

# Culture of Life, Culture of Marriage: Examining the Linkages

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ABSTRACT: This essay raises the question of the linkage between abortion and marital state. It has becoming increasingly clear that the failure of the parents of a child to marry leads, on average, to poorer outcomes for the children born to them. My research shows that the implicit logic of abortion is linked to the implicit logic of threats to marriage.

IT HAS BECOMING INCREASINGLY CLEAR that the failure of the parents of a child to marry leads, on average, to poorer outcomes for the children born to them.<sup>1</sup> Tragically, this empirical clarity accompanies a major shift in our social understanding of marriage, which is currently facing challenges from three major trends – divorce, cohabitation and a growing effort to legally redefine marriage. These trends threaten the core attributes of marriage as a

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<sup>1</sup> W. Bradford Wilcox et al., *Why Marriage Matters: Thirty Conclusions from the Social Sciences*, 3<sup>rd</sup> ed. (New York NY: Institute for American Values, 2012).

social institution – permanence, mutual faithfulness, and complementarity.

While we know that children who are born to parents who are not married are at greater risk for a host of ills from abuse to educational failure to drug use to suicide, less attention has been directed to the possible risks to unborn children when the man and woman who have created them are not married. The specific inquiry of this presentation is this: Are there linkages between the issues of abortion and marriage?

The answer to this question, as will be described, appears to be “yes.” The incidence of abortion is linked to marital status on a number of measures. The implicit logic of abortion is linked to the implicit logic of threats to marriage. The most vociferous contemporary attacks on religious liberty have arisen in the twin contexts of abortion and marriage. The culture of death has arisen, in apparently mutually reinforcing ways, along with a culture of marriage deconstruction.

It is difficult or impossible to determine precise causation in these linkages but the correlation is evident. From these multiple sites of interplay, a crucial conclusion becomes clear: Marriage is protective of unborn children.

#### Abortion and Marital Status

The most obvious linkage between abortion and marital status is that those who are unmarried are much more likely to have abortions. Census data reports the abortion rate per 1,000 women for the unmarried is 31.2 while for married women (including those who are separated from a spouse) it is 6.1. The percentage of abortions in 2007 to unmarried women was 83.7 compared to 16.3 to married women.<sup>2</sup> The percentage of “unintended pregnancies” ending in abortion in 2006 were as follows: 61% for women who had not married and were not cohabiting, 60% for those who were divorced and were not cohabiting, 39% for cohabiting couples and 22% for those who were married. Importantly, the rates of unintended pregnancies were highest among cohabitators at 152 per 1,000 unintended pregnancies, compared to 53 for those who are divorced and not cohabiting, 46 for those who have never married and are not cohabiting, and 35 for the married.<sup>3</sup> Using this data, Dave Schmidt at

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<sup>2</sup> U.S. Census Bureau, *Statistical Abstract of the United States 2012* (Washington, D.C.: Department of Commerce, 2012) at p. 76, Table 102.

<sup>3</sup> Lawrence B. Finer & Mia R. Zolna, “Unintended Pregnancy in the United States:

Live Action calculated the abortion rate per 1,000 women by family structure as 59.3 for cohabitants, 31.8 for the divorced who are not cohabiting, 28.1 for never married and not cohabiting and 7.7 for married women.<sup>4</sup>

Thus, women in cohabiting couples are nearly eight times as likely as married women to choose abortion in the event of an “unintended pregnancy” and those who are unmarried and not cohabiting about four times as likely. John Jalsevac speculates on the connection between cohabitation and abortion: “In the case of less stable relationships, however, when an unintended pregnancy occurs, the man and the woman are more likely to want to ‘get rid of the problem,’ ‘just in case’ the relationship breaks down in the future.”<sup>5</sup> Whatever the reason, it is terribly clear that the “alternative families” are anything but welcoming to children.

