

**WHOSE MARRIAGE IS IT?**  
© Rev. Dr. Gary Blaine  
University Congregational Church  
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**Reading: Song of Solomon 8: 6-7 (NKJV)**

**Set me as a seal upon your heart, as a seal upon your arm; for love is as strong as death, jealousy as cruel as the grave; its flames are flames of fire, a most vehement fire. Many waters cannot quench love, nor can the floods drown it. If a man would give for love all the wealth of his house, it would be utterly despised.**

In 1996, the United States Congress passed the “Defense of Marriage Act.” The bill was designed to prevent the marriage of gay and lesbian people, keeping marriage restricted to a man and a woman. The authors and supporters of this legislation imagined that by preventing same sex marriage the very institution of marriage would be preserved. Somehow or another they believed that the institution of marriage was threatened by homosexual marriages. My daughter, Heather, once quipped, “If you’re against gay marriage, don’t marry a gay person.” I loved the cartoon in *The New Yorker*. A couple is sitting in their respective overstuffed chairs reading the newspaper. The wife turns to her husband and says, “Gay marriage? Haven’t those people suffered enough?”

It is not clear to me that the “Defense of Marriage Act” has done anything to salvage marriages in America. The current divorce rate for first time marriages is 41%, 60% for second marriages, and 73% for third marriages.<sup>1</sup> Among born-again Christians the divorce rate is 27%. For Catholics and Lutherans it is 21%, right along with atheists and agnostics.<sup>2</sup>

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<sup>1</sup> “Divorce Rate” at <http://www.divorcerate.org/>, downloaded 9/16/11.

<sup>2</sup> Austin Cline, “Atheism & Divorce: Divorce Rates for Atheists are Among the

There are reports that many people are putting off marriage because of the recession, and some are also delaying divorce proceedings because of the financial burdens that divorce brings.

If you were to research the causes of divorce you would see a common pattern of issues but different ranks of importance. The causes include infidelity (ranked first in many articles on the subject), a lack of communication, physical or emotional abuse, financial issues, marrying too young, marrying without sufficient preparation, drug or alcohol abuse, childlessness, societal and cultural influences.

Kansas Governor, Sam Brownback, has gathered a number of conservative policy makers to forge new legislation that would increase the marriage rate and decrease the divorce rate. Participants included the Heritage Foundation, Institute for American Values, National Center for Fathering, and Marriage Savers.<sup>3</sup> The meeting is said to have been confidential but the *Topeka Capital-Journal* reported the names of the participants through the Kansas Open Records Act. It was also learned that the cost of the meeting to Kansas taxpayers was \$13,000. The lack of transparency on the part of the Governor's office is disturbing.

Some information has been reported out. Marriage Savers' Mike McManus, is reported to have written a letter to Gov. Brownback. He stated

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Lowest in America" at <http://atheism.about.com/od/atheistfamiliesmarriage/a/AtheistsDivorce.htm> downloaded 9/15/11.

<sup>3</sup> Tim Carpenter, "Brownback program promotes marriage," cjonline.com, July 2, 2011 at <http://cjonline.com/news/2011-07-02/brownback-program-promotes-marriage> downloaded 9/17/2011.

that clergy members in each Kansas county should sign and enforce a “community marriage policy” that would prohibit church weddings unless the couple completed a 200 item premarital inventory and met several times with a mentor couple trained by the church.<sup>4</sup> *The Capital Journal* reports that McManus also suggested to the governor that Kansas should prohibit no-fault divorce unless there is proof of physical abuse or adultery.

“A Kansas law ought to be passed, he said, allowing judges to select a “responsible spouse,” which would always be the person opposed to divorce. The statute would allow the responsible adult to receive up to 66% of child visitation and 100% of family assets in the divorce.”<sup>5</sup>

The governor wants to create a state marriage law that would be a model for the entire nation. Joyce Webb, who works with Catholic Charities, suggested that the new marriage preparation classes be funded by diverting one million dollars from the federal Temporary Assistance for Needy Families to pay for the program.

