

### **Strong Church, Strong State: The Marital Standard Foundation as a Solution**

In our modern Republic, varying ideas of marriage are vying for a monopoly over the whole. Rather than struggle for dominance, minorities should unite to create a new kind of entity: the Marital Standard Foundation. Each such foundation would be commissioned with the legal authority to marry and the legal obligation to maintain healthy communities.

There is general agreement from all segments of society that marriage should promote the well being of families while also granting social rights and responsibilities to mutually obligated adults<sup>1</sup>. Historically, however, factions have tried to legislate marital morality on the underrepresented<sup>2</sup>. One such minority—Utah’s Latter-day Saints—was once targeted by federal legislation that sought to force the Latter-day

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<sup>1</sup> For example, the LGBT community, represented by the Family Equality Council states, “We envision a future where all families, regardless of creation or composition, will be able to live in communities that recognize, respect, protect, and celebrate them. We envision a country that celebrates a diversity of family constellations and respects individuals for supporting one another and sustaining loving families.” Similarly, the conservative LDS community has issued a proclamation that reads in part, “Husband and wife have a solemn responsibility to love and care for each other and for their children... Parents have a sacred duty to rear their children in love and righteousness, to provide for their physical and spiritual needs, to teach them to love and serve one another... [Governments should] maintain and strengthen the family as the fundamental unit of society”.

<sup>2</sup> The Republican Party has traditionally taken the role of enforcing the morals of the majority while the Democratic Party has often advocated the rights of minorities on this issue. For example, in 1884 political think tank Edward Stanwood wrote: “While it would not be fair or true to charge upon the whole Democratic party a willingness to defend or even to tolerate polygamy, yet it cannot be overlooked or denied that encouragement which the Mormons receive comes from that quarter.” (Stanwood, p. 67)

Saints to accept marriage as only between one man and one woman<sup>3</sup>. Advocates of the one-size-fits-all legislation claimed a moral high ground<sup>4</sup>, pointing at early Utah's remarkably high divorce rate<sup>5</sup> as justification for a Constitutional amendment to protect monogamous marriage.

While there has never been a true consensus view of marriage in America, monogamous heterosexual marriage has been upheld by law as a general standard. In this arrangement, churches have played the role of liaison between the modern state and the family. However, they have never truly been given charge of defining marriage—this power has generally been left to the states.

Given the need for families to form communities with common values, and for the state to decline jurisdiction over religious matters, the only reasonable alternative to the present struggle for dominance is a third party entity whose legal authority is conferred

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<sup>3</sup> The Morrill Anti-Bigamy Act of 1862, and later the Edmunds act of 1882 and the Edmunds-Tucker Act of 1887 targeted the Church of Jesus Christ of Latter-day Saints and essentially forced its members to adhere to a definition of marriage as between one man and one woman by dissolving the church as a legal entity until it complied.

<sup>4</sup> Edward Stanwood was one such advocate. In 1884 he wrote in a political piece: "The question of polygamy is a part... of a much broader one. By settling that broader question on correct principles, and only in that way, can the country acquire the right to deal directly, at close quarters and effectually, with the institution which threatens so much mischief in our far Western Territories. It is the purpose of this article to maintain the proposition: *That the national government should acquire, by an amendment of the Constitution, full and exclusive authority over the whole matter of Marriage and Divorce.*" (Stanwood, p. 67)

<sup>5</sup> "If [LDS church presidents John Taylor and Wilford Woodruff] granted [polygamous divorce] in similar numbers [to Brigham Young] it is likely that there were well in excess of 2000 divorces granted prior to the 1890 Manifesto. Since there were [according to LDS church historian B. H. Roberts] only an estimated 2,400 men practicing polygamy in 1885, 2,000 or more divorces would be considerably higher than the national divorce rate in 1890 which was about one divorce per 1,000 existing marriages per year." (Campbell, p. 6)

from the state and whose moral authority is given and maintained by a deep-rooted community such as a church or foundation.

In addition to binding like-minded people together, third party Marital Standard Foundations would permit legal discrimination based on age, race, and gender. This explicit right to discriminate would protect conservative organizations that seek to draw lines around the definition of marriage. Liberal organizations would also benefit from the latitude a Marital Standard Foundation would offer. Whatever their constitution, Marital Standard Foundations would suffer natural consequences—thus biology and sociology would naturally drive more traditional ideas to succeed due to popularity and better funding. Innovation, on the other hand, would provide a release valve for long oppressed minorities.

Further study is needed to determine the minimal stipulations and legal scope of a Marital Standard Foundation<sup>6</sup>. It is clear right now that a solution is needed, however—it makes little sense that the definition of marriage should follow geographic boundaries. Instead, boundaries should be drawn around communities with shared values. I believe the possibility of convergence and tolerance on this long-standing American issue merits immediate attention before all states arrive at permanent and constitutionally binding disagreement.

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<sup>6</sup> See Colin Jones' *Marriage Proposal: Why Not Privatize?* for further discussion and analysis of the same concept, coined a Marital Corporation.

## Bibliography

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