There is also a link between marital status and attitudes about abortion. Though apparently less salient than other influences such as religion, a Gallup study of polls from 2001 to 2003 reports that the percentage of individuals who believe abortion is morally acceptable are 36% of the married, 52% of those cohabiting, 38% of the divorced and 51% of the never married.<sup>6</sup> A comparison of attitudes from 1974 to 1986 and 1987 to 1998 show that for both men and women, not having married is significantly associated with support for abortion compared to being married, though that difference decreased over time.<sup>7</sup> Another study assessing support for abortion in seven different scenarios reported “the married are found to be much less supportive of abortion rights than the single.”<sup>8</sup>

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Incidence and Disparities 2006,” *Contraception* 84 (2011): 478, at p. 481, Table 1; p. 483, Table 2.

<sup>4</sup> John Jalsevac, “Holy Smoke: Check Out the Disparity in Abortion Rate Between Cohabiting and Married Couples,” *Life Site News* (7 September 2011) at <http://www.lifesitenews.com/blog/holy-smoke-check-out-the-disparity-in-abortion-rate-between-cohabiting-and>.

<sup>5</sup> *Ibid.*

<sup>6</sup> Jeffrey M. Jones, “Large Marriage Gaps Evident on Moral Issues,” *Gallup* (23 August 2003) at <http://www.gallup.com/poll/9124/large-marriage-gap-evident-moral-issues.aspx>.

<sup>7</sup> Catherine I. Bolzendahl & Daniel J. Myers, “Feminist Attitudes and Support for Gender Equality: Opinion Change in Women and Men, 1974-1998,” *Social Forces* 83/2 (2004): 759-90 at p. 774, Table 1; p. 776, Table 2.

<sup>8</sup> Bradley R. Hertel & Mark C. Russell, “Examining the Absence of a Gender-

There is also some evidence that women are more likely to feel pressured by boyfriends than by husbands to have an abortion. A volunteer sample of 252 women in a peer support group related to their emotional trauma following abortion were asked whether they felt encouraged to have an abortion by various third parties. For the women who had husbands, 33% said they felt no encouragement to abort compared to 9% who said they felt “very much” of such encouragement with 4% reporting some other level of encouragement. For women reporting boyfriends, 27% said they felt no encouragement to abort compared to 33% who said they felt “very much” of such encouragement with 13% reporting some other level of encouragement (most of it on the higher end).<sup>9</sup>

The marriage-abortion correlation seems to work the other way as well. One reported study “in a post-abortion support group at the Medical College of Ohio found that only 7 out of 66 women who had abortions while single eventually married the father.”<sup>10</sup> A more recent and well-developed study by a sociologist at the Catholic University of America found the proportion of “ever pregnant women over age 35” who remained unmarried was “twice as large for aborters (12.4%) as for non-aborters (6.5%).” The study reported 25.1% of those who had abortions and were over age 35 were currently divorced or separated while the comparative group who had not had abortions was 19%. Thus, of those who had abortions, 60% were unmarried after age 35 compared to 72% who had not had abortions. By their late thirties, 40% of those who had abortions and 22% of those who had not had abortions had been married more than once. The study also found “only a minority (37%) of aborters remain in their first marriage, compared to over 56% of nonaborters.”<sup>11</sup>

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Effect on Abortion Attitudes: Is There Really No Difference?” in *Sociological Inquiry* 69/3 (1999): 364-81 at p. 374.

<sup>9</sup> David C. Reardon, *Aborted Women: Silent No More* (Chicago IL: Loyola Univ. Press, 1987), Appendix Two at <http://www.abortionfacts.com/reardon/statistics.asp>.

<sup>10</sup> Teri Reisser, “The Effects of Abortion on Marriage and Other Committed Relationships,” *Values & Social Changes* 6/4 (1994): 1-8, citing K.N. Franco et al., “Psychological Profile of Dysphoric Women Post-Abortion,” *Journal of the American Medical Women’s Association* 44/4 (1989): 113.

