respectfully 'Mr. Kathy' and said of her: 'I am an inferior lord, she the superior; I am Aaron, she is my Moses.' (In Ozment 2001, 36-7) He repeatedly told husbands and wives alike to tend to each other's spiritual, emotional, and sexual needs and to share household duties. (LW 45:39 on)

Marriage sometimes brought the divine gift of children as well. Luther treated procreation as an act of co-creation and co-redemption with God. He wished for all marital couples the joy of having children, not only for their own sakes but for the sake of God as well. Childrearing, he wrote, 'is the noblest and most precious work, because to God there can be nothing dearer than the salvation of souls . . . Most certainly, father and mother are apostles, bishops, [and] priests to their children, for it is they who make them acquainted with the Gospel.' (LW 45:46) Only on this sure foundation of parental love, nurture, and education, could the church do its proper catechesis and the state its public education of children.

This Lutheran model of sex, marriage, and family life remained at the core of German and Scandinavian culture and law until the 19th century. One of the richest distillations of Lutheran teachings on love and marriage came from Danish philosopher, Søren Kierkegaard (1813-1855), whose views on love were later elaborated by Anders Nygren. One of the best early legal syntheses of Lutheran laws on marriage and divorce came from Prussian jurist Justus Henning Böhmer (1674-1749), whose work remains at the heart of a burgeoning German and Scandinavian scholarship on Lutheran marriage law today.

Calvinism

The Calvinist tradition, first established in Geneva, set out a covenantal model of marriage. (Kingdon 1995; Köhler 1942; Seeger 1989) Marriage, John Calvin (1509-1564) and his followers taught, was a public covenant modelled on the ancient covenant between Yahweh and Israel. A variety of parties participated in the formation of this marital covenant. The marital parties themselves swore their betrothals and espousals before each other and God – rendering all marriages tripartite agreements, with God as third party witness, participant, and judge. The

couple's parents, as God's 'bishops' for children, gave their consent to the union. Two witnesses, as God's priests to their peers, served as witnesses to the marriage. The minister, holding God's spiritual power of the Word, blessed and instructed the couple in a mandatory church wedding. The magistrate, holding God's temporal power of the sword, registered the couple and protected them in their person and marital property. Each of these parties – parents, peers, ministers and magistrates – was considered essential to the legitimacy of the marriage, for they each represented a different dimension of God's involvement in the covenant. To omit any such party was, in effect, to omit God from the marriage covenant.

The covenant of marriage, said Calvin, was grounded in the order of creation and governed by the moral law of God set out in Scripture, reason, and conscience. God's law set out two tracks of marital norms, Calvin taught – civil norms, which are common to all persons, and spiritual norms, which are distinctly Christian. This moral law, in turn, gave rise to two tracks of marital morality – a simple morality of duty demanded of all persons regardless of their faith, and a higher morality of aspiration demanded of believers in order to reflect their faith. The moral law not only coerces them against violence and violation, but also cultivates in them charity and love. It not only punishes harmful acts of adultery and fornication, but also prohibits evil thoughts of passion and lust. It not only punishes wife abuse or child neglect, but also counsels a sacrificial love, tenderness, patience, and kindness towards a spouse and children that goes beyond that given to anyone or anything else.

It was the church's responsibility to teach aspirational spiritual norms for marriage and family life. It was the state's responsibility to enforce mandatory civil norms. This division of responsibility was reflected in 16th-century Geneva and later Calvinist polities in the procedural divisions between the church consistory and the city council. In family cases, the consistory was the court of first instance, and would call parties to their higher spiritual duties, backing their recommendations with instruction, admonition, confession, Eucharist bans, and in extreme cases, excommunication. If such spiritual discipline failed, the parties were referred to the city council to compel them, using civil and criminal sanctions, to honour at least their basic civil duties for marriage.

This Calvinist covenantal model mediated both contractual and sacramental understandings of marriage. On the one hand, it confirmed the traditional contractual qualities of marriage -- without subjecting it to the personal preferences of the parties. Marriage depended for its validity and utility on the voluntary consent of the parties. But marriage was more than a mere contract, for God was a third party to every marriage covenant, and set its basic terms in the order and law of creation. Freedom of contract in marriage was thus effectively limited to choosing maturely which party to marry – with no real choice about the form, forum, or function of marriage once a fit and willing spouse was chosen.