Now I want to say right up front that the governor is right to be concerned about marriages. Divorce is extremely expensive not only for families and their mothers and fathers and children but also for the society at large. It costs a lot of money. The emotional toll on adults and children is devastating. The most insipid statement I hear from divorcing parents is “Children are resilient, they’ll adjust.” Study after study proves that children are emotionally wounded by their parents’ divorce, no matter how old they are

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<sup>4</sup> The Associated Press, “Brownback effort seeks to boost marriage rates,” *Kansas Legislature World* July 3, 2011 at <http://www2.ljworld.com/news/2011/jul/03/brownback-effort-seeks-boost-marriage-rates/>? Downloaded 9/17/11.

<sup>5</sup> Cjonline, op.cit.

at the time of the divorce. The damage can spill out into disruptive behavior at school, truancy, falling grades, depression, personal and socially destructive behavior.

Many divorced mothers struggle to make ends meet financially. Despite the financial settlement of their divorce decree they often have to work two jobs to pay their bills. This means that children are often home alone and do not get the attention they need for schoolwork or emotional nurturing. The mothers themselves are often emotionally and physically exhausted.

All of these come at great personal cost. It also costs the state, cities, towns, and hamlets. These expenses are found in Medicaid, TANIF, community mental health services, police, judicial, and correctional facilities. Yes, there is a relationship between the health of marriages and families and the cost of government.

I am not saying that every child or divorcee is destined to a life of mental illness and crime. Most kids figure it out, learn how to cope, and become healthy and productive adults. Nor can I deny that there are real social costs due to the fact of divorce. I also think that the foundation of any community is the family. When family life is eroded society is diminished.

I also would not disagree that the church could do a better job of preparing couples for marriage. A major consideration would be the amount of time that such processes take and who would run marriage preparedness classes. I am not saying it should be the minister. The Roman Catholic Church has, I believe, a six-month program that is required of engaged

couples. So, there are models out there. Would a congregation like University Congregational Church make such a program mandatory?

Having owned the reality that marriage and divorce are difficult realities that we need to be engaged in, there are several aspects of the governor's process that causes me deep concern. I understand that there is not a piece of legislation that is available to us at this moment, and I am responding to what I have read about these plans. Here are some of my concerns.

Why has the governor convened a secret meeting? Why are the results or details of the conference not made available to the public? Why is there not a more diverse representation of marriage and family therapists who may have differing perspective on these issues? What clergy were present and what perspectives did they bring to the table? Marriage and family is neither a partisan issue nor one confined to a narrow religious perspective. Marriage and divorce legislation cuts across the entire population of Kansas and a more inclusive representation of panelists must be at the conference table.

The suggestions made by Mr. McManus are deeply troubling with regards to "no fault" divorce. Statistically it is the case that with no fault divorce the rate of divorce increased. But why do we want to force broken relationships into bitter litigation? Do we imagine that this kind of law would force couples to stay married? To what end?

Proof of adultery and physical abuse is not always easy to obtain. And what of psychological abuse? On what logical or moral ground can we assume that the "responsible spouse" is the one opposed to divorce? Why is the

“responsible spouse” the better parent deserving 66% of child visitation? And why is that person, opposed to the divorce, deserving of 100% of family assets in the divorce? Such legislation will not be equitable and stands on too narrow a foundation. Why will the judge determine who is responsible? Will the judge or his or her staff engage in the difficult work of meeting with couples to determine the depth of marital dysfunction in order to assess who is most responsible? I have never known a marriage or a divorce where only one person held responsibility for the health or demise of the relationship.

Is this the right function of the state? I don’t understand how a political party that insists on less government intrusion in the lives of Americans can promote such invasive social policy.

This proposed statute is flawed to the core and mark my words; the result will be that such a law will further victimize women. Sadly, the history of American law is not one that has been equitable or fair to women. This proposal is punitive and will not accomplish the desired goal of reducing divorce. It will keep families in domestic bondage. It does not take a lot of imagination to think of the anger and resentment that such marriages will be held captive to.

I believe that the ideas that we have heard out of Topeka are too simplistic, even naïve. While one can see a relationship between divorce and poverty, can we not also see the relationship of poverty, under-employment, and other financial stress on divorce? A marriage awareness inventory or education about family finances does not change the reality of unemployment,

corporate downsizing, or a family caught up in the unethical mortgage practices of lending institutions that result in eventual foreclosure.

If adultery is one of the leading causes of divorce, we have to come to terms with a promiscuous America. The media is constantly fed by the sexual affairs of ministers and politicians and celebrities. Programs like “Desperate Housewives” dominate our entertainment. Monogamy is a touted virtue but not one that people really believe is a probable reality. I think we are a nation of serial monogamists. We move from one sexual partner to another through the very expensive process of marriage and divorce. Promiscuity is an American trait that the nation is not really interested in changing. It has a devastating impact on sexual mores and our closest relationships.