<sup>11</sup> D. Paul Sullins, “Abortion and Family Formation: Circumstance or Culture?” in *Life and Learning* XII, ed. Joseph W. Koterski, S.J. (Washington, D.C.: UFL, 2003),

There is one more interesting possible correlation between abortion and marriage related to the law. An early study (1970 and 1971) reported a “reduction in crude marriage rates in the states with relatively high abortion-birth rates” and suggested “a relationship between less restrictive abortion policies and a decline in crude marriage rates.”<sup>12</sup> More recently, a shared trait of the fifteen states with the highest abortion rates in the United States is that all but two have either redefined marriage to include same-sex couples or created a legal status (typically called civil unions) to provide all of the benefits of marriage to same-sex couples.<sup>13</sup> The states with same-sex marriage and their rankings by abortion rate are: New York (2), District of Columbia (4), Maryland (5), Connecticut (9), Massachusetts (14), and Washington (15). The states with civil unions and their rankings by abortion rate are: Delaware (1), New Jersey (3), California (6), Nevada (8), Rhode Island (10), Hawaii (11), and Illinois (12).<sup>14</sup>

#### Law and Politics

The legal and political culture of marriage deconstruction is also correlated with increased acceptance of abortion.

Advocates of redefining marriage are hoping that, emboldened by its foray into radical social engineering with abortion, the judiciary will mandate same-sex marriage on the nation. There is reason to believe that abortion jurisprudence might make this result more likely. To take one example, it is common for court decisions concluding that state or federal constitutional provisions require same-sex marriage or civil unions, to refer to abortion precedent. Thus, in the six states that have judicially redefined marriage or where the judiciary has ordered an alternative (California, Connecticut, Iowa, Massachusetts, New Jersey and Vermont), half have cited the U.S. Supreme Court decision in *Planned Parenthood v. Casey*.<sup>15</sup> This is significant because

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pp. 31-68.

<sup>12</sup> Karl E. Bauman et al., “The Relationship Between Legal Abortion and Marriage,” *Social Biology* 22/2 (1975): 117-24.

<sup>13</sup> U.S. Census Bureau, *Statistical Abstract of the United States 2012* at p. 76, Table 103.

<sup>14</sup> The Washington and Maryland laws will likely be subject to referendum in November 2012.

<sup>15</sup> 505 U.S. 833 (1992).

the Court's decision in *Roe v. Wade*<sup>16</sup> was, as Justice White charged "an exercise of raw judicial power,"<sup>17</sup> while the *Casey* plurality decision was an attempt to provide reasoning for the Court's abortion project. It was cited for its infamous "mystery of life" passage and for the proposition that law ought not to mandate a "moral code" in the U.S. Supreme Court's subsequent decision invalidating sodomy laws.<sup>18</sup> (In fact, the remaining three cases in which *Casey* was not cited, all cite to *Lawrence*.<sup>19</sup>) These state courts seem to believe the reasoning in the *Casey* decision, such as it was, could bolster attempts to re-engineer the social institution of marriage. Thus, state courts even though construing state constitutional provisions, still invoked *Casey*. The Connecticut Supreme Court cited the mystery passage, the Massachusetts Supreme Judicial Court cited the no "moral code" passage (as did the concurrence in that case), and the Vermont Supreme Court cited *Casey* for the proposition that courts have to exercise "reasoned judgment" in making decisions.<sup>20</sup> The dissenting opinion in Maryland's decision upholding its marriage statute cited to *Casey* for the proposition that fundamental rights can't be limited by historical precedent and the dissent in the Massachusetts case upholding a residency requirement for same-sex marriages cited it for the proposition that courts should not be bound by social and political pressures.<sup>21</sup> More recently, the district court decision invalidating California's Proposition 8 relied on *Casey* (moral code passage) as did a district court decision striking down the federal Defense of Marriage Act (general discussion of right to marry).<sup>22</sup>

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<sup>16</sup> 410 U.S. 113 (1973).

<sup>17</sup> *Ibid.* at 222 (White, J., dissenting).

<sup>18</sup> *Lawrence v. Texas*, 539 U.S. 558, 571 & 573 (2003).

<sup>19</sup> *Varnum v. Brien*, 763 N.W.2d 862 at 876, 885, 889 (Iowa 2009); *In re Marriage Cases*, 43 Cal. 4th 757 at 811, 836, 854 (2008); *Lewis v. Harris*, 908 A.2d 196 (N.J. 2006).