On the other hand, this covenant model confirmed the sacred qualities of marriage – without ascribing to it sacramental functions. Marriage, Calvin argued, was a holy and loving fellowship, a compelling image of the bond between Yahweh and his elect, Christ and his church. But marriage was no sacrament. Yes, Ephesians 5:32 analogized the loving and sacrificial union of a Christian husband and wife to the 'great *mysterion'* of Christ's union with the church, but the Bible was not thereby making marriage a sacrament. It was just using a striking image to drive home a moral lesson. The Bible did this all the time, said Calvin. 'Faith is like a mustard seed': it grows even if tiny. 'The kingdom of heaven is like yeast': it leavens even if you can't see it. Or 'the Son of man will come like a thief in the night.' So be ready at all times for his return. The marriage analogy is similar: 'Marital love is like the union of Christ and the church.' So be faithful and sacrificial to your spouse, as Christ is to his church. (See Calvin 1960: 4.19.34; see also LW 36:97 on)

Denying the sacramental quality of marriage had dramatic implications for how a marriage should be formed and dissolved in Calvinist and other Protestant lands. First, there were no formal religious or baptismal tests for marriage. To be sure, parties would certainly do well to marry within the faith for the sake of themselves and their children. But interreligious marriage was permissible, as Calvin himself showed in marrying an Anabaptist widow. Second, divorce and remarriage were licit, sometimes necessary. To be sure, marriages should be stable and presumptively indissoluble. But this presumption could be overcome if one of the essential marital goods was chronically betrayed by adultery, desertion, cruelty, or felony. If the parties could not be reconciled, either the husband or wife had the right to divorce and remarry another.

This covenantal model of marriage came to dominate numerous Calvinist communities in Switzerland, Germany, Hungary, France, the Netherlands, Scotland, England, and later North America. Until well into the 19th century, both church and state authorities in Calvinist lands governed in copious detail marital formation, maintenance, and dissolution, child care, custody, and control, spousal rights, responsibilities, and remedies and more. They also set stern codes of sexual ethics for Calvinist communities designed to curb fornication, adultery, sodomy, pornography, prostitution, dancing, and other sexual expression. These firm moral codes formed the backbone of Puritan sexual ethics in early America and also animated the chastity and modesty ethics of 19th-century Victorians. And, in the 20th century, great theologians like Karl Barth, Emil Brunner, and Helmut Thielieke worked out an intricate covenant theology of sex, marriage, and family life rooted in various strands of the Calvinist tradition.

Anglicanism

The Anglican tradition brought forth a commonwealth model of marriage. (Powell 1917; Carlson 1994; Ingram 1987) This model embraced the social and covenantal models of marriage taught by Lutherans and Calvinists, but also went beyond them. Marriage, Anglican writers argued, was at once a gracious symbol of

the divine, a social unit of the earthly kingdom, and a solemn covenant with one's spouse. But the most essential cause, condition, and calling of the family was that it served and symbolized the common good of the couple, the children, the church, and the state all at once. For Anglican divines like William Gouge (1578-1653), marriage was appointed by God as 'a little commonwealth' to foster the mutual love, service, and security of husband and wife, parent and child. It was also designed as a 'seedbed and seminary' of the broader commonwealth of church and state to teach essential Christian and political norms and habits (Gouge 1622).

Like the political and ecclesiastical commonwealths, Anglican divines argued, the domestic commonwealth was created as a hierarchical structure. God had created Eve as 'a help meet' for Adam. He had called Adam and Eve to mutual society among themselves and to the mutual procreation of children (Gen. 1:28, 2:18). After the Fall, He had commanded that Adam 'shall rule over' Eve (Gen. 3:16). As heir of Adam, the modern husband was thus the head of his wife. As heir of Eve, the modern wife was his subject, his 'help meet.' Together husband and wife were the heads of their children and the rest of the household. Each of these offices in the family hierarchy was bound by a series of duties, rooted in the Bible and natural law, which dozens of thick household manuals and catechisms of the day elaborated. Faithful maintenance of domestic duties and offices, Anglican divines believed, was the best guarantee of individual flourishing and social order within the broader commonwealths of church and state. Robert Filmer's *Patriarcha* (c. 1642), gave this conservative, patriarchal rendering of the commonwealth model of marriage its classic formulation – and his work helped to distil and anchor both political theories of absolute monarchy and theological theories of absolute male headship within the marital household.