The very idea that we would take a million dollars from TANIF to fund this program is simply unethical. Why are we going to take money away from poor people to attempt this program? In 2008, the Children’s Defense Fund stated that a child is born into poverty every hour in Kansas.<sup>6</sup> Are these kids better served with this proposal?

And where did we get this number? How do we know this is what it will cost? How many pre-marriage awareness counseling sessions or workshops will it serve?

Now I come to one of my greatest objections to this idea. I think it is fine if clergy or congregations create and require premarital counseling. Clergy in a community could make such a covenant with one another. How

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<sup>6</sup> Children’s Defense Fund 2008, [www.childrensdefense.org/child.../children-in-the-states-2008-Kansas](http://www.childrensdefense.org/child.../children-in-the-states-2008-Kansas), downloaded 9/17/2011.

they would “enforce” such a covenant conjures up images of a moral Gestapo. I do not think it is constitutional for the state to tell a church whom it can or cannot marry. Senate Minority Leader Anthony Hensley said of these proposals, “I learned a long time ago, actually in Sunday school, you should have a separation of church and state. These kinds of measures are overreaching into personal relationships.”<sup>7</sup> In these United States church weddings have a sacramental value that the state may not trespass upon.

Perhaps we should return to the ancient practices that are still functional in many European countries today. Couples go to their local courthouse and enter into the legal contract of marriage. That sounds quite impersonal, but if you study the history of marriage you realize that it has historically been a business arrangement. It has always been about property and nothing has changed. When a couple decides to get a divorce one of the most contested issues is that of assets. Now if we are going to make the state the grantor of marital contracts we must allow all persons equal access to such arrangements. Yes, that means gay and lesbian persons. We have seen state after state come to the conclusion that it cannot constitutionally prohibit gays and lesbians from the freedom to enter such marital contracts.

After the civil ceremony couples would go to their respective churches, mosques, and synagogues for a sacred blessing of their marriage.

Is it not interesting that a couple that comes to UCC for a wedding are not legally married until I have signed the marriage license. Kansas licenses do not even require the signatures of witnesses. No matter how much money

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<sup>7</sup> Kansas Legislature World, op.cit.



the couple has spent on the wedding and reception they are not legally married until I sign the document and mail it to the court. In a sense I am an agent of the court.

Last year we did a wedding, only to find that the couple did not obtain a marriage license. We did not know this until the day of the wedding. Of course we proceeded with the ceremony. The next week the couple went to the court and got their license. I filled it out, including the question of the date of the wedding. That date was obviously prior to the issuance of the license. The court rejected the license and made out another one and instructed me to put a wedding date after the issue of the license. In other words, the court asked me to perjure myself.

And let's be honest. UCC is known as the "wedding church." I officiate at 20 to 25 weddings a year. Couples do not contract with us because they are members of the church. In all of the weddings done in this church since I have been here there are only three weddings that were performed for church members. The people who want weddings in our church do not do so because they are Congregationalists or have the slightest interest in our theology. They have no sense of the sacramental value of a church wedding. We post the wedding ceremony on the website so they can see the nature of our wedding ceremony. I cannot tell you that all of them have read it before their interview with me. These folks rent our building and our services because the sanctuary is beautiful. In only one or two instances have couples asked for pre-marital counseling and taken advantage of the marriage awareness inventory that I use. And finally let me say that I cannot think of a single couple that joined

our church after their nuptials. Weddings at UCC are a ritualized business arrangement.

Perhaps the church Council would like to take up this question and consider how UCC offers wedding services. Do we as a congregation expect more preparation on the part of wedding parties? Those are responsible questions I think we should ask. On the other hand, the kind of policy that is being talked about in Topeka does not strike me as appropriate for the marriages and families of Kansas. It is heavy handed and punitive and will not bring the desired results that some might hope for.

With a few exceptions wedding couples come to our church, to any church, with stars in their eyes. They do have a dream about their future together. It is fair to ask how we as a society covenant with them to lay a solid foundation that makes their dreams a reality. How can we serve them in such a fashion that forges the ardor of love and passion into sustainable relationships that bring stability to their marriage and better serve the children?

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