<sup>20</sup> *Kerrigan v. Commissioner of Public Health*, 957 A.2d 407, 466 (Conn. 2008); *Goodridge v. Department of Public Health*, 798 N.E.2d 941, 948 (Mass. 2003); *id.* at 973 (Greaney J., concurring); *Baker v. State*, 744 A.2d 864, 879 (Vt. 1999).

<sup>21</sup> *Conaway v. Deane*, 932 A.2d 571, 695 (Md. 2007) (Bell, C.J., dissenting); *Cote-Whitacre v. Department of Public Health*, 844 N.E.2d 623, 661 (Ireland, J., dissenting).

<sup>22</sup> *Perry v. Schwarzenegger*, 704 F.Supp.2d 921, 1002 (N.D. Cal. 2010); *Golinski v. U.S. Office of Personnel Management*, 824 F.Supp.2d 968 (N.D. Cal. 2012).

It seems also that many of the states that have bowed to pressure militating for increased access to abortion on demand have also bowed to pressure to redefine marriage. Americans United for Life ranks states for their protection of the unborn. The bottom fifteen states on AUL's 2012 state rankings (meaning these states are least protective) include all but one state with same-sex marriage and the other, New Hampshire, is ranked number 32 of 50. Five states on this list have civil unions and the other three are ranked at numbers 29, 31 and 34.<sup>23</sup>

Ironically, the major pressure groups working for marriage redefinition have links or are formally in favor of the pro-abortion cause. Lambda Legal Defense Fund and National Center for Lesbian Rights have position statements favoring abortion and the president of the Human Rights Campaign was formerly CEO of Emily's List.<sup>24</sup>

### Cultural Links

An important article by George Akerlof and colleagues in 1996 linked the "decline in shotgun marriage" with the technological "shock" of contraception and the legalization of abortion. They argue that a "major role in the increase in out-of-wedlock births has been played by the declining practice of 'shotgun marriage'" and that "if the fraction of premaritally conceived births resolved by marriage had been the same from 1985 to 1989 as it had been over the comparable period twenty years earlier, the increase in the white out-of-wedlock birth ratio would have been only a quarter as high, and the black increase would have been only two-fifths as high."<sup>25</sup> They explain that the ability of unmarried couples to choose to engage in sexual relations with a decreased risk of getting pregnant has led to a decrease in the value of marriage as a way of protecting children who may be born as a result of an

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<sup>23</sup> Americans United for Life, *Defending Life 2012* (Washington, D.C.: AUL, 2011), pp. 593-94 at <http://www.aul.org/2011/03/the-defending-life-report/>.

<sup>24</sup> Lambda Legal, "Reproductive Rights and Sexual Health" at <http://www.lambdalegal.org/issues/reproductive-rights-and-sexual-health>; NCLR, "Equal Access to Healthcare and Reproductive Rights are Civil Rights" at [http://www.nclrights.org/site/PageServer?pagename=issue\\_healthcare](http://www.nclrights.org/site/PageServer?pagename=issue_healthcare); HRC, "The HRC Story" at <http://www.hrc.org/staff/profile/joe-solmonese>.

<sup>25</sup> George A. Akerlof et al., "An Analysis of Out-of-Wedlock Childbearing in the United States," *Quarterly Journal of Economics* 61/2 (1996): 277-317 at pp. 277-79.

unmarried relationship. In other words, before the advent of freely available contraception and abortion, a woman who found herself pregnant out-of-wedlock would probably have seen marriage to the father as the optimal “solution” to the resulting vulnerability. Men would have acquiesced in order to keep open the possibility of continued intimacy. With the possibility of intimacy without pregnancy (at least theoretically), men are not as likely to choose marriage in order to gain access to female sexuality. Thus marriage was displaced by alternatives – contraception and abortion – when a child resulted. This analysis persuasively suggests a way in which abortion (and the related technology of contraception) have harmed a marriage culture.