Until 1640, the commonwealth model served to rationalize the traditional hierarchies of husband over wife, parent over child, church over household, state over church. To call the marital household 'a little commonwealth' was to signal its subordinate place within the new hierarchy of social institutions that comprised 'the great church and commonwealth' of England. It was also to call the household to an internal hierarchy of offices that matched the royal and episcopal offices of the great commonwealth – with the *paterfamilias*' role of ruler within each family serving as a miniature model of the king as the supreme head of the church and commonwealth of England. The commonwealth model was thus used to integrate a whole network of parallel domestic and political duties rooted in the Bible and English tradition. Anglican divines and moralists expounded at great length the reciprocal duties of husband and wife, parent and child, master and servant that would produce a well-ordered little commonwealth. And, in keeping with the tradition of stability of the great political commonwealth of England, these same Anglican writers prohibited the dissolution of this little domestic commonwealth of the family by divorce.

As the political concept of the English commonwealth was revolutionized and democratized in the 17th century, however, so was the English commonwealth model of marriage. Particularly during the English Commonwealth period of 1642-

1660, when a coalition of Protestant revolutionaries overthrew the church and state establishment, these traditional domestic hierarchies were challenged with a revolutionary new principle of equality. The biblical duties of husband and wife and of parent and child were recast as the natural rights of each household member against the other. The traditional idea of a created natural order met with a new idea of marriage, society, and state formed voluntarily by contracts by individuals in the state of nature. Just as the English commonwealth could be rent asunder by force of arms when it abused the people's natural rights, so the family commonwealth could be put asunder by suits at law when one spouse abused the other's marital rights. Just as the King could be beheaded for abuses in the Commonwealth, so the paterfamilias could be removed from the head of the little commonwealth for abuses in the household.

Locke, Blackstone, and the Common Law Tradition

The most famous exposition of this new democratic reading of the commonwealth model of marriage came from English philosopher, John Locke (1632-1704), who straddled the Anglican, Puritan, and early Enlightenment worlds. Especially in his famous *Two Treatises on Government,* Locke sought to refute Robert Filmer's *Patriarcha.* God did not create Adam and Eve as ruler and subject, but as husband and wife, said Locke. Adam and Eve were created equal before God. Each had natural rights to use the bounties of Paradise. Each had natural duties to each other and to God. After the fall into sin, God expelled Adam and Eve from the Garden. He increased man's labour in his use of creation. He increased woman's labour in the bearing of children. But God, said Locke, did not abrogate the natural equality, rights, and duties with which God created Adam and Eve, and all persons after them. Nor did God render all wives to be eternally subject to their husbands. Men and women are born free and equal in the state of nature.

As humans moved from the state of nature, 'the first Society' to be formed 'was between Man and Wife, which gave beginning to that of Parents and Children.' This 'conjugal society,' like every other society, 'is made by a voluntary Compact between Man and Woman.' The marriage of a man and woman is 'necessary not only to unite their care and affection, but also necessary to their common offspring, who have a right to be nourished and maintained by them, till they are able to provide for themselves.' For Locke, men and women have a natural and equal right to enter into a marital contract.   But their children also have a natural right to survival, support, protection and education. This imposed on their parents the natural duty to remain in their marriage once contracted, at least until their children were emancipated. (Locke 1960: II.2, II.77-86)

Locke's arguments – and their elaboration by other philosophers like Baron Montesquieu (1689-1755), Jean-Jacques Rousseau (1712-1788), and Mary Wollstonecraft (1759-1797), all childhood Protestants – were critical to the development of the rights of men and women, parents and children within the

Western legal tradition. William Blackstone (1723-1780), the leading English common lawyer of the 18th century, for example argued:

> The duty of parents to provide for the maintenance of their children is a principle of natural law…. The main end and design of marriage [is] to ascertain and fix upon some certain person, to whom the care, the protection, the maintenance, and the education of the children should belong. (Blackstone 1765: 1.16.1)

Blackstone set out in detail the reciprocal rights and duties that the natural law imposes upon parents and children, and which the common law must enforce. It requires parents to maintain, protect, and educate their children, and in turn protects their rights to discharge these parental duties against undue interference by others. These 'natural duties' of parents are the correlatives of the 'natural rights' of their children to be nurtured, protected, and educated. And, in turn, once they become adults, children acquire reciprocal natural duties toward their parents as they enter into their second childhood, and need the support, care, and protection of their children and other kin. (Blackstone 1765: I.15.1; 1.16.1-3)

The common law was gradually reformed in line with these new teachings on marital equality and intra-familial rights. In England, Parliament passed the famous Matrimonial Causes Act of 1857 that authorized innocent husbands and wives alike to sue for absolute divorce on proof of cause with a right to remarry, and empowered courts to place minor children in the custody of that parent who was best suited to care for their maintenance, nurture, and education. This and later new legislation on elementary education, bastardy protection, and prevention of cruelty to children, slowly bent the law toward the presumption that custody of a child, particularly a minor, be granted to the mother, and that the father be charged with support payments but entitled to visitation rights until the child reaches the age of majority.

Furthermore, a series of Married Women's Property Acts after 1870 slowly released married women from the traditional bonds of coverture that legally subsumed a woman's person, property, and identity into that of her husband. Married women slowly gained stronger title and control over the property they brought into the marriage, or acquired after the wedding. They also gained increasing capacities to enter contracts of sale, lease, and mortgage of their properties, and the capacity to execute wills, trusts, and other dispositions. These early reforms of marital property law eventually strengthened the pursuit of gender equality outside the marital home as well. After their rights to property were enhanced, women were able to gain broader rights and access to higher education, learned societies, trade and commercial guilds and unions, and a variety of professions, occupations, and societies historically closed to them. On the strength of these achievements, women ultimately gained the right to vote and to hold public office in 1918. (Shanley 1987; Staves 1990) Comparable reforms in favour of women's rights and children's rights emerged in other common law lands, notably in

Canada, the United States, and Australia which all had comparable sweeping new marital and family reforms in the later 19th and early 20th centuries.

From Protestant Confessionalism to Enlightenment Liberalism

Protestants, on both sides of the Atlantic, continued to expound their rich theologies of marriage until the 20th century. They continued to mine the Bible for further insights into the fundamentals of sex, marriage and family life. While these Protestant theologies of marriage did change in accent and application over time and across denominational lines, the main Protestant teachings on marriage introduced in the 16th and 17th centuries did not change much before the 20th century.

Lutherans, Calvinists, Anglicans, Anabaptists, and the hundreds of denominations eventually derived from these mainline groups, all generally expounded the same basic teaching. God had created marriage for the mutual comfort of men and women, their mutual procreation of children, and their mutual protection from sin and temptation. All fit and able adults should marry, unless uniquely called to a single life. Monogamous marriage between unrelated parties was the sole legitimate form and forum for sex and procreation. Incest, polygamy, adultery, fornication, concubinage, prostitution, sodomy, and bestiality were all strictly forbidden. Marriages should proceed first with an engagement, then with public banns, and finally with a church wedding. Valid marriages required parental consent, peer witnesses, and civil registration with the state to complement the pastor's consecration in the church. Marital parties should support and care for each other throughout their lives, and provide for each other and for their children in their last wills and testaments. Both fathers and mothers must share in the care, education, and protection of their children. Divorce is allowed on proven grounds of adultery, malicious desertion, or other serious fault, with remarriage allowed at least to the innocent party and ongoing household support required of the guilty party.