The deconstruction of marriage requires the displacement of the ethic of unchosen obligation. The most obvious unchosen obligation resulting from marriage is a child. Abortion is a direct attack on that ethic. Marriage, as understood until quite recently began with choice but did not end there. In F.H. Bradley’s words: “Marriage is a contract, a contract to pass out of the sphere of contract.”<sup>26</sup> Cohabitation mimics the initial choice but is premised entirely on the non-existence of any resulting consequence. Divorce makes the obligation of marriage contingent on the desires of the spouses (often of only one) to fulfill them. Redefining marriage treats choice as the *sine qua non* of marriage – it exalts choice as the only meaning of marriage since it treats as a marriage a relationship that rejects, in its very nature, the conditions that give rise to unchosen obligation (children). “This repudiation of unchosen obligation inevitably results in war on the realities of biology, sexual complementarity, dependence, and vulnerability.”<sup>27</sup> These goods are also the targets of the practice of abortion and the culture that sustains it. It turns mothers and fathers against one another, militates against the biological connection between mothers and children, and cruelly exploits the vulnerability and dependability of the unborn child.

When marriage becomes a contingent commitment, children are subordinated to the interests of their parents. When it is redefined as nothing more than adult choice, children themselves are merely optional accessories.

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<sup>26</sup> F.H. Bradley in *Conservative Texts: An Anthology*, ed. Roger Scruton (New York NY: St. Martin’s Press, 1991), n1.

<sup>27</sup> William C. Duncan, “The Generals Who Started the War on the Family,” *The Family in America* 26/1 (2012).



In same-sex unions, children are acquired rather than begotten and often in commercial arrangements. This commodification of children runs parallel to the objectification of children caused by acceptance of abortion. With abortion, a child is not a person but a thing to be disposed of at will.

This shift in understanding of the place of children has tangible results. One example is that the growing legal and cultural endorsement of “alternative family forms” has led to increased utilization and acceptance of assisted reproductive technology, which can contribute directly to increased abortion (i.e., selective reduction of fetuses or “surplus” embryos resulting from IVF). As Professor Helen Alvare has explained, “arguments favoring parenting by same-sex couples -- via adoption or ART – would be further strengthened by wider recognition of same-sex marriage.”<sup>28</sup> Family deconstruction thus reinforces the de-humanization of the unborn inherent in abortion while the abortion facilitates the acquisition of children on adults’ terms.

Another tangible consequence of family redefinition is that religious adoption agencies, providing an important alternative to abortion, have been forced out of business because they cannot, in good conscience, place children with same-sex couples.<sup>29</sup>

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<sup>28</sup> Helen Alvare, “Curbing Its Enthusiasm: U.S. Federal Policy and the Unitary Family,” *International Journal of the Jurisprudence of the Family* 2 (2011): 107 at p. 129.

<sup>29</sup> See Michelle Boorstein, “Citing Same-Sex Marriage Bill, Washington Archdiocese Ends Foster-Care Program,” *The Washington Post* (17 February 2010), <http://www.washingtonpost.com/wp-dyn/content/article/2010/02/16/AR2010021604899.html>; Emily Esfahani Smith, “Washington, Gay Marriage and the Catholic Church,” *The Wall Street Journal* (9 January 2010), <http://online.wsj.com/article/SB10001424052748703478704574612451567822852.html>; Manya A. Brachear, “State Probes Religious Foster Care Agencies Over Discrimination” *Chicago Tribune* (2 March 2011) at [http://articles.chicagotribune.com/2011-03-02/news/ct-met-gay-foster-care-20110301\\_1\\_care-and-adoption-catholic-charities-parents](http://articles.chicagotribune.com/2011-03-02/news/ct-met-gay-foster-care-20110301_1_care-and-adoption-catholic-charities-parents); Joseph Erbentraut, “Foster-Care Agencies that Deny Gay Parents Under Review,” *Windy City Times* (9 March 2011) at <http://www.windycitymediagroup.com/gay/lesbian/news/ARTICLE.php?AID=30852>; “Illinois Catholic Charities Warns It May Halt Adoptions, Foster Care Over New Civil Unions Law,” *The Chicago Tribune* (4 May 2011) at <http://www.chicagotribune.com/news/local/sns-ap-il-xgr--civilunions-adoption,0,439697.story>; Manya A. Brachear “Rockford Catholic Charities Ending Foster Care,” *The Chicago Tribune* (26 May 2011) at <http://www.chicagotribune.com/news/local/breaking/chibrknews-rockford-catholic-charities-ending-foster-care-adoptions-20110526,0>,

## Sites for Incursion on Religion

Both abortion and same-sex marriage create significant and pressing questions related to accommodation of religious organizations and believers who object to facilitating practices that conflict with their faith. While the most common religious liberty conflicts probably relate to zoning regulations and use of public facilities, the attempts to require religious groups and believers to facilitate abortions and same-sex unions are certainly the most high-profile conflicts now. They also represent a dramatic shift in the aggressiveness of the state *vis-à-vis* religious groups and believers. While the zoning and public facilities conflicts are typically a failure of accommodation by the state, these new conflicts represent an attempt to coerce religious individuals into participation in secular projects antithetical to their faith.

Examples of the parallel threats to religious liberty related to marriage and the sanctity of life involve the contexts of employment benefits, health care professionals, and counselors.

The most egregious threat now faced by religious groups stems from the contraception and abortifacient mandates. Regulations issued under the 2010 Patient Protection and Affordable Care Act require nearly all employers and health insurance products to cover sterilization and contraception (including likely abortifacients) regardless of religious objections. The only exemption is for religious groups that serve only their own members.<sup>30</sup> In the marriage context, the Archdiocese of Washington, D.C. was forced to change its health coverage for employees so as to avoid discrimination claims for not offering benefits to employees' same-sex partners.<sup>31</sup> As a condition of access to city

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4532788.story?track=rss; Daniel Avila, "Same-Sex Adoption in Massachusetts, the Catholic Church, and the Good of the Children: The Story Behind the Controversy and the Case for Conscientious Refusals," *Children's Legal Right Journal* 27 (2007): 1; John Garvey, "State Putting Church Out of Adoption Business," *The Boston Globe* (March 14, 2006), p. A15; Maggie Gallagher, "Banned in Boston," *The Weekly Standard* (May 15, 2006), p. 20.

<sup>30</sup> Health Resources and Services Administration, "Women's Preventive Services: Required Health Plan Coverage Guidelines," available at <http://www.hrsa.gov/womens/guidelines/>.

<sup>31</sup> William Wan, "Same-Sex Marriage Leads Catholic Charities to Adjust Benefits," *The Washington Post* (2 March 2010) at <http://www.washingtonpost.com/wp-dyn/content/article/2010/03/01/AR2010030103345.html>.

housing and community redevelopment funds, a religious charity in Maine was required to extend employee spousal benefit programs to registered same-sex couples.<sup>32</sup>

In the past three years two major hospitals have reversed their policy of allowing employees to decline to assist in abortions for religious reasons.<sup>33</sup> These employees should have had legal recourse. In fact, in 2008, the Department of Health and Human Services adopted rules to enforce longstanding federal law that prevents employees from being forced to assist with an abortion “contrary to his religious beliefs or moral convictions.”<sup>34</sup> The Obama Administration, however, reversed this policy, removing the enforcement provision.<sup>35</sup> Similarly, five states require pharmacists or pharmacies to offer “emergency contraception” regardless of their religious convictions.<sup>36</sup> In the marriage context, the California Supreme Court decided a doctor could not claim a religious exemption to the civil rights law after he referred a woman in a same-sex couple to another doctor for artificial insemination because of his religious concerns about participating in the procedure.<sup>37</sup>

A parallel issue illustrates potential threats to free speech rights. A number of localities have attempted to force pregnancy resource centers to provide onerous “disclosures” about the services they offer (the idea being to dissuade women seeking abortions from going to the centers). Laws in New York City and Baltimore have been enjoined on free speech grounds but San

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<sup>32</sup> *Catholic Charities of Maine, Inc. v. City of Portland*, 304 F. Supp. 2d 77 (D. Me. 2004).