Natural Law Theory

The more innovative changes in Protestant teachings theory in the 18th and 19th centuries came at the philosophical level. Selected Protestants in Europe and America allied with Enlightenment liberals to develop a fuller natural law theory that defended the equal rights of women and children, but also defended the traditional norms of enduring and exclusive monogamous marriages and no extramarital sex. Rather than simply adducing the Bible and Christian tradition, however, these later Protestant writers sought to build a natural account of these main features of marriage and sexual morality – using rational, empirical, and utilitarian arguments designed to be cogent even to those with different religious convictions. (See Waters 2007; Yenor 2011)

These Protestant natural law theorists used various methods to make their case. Some drew increasingly sophisticated inferences from bonding patterns and

reproductive strategies among animals, building on Aristotelian-Thomistic insights and anticipating the findings of modern evolutionary biologists. (See Browning 2003) Some uncovered the common forms and norms of marriage that were shared by Greeks, Romans, Jews, Catholics, Protestants, and others – all of which they took as evidence of a common natural law at work. Orthodox Protestant theologians often decried these efforts, especially as some philosophers moved toward the more anti-clerical, if not anti-Christian formulations of the later French Enlightenment. But most Protestant natural law theorists on marriage saw their efforts as a complement to, even a confirmation of, the work of the Christian tradition.

The writings of Henry Home, known as Lord Kames of Scotland (1696-1782), are a good illustration. A leading man of letters and a leading justice of the Scottish highest court, Home was a friend of Frances Hutcheson, David Hume, Adam Smith, and other Scottish Enlightenment luminaries. He was best known for his brilliant defence of natural law, principally on empirical and rational grounds which were designed to give it more universal and enduring cogency. A devout and life-long Protestant, Home believed in the truth of Scripture and the will of God. But he wanted to win over even sceptics and atheists to his legal and moral arguments and to give enduring 'authority to the promises and covenants' that helped create society and its institutions. (Home 2005: 1.2)

Among many other institutions and 'covenants,' Home defended monogamous marriage as a 'necessity of nature,' and he denounced polygamy and non-marital sex as 'a vice against human nature.' He recognized that polygamy had been practiced in early Western history and was still known in some Islamic and Asiatic cultures in his day. But, Home insisted, polygamy exists only 'where women are treated as inferior beings,' and where 'men of wealth' buy their wives like slaves and adopt the 'savage manners' of animals. Among horses, cattle, and other grazing animals, he argued, polygamy is natural. One superior male breeds with all females, and the mothers take care of their own young who grow quickly independent. For these animals, monogamous 'pairing would be of no use: the female feeds herself and her young at the same instant; and nothing is left for the male to do.' But other animals, such as nesting birds, 'whose young require the nursing care of both parents, are directed by nature to pair' and to remain paired till their young 'are sufficiently vigorous to provide for themselves.' (Home 2007: Book 1, Sketches VI-VI; Book III, Sketch III)

Humans are the latter sort of creature, said Home, for whom pairing and parenting are indispensable. Humans are thus inclined by nature toward enduring monogamous pairing of parents – indeed, more so than any other creature given the long fragility and helplessness of human offspring:

> Man is an animal of long life, and is proportionally slow in growing to maturity: he is a helpless being before the age of fifteen or sixteen; and there may be in a family ten or twelve children of different births, before the eldest can shift for itself. Now in the original state of hunting and fishing, which are laborious

occupations, and not always successful, a woman, suckling her infant, is not able to provide food even for herself, far less for ten or twelve voracious children…. [P]airing is so necessary to the human race, that it must be natural and instinctive…. Brute animals, which do not pair, have grass and other food in plenty, enabling the female to feed her young without needing any assistance from the male. But where the young require the nursing care of both parents, pairing is a law of nature. (Home 2007: Book 1, Sketch 6)

Not only is the pairing of male and female a law of nature, Home continued. 'Matrimony is instituted by nature' to overcome humans' greatest natural handicap to effective procreation and preservation as a species – their perpetual desire for sex, especially among the young, at exactly the time when they are most fertile. Unlike most animals, whose sexual appetites are confined to short rutting seasons, Home wrote, humans have a constant sexual appetite which, by nature, 'demands gratification, after short intervals.' If men and women just had random sex with anyone -- 'like the hart in rutting time' -- the human race would devolve into a 'savage state of nature' and soon die out. Men would make perennial and 'promiscuous use of women' and not commit themselves to the care of these women or their children. 'Women would in effect be common prostitutes.' Few women would have the ability on their own 'to provide food for a family of children,' and most would avoid having children or would abandon them if they did. (Home 2007: Book 1, Sketches VI-VI)

Monogamous marriage is nature's safeguard against such proclivities, said Home, and 'frequent enjoyment' of marital sex and intimacy 'endears a pair to each other,' making them want only each other all the more. 'Sweet is the society of a pair fitted for each other, in whom are collected the affections of husband, wife, lover, friend, the tenderest affections of human nature.'