<sup>33</sup> Rob Stein, “New Jersey Nurses Charge Religious Discrimination over Hospital Abortion Policy,” *The Washington Post* (27 November 2011), available at [http://www.washingtonpost.com/national/health-science/new-jersey-nurses-charge-religious-discrimination-over-hospital-abortion-policy/2011/11/15/gIQAydg2N\\_story.html](http://www.washingtonpost.com/national/health-science/new-jersey-nurses-charge-religious-discrimination-over-hospital-abortion-policy/2011/11/15/gIQAydg2N_story.html); Robin Fretwell Wilson, “Empowering Private Protection of Conscience,” *Ave Maria Law Review* 9(2010): 101 at p. 104.

<sup>34</sup> Church Amendment, 42 U.S.C. § 300A-7(b)(1) (2012); 73 Fed. Reg. 245 (19 December 2008).

<sup>35</sup> 78 Fed. Reg. 36 (February 23, 2011).

<sup>36</sup> “State Policies in Brief: Emergency Contraception,” *Guttmacher Institute* (1 March 2012) at [http://www.guttmacher.org/statecenter/spibs/spib\\_EC.pdf](http://www.guttmacher.org/statecenter/spibs/spib_EC.pdf).

<sup>37</sup> *North Coast Women's Care Medical Group v. San Diego Superior Court*, 189 P.3d 959 (Cal. 2008).

Francisco, Austin and Montgomery County, Maryland all have such laws on the books.<sup>38</sup> Pending legislation in California would require counselors willing to assist those with unwanted same-sex attraction to meet heightened requirements for consent, ban such treatment for youth and create extremely long statutes of limitations for malpractice claims brought against these counselors.<sup>39</sup>

## Conclusion

Marriage is protective of unborn life. Marriage that is stable, lasting and inextricably linked to complementarity and the primacy of children's interests is a rebuke to the culture of death founded on choice, dispensability and contingency.

Those who defend the sanctity of unborn life, justifiably, look askance at arguments that public policy and law ought to ignore the legality of taking unborn life and focus rather on purported "root causes" of abortion such as poverty. (It does not help that the suggested panacea is typically increased contraception, a "solution" likely only to increase the problem.<sup>40</sup>) Considerations of justice suggest that alleviating poverty should be an auxiliary to more direct protection of the unborn.

The findings discussed here suggest that strengthening marriage should be considered as another auxiliary to securing basic protection of human life. This strengthening can take place culturally even when it is impossible for a time to effect the needed legal changes. As Timothy Reichert has pointed out, strong social mores can defeat the cultural traps threatening marriage and the sanctity of life.<sup>41</sup>

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<sup>38</sup> *Evergreen Association Inc. v. City of New York*, Case No. 11 Civ. 2055 (S.D. N.Y. 2011); *O'Brien v. Mayor and City Council of Baltimore*, Civ. Action No. MJG-10-760 (D. Md. 2011); Molly Redden, "A Promising New Law That Pushes Back Against Deceptive Anti-Abortion Centers," *The New Republic* (8 December 2011) at <http://www.tnr.com/article/politics/98277/crisis-pregnancy-center-abortion>.

<sup>39</sup> California Senate Bill 1172.

<sup>40</sup> See Peter Arcidiacano, et al., "Habit Persistence and Teen Sex: Could Increased Access to Contraception Have Unintended Consequences for Teen Pregnancies?" Working Paper, Duke University Department of Economics (3 October 2005), [www.econ.duke.edu/~psarcidi/teensex.pdf](http://www.econ.duke.edu/~psarcidi/teensex.pdf).

<sup>41</sup> Timothy Reichert, "Bitter Pill," *First Things* (May 2010).

In the same way that efforts to decrease the “supply” of abortion (such as defunding Planned Parenthood) have been accompanied by increasingly effective efforts to decrease “demand” (such as the heroic work of pregnancy resources centers), the legal and policy effort to end the regime of abortion on demand should be accompanied by an effort to strengthen marriage. Success in both aims would establish and secure a renewed culture of life.