The God of nature has [thus] enforced conjugal society, not only by making it agreeable, but by the principle of chastity inherent in our nature…. Chastity is essential even to the continuation of the human race. As the carnal appetite is always alive, the sexes would wallow in pleasure, and be soon rendered unfit for procreation, were it not for the restraint of chastity. (Home 2007: Book 1, Sketch VI)

Hume and Paley

Similarly, the famous Scottish philosopher, David Hume (1711-1776), for all his scepticism about traditional morality and Christianity, thought traditional legal and moral norms of sex, marriage, and family life to be both natural and useful. Hume summarized the natural configuration of human marriage crisply: 'The long and helpless infancy requires the combination of parents for the subsistence of their young; and that combination requires the virtue of chastity and fidelity to the marriage bed.' (Hume 1963: 206-207) Like Home, Hume denounced polygamy. This 'odious institution' denied the natural equality of the sexes. It fostered 'the bad

education of children.' It led to 'jealousy and competition among wives,' and more. Moreover, said Hume, polygamy forced a man, distracted by his other wives and children, to confine his other wives to the home – by physically threatening, binding, or even laming them, by isolating them from society, or by keeping them so poor and weak they could not leave. All this is a form of 'barbarism,' with 'frightful effects' that defy all nature and reason. (Hume 1987: 182-187)

Hume offered similar arguments against 'voluntary divorce' – no-fault, unilateral divorce, as we now call it. Many in Hume's day argued for divorce as a natural expression of the freedom of contract and a natural compensation for having no recourse to polygamy despite a man's natural drive to multiple partners. Hume would have none of this. To be sure, he recognized that divorce was sometimes the better of two evils – especially where one party was guilty of adultery, severe cruelty, or malicious desertion, and especially when no children were involved. But, outside of such narrow circumstances, he said, 'nature has made divorce' without real cause the 'doom of all mortals.' First, with voluntary divorce, the children suffer and become 'miserable.' Shuffled from home to home, consigned to the care of strangers and step-parents 'instead of the fond attention and concern of a parent,' the inconveniences and encumbrances of their lives just multiply as the divorces of their parents and stepparents multiply. Second, when voluntary divorce is foreclosed, couples by nature become disinclined to wander, and instead form 'a calm and sedate affection, conducted by reason and cemented by habit; springing from long acquaintance and mutual obligations, without jealousies or fears.' 'We need not, therefore, be afraid of drawing the marriage-knot, which chiefly subsists by friendship, the closest possible.' Third, 'nothing is more dangerous than to unite two persons so closely in all their interests and concerns, as man and wife, without rendering the union entire and total. The least possibility of a separate interest must be the source of endless quarrels and suspicions.' Nature, justice and prudence alike require their 'continued consortium.' (Hume 1987: 187-190)

William Paley (1743-1805), a Cambridge philosopher and Anglican cleric, added a utilitarian argument against fornication –'sex or cohabitation without marriage.' Even though some humans by nature are inclined to wander, Paley argued, society must forbid fornication because it 'discourages marriage' and 'diminishes the private and public goods' that marriage offers. The male part of the species, Paley wrote, will not undertake the encumbrance, expense, and restraint of married life, if they can gratify their passions at a cheaper price; and they will undertake anything rather than not gratify them.' (Paley 2002: 3.3.2) Paley recognized that he was appealing to general utility, but he thought an absolute ban on fornication was the only way to avoid the slippery slope to utter sexual libertinism:

The libertine may not be conscious that these irregularities hinder his own marriage . . . much less does he perceive how *his* indulgences can hinder other men from marrying; but what will he say would be the consequence, if the same licentiousness were universal? or what should hinder its becoming universal, if it be innocent or allowable in him?' (Paley 2002: 3.3.2)

Fornication furthermore leads to prostitution, Paley went on, with its accompanying degradation of women, erosion of morals, transmission of disease, production of unwanted and uncared for children, and further irregularities and pathos. Fornication also leads naturally to a tradition of concubinage -- 'the kept mistress,' who can be dismissed at the man's pleasure, or retained 'in a state of humiliation and dependence inconsistent with the rights which marriage would confer upon her' and her children. No small wonder that the Bible condemned fornication, prostitution, concubinage, and other such 'cohabitation without marriage' in no uncertain terms, said Paley. But, again, in these injunctions the Bible is simply reflecting the natural order and common moral sense.

Adultery is even worse than fornication, said Paley, because it not only insults the goods of marriage in the abstract. It injures an actual good marriage, leaving the innocent spouse as well as their children as victims. For the betrayed spouse, adultery is 'a wound in his [or her] sensibility and affections, the most painful and incurable that human nature knows.' For the children it brings shame and unhappiness as the vice is inevitably detected and discussed. For the adulterer or adulteress, it is a form of 'perjury' that violates their marital vow and covenant. For all parties in the household, adultery will often provoke retaliation and imitation – another slippery slope to erosion of marriage and the unleashing of sexual libertinism and seduction. Both nature and Scripture thus rain down anathemas against it. (Paley 2002: 3.3.2) Paley's utilitarian arguments in favour of traditional understandings of sex, marriage, and family life would find enduring provenance among many utilitarians into the 19th century, including the most famous of them, Jeremy Bentham (1748-1832).

Locke, Home, Hume, and Paley were only a few of the scores of Western writers from the 17th to the 19th centuries who defended traditional Western norms of sex, marriage, and family using this surfeit of arguments from nature, reason, fairness, prudence, utility, pragmatism, and common sense. Some of these writers were inspired, no doubt, by their personal Protestant faith, others by a conservative desire to maintain the status quo. But most of these writers pressed their principal arguments on non-biblical grounds. And they were sometimes sharply critical of the Bible – denouncing St. Paul's preferences for celibacy, the Mosaic provisions on unilateral male divorce, and the many tales of polygamy, concubinage, and prostitution among the ancient biblical patriarchs and kings. Moreover, most of these writers jettisoned many other features of the Western tradition that, in their judgment, defied reason, fairness, and utility – including, notably, the establishment of Christianity by law and the political privileging of the church. Their natural law theory of the family was not just a rationalist apologia for traditional Christian family values or a naturalist smokescreen for personal religious beliefs. They defended traditional family norms not out of confessional faith but out of rational proof, not just because they uncritically believed in them but because they worked.

Later Enlightenment Reforms

The key move made by the early (often Protestant) Enlightenment philosophers was to remove the necessary religious dimension of sex and marriage. This liberalized the marital household somewhat, and gave parties the choice whether to involve the church or to obey the Bible in their sex, marriage, and family lives. But the early Enlightenment philosophers left in place the idea that marriage was at once a natural, social, and contractual association, with a number of its basic terms pre-set by nature and society in order to protect the natural rights and duties of husbands and wives, parents and children. They also left in place traditional prohibitions on no-fault divorce, extramarital sex, and other sex crimes in order to protect the rights of women and children.

The key move made by liberal philosophers in the 20th and early 21st century was to gradually remove the necessary natural and social dimensions of marriage as well. This liberalized the institution of marriage even more, reducing it to a private contract between a man and a woman who had reached the age of consent. These parties were now free to enter, exercise, and exit their marriage contract without interference from church, state, or society. They were free to renegotiate the terms of their marital contract. And they were free to live in various intimate relationships without any contracts at all. This posed dramatic new challenges to contemporary Protestants. Western Protestants have thus joined Catholics and others in a new modern marriage movement designed to protect and privilege the marital household, even while protecting personal liberty (Thatcher 1999).

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[1] For detailed sources covered in this summary article, see my volumes in the bibliography: (2012: chaps. 3-8; 2002: 177–256; and Witte with Kingdon 2005.

[2] I am largely omitting herein Anabaptist reforms of marriage, which soon settled into a conventional Protestant marriage ethic without polygamy. See Williams 1992: 756–798.