The Revolution in Divorce and Remarriage

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The revolution in divorce and remarriage is a central feature of the continuing transformation of American family life. The divorce rate has generally been increasing since the middle of the nineteenth century, and during the 1960s and 1970s the increase was so extensive that projections of the fraction of marriages that would end in divorce reached fifty percent. Because divorce has generally not meant the rejection of marriage itself, the divorce revolution has been accompanied by an equally important remarriage revolution. In 1981 the fraction of all marriages in which at least one of the partners had been previously married reached 45 percent, and a large fraction of remarriages involve previously divorced people whose former spouse is still alive (Public Health Services, 1985). This revolution in divorce and remarriage cries out for understanding of its causes, its consequences, and its meaning in the lives of individuals and institutions. The Divorce Revolution by Lenore J. Weitzman (1985) and Recycling the Family by Frank F. Furstenberg, Jr. and Graham B. Spanier (1984) are valuable contributions to this effort.

The Divorce Revolution by Lenore Weitzman is a useful and provocative investigation of the transformation of divorce laws in the United States, with particular emphasis on California, the state where the first no-fault divorce law was enacted in 1970. Her research focuses on the effects of this legal transformation on the experiences of individual men, women, and children experiencing divorce. In an extensive program of research extending over a decade Weitzman assembled information from the court records of divorce in Los Angeles County in 1968, 1972, and 1977 and from the court records of San Francisco County in 1968 and 1972. In 1974-75 Weitzman interviewed matrimonial attorneys and judges who were hearing divorce cases in Los Angeles
and San Francisco counties. In 1978 she conducted interviews with divorced
people in Los Angeles; however, as I will detail later, the generalizability
of the findings from these interviews is limited because of the relatively low
fraction of the original sample interviewed.

In Recycling the Family Frank Furstenberg and Graham Spanier use marital
dissolution as the starting point of their research and examine remarriage
after divorce. Their book is based primarily on a two-year panel study
conducted in Central Pennsylvania. In that study 210 individuals who had just
separated or divorced were interviewed in 1977, and in 1979 follow-up
interviews were conducted with 181 of these same respondents. Additional in-
depth interviews were conducted with a small subsample of the respondents in
order to obtain qualitative information. The book also supplements the
information from the Central Pennsylvania study by drawing material from
qualitative case studies of remarried couples conducted in the Philadelphia
area. In considering the empirical findings of this study it is important to
keep in mind a caveat stressed by the authors: the results of the study cannot
be generalized because the respondents were not selected to be representative
and the response rate was relatively low. Nevertheless, the study is a useful
source of ideas and insights which are helping to stimulate additional
research.

In The Divorce Revolution Weitzman reports that the 1970 California
statute introduced six innovations that fundamentally altered the process and
outcome of divorce: (1) the abolition of all grounds for divorce except
"irreconcilable differences"; (2) the abolition of fault and the elimination
of a moral framework focusing on guilt and innocence; (3) the ability of one
spouse to unilaterally decide to divorce; (4) the unlinking of the financial
settlement from issues of guilt or innocence; (5) a rejection of sex-based
division of labor and resources between husbands and wives and the adoption of
the standard of "equality" between ex-husbands and wives; and (6) the
undermining of the old adversarial process and the development of procedures
to enhance the potential for amicable divorce.

Although Weitzman recognizes some positive outcomes of these legal
reforms, particularly in the area of reducing the conflict associated with the
divorce process, and argues against returning to the old system, the primary
theme of The Divorce Revolution is that these innovations have produced a
climate where the bargaining position of women in the divorce process has been
weakened, that they have caused the legal system to treat women and children
less fairly and less generously, and that "the major economic result of the
divorce law revolution is the systematic impoverishment of divorced women and
their children" (page xiv). In Weitzman's opinion the primary difficulty with
the new law is that it requires the equal treatment of husbands and wives
before the law when, in fact, gender-based division of labor within the family
and differential specialization and experience bring wives and husbands to the
divorce court with unequal resources, opportunities, and constraints; the
result is serious inequities between divorcing women and men. Weitzman argues
that in contrast to the new system the old approach explicitly protected
gender-based division of labor within the family and required the husband to
continue to provide for his family after divorce.

Weitzman's 1968-1977 data from the California divorce records provide
evidence that divorce settlements have been modified by the divorce law
reform. Whereas in 1968 under the old system, a majority of the assets of the
family went to the wife in a majority of the cases, by 1977 there was
approximately equal division in the majority of the cases. Whereas the
majority of the family's home equity was awarded to the wife in 61 percent of
the 1968 Los Angeles cases, the fraction had dropped to 46 percent by 1977. In addition, the fraction of cases where the family home was ordered sold as part of the divorce settlement increased from about one/tenth to about one/third. Similarly, in Los Angeles County the fraction of alimony awards that were open-ended rather than temporary or transitional fell from approximately two-thirds to approximately one-third during the four years from 1968 through 1972.

Weitzman's interviews with divorced people in Los Angeles County in 1978 document the differential impact of divorce on men and women. On average, women and their children experience a substantial decline in their standard of living following divorce while the average standard of living of divorcing men actually rises. Weitzman concludes from her Los Angeles data that "Just one year after legal divorce, men experience a 42 percent improvement in their postdivorce standard of living, while women experience a 73 percent decline" (page 339; emphasis in original).

Weitzman's estimates of the differential impact of divorce on men and women in Los Angeles are emphasized throughout the book and have been accorded wide publicity in the press as reflecting a general pattern. For this reason it is important to mention that the difference Weitzman reports for Los Angeles is several times greater than the difference estimated from national data. The research that developed the methodological approach followed by Weitzman in her work used national panel data (Panel Study of Income Dynamics) to show that over a seven-year period from 1967 to 1973 the standard of living of women who divorced or separated at any point during the period declined by 7 percent while the position of men who divorced or separated improved by 17 percent (Hoffman and Holmes, 1976; Hoffman, 1977). More recent estimates by Duncan and Hoffman (1985) from the Panel Study of Income Dynamics indicate...
that the income-to-needs-ratio for divorced or separated women in the year following marital dissolution was 9 percent lower than in the year before the marital dissolution whereas for divorced or separated men the postdivorce ratio was 13 percent higher than before the dissolution.

There are many possible explanations for these widely divergent estimates; these include Weitzman's focus on legal divorce in Los Angeles in 1978 using retrospective reports of pre-divorce income while Hoffman and his colleagues use current reports of income from a national sample of couples separating or divorcing between 1968 and 1975. Also relevant is the relatively low response rate in Weitzman's study. She was unable to locate nearly 50 percent of the group originally sampled and was not able to interview 17 percent of those located. This attrition introduces the potential for significant bias of the estimates. Because of the importance of this issue, further research into the origins of the difference in estimates is called for. In the meantime, I believe that the estimates produced by Hoffman and his colleagues using panel data from a national sample are probably the most reliable estimates of the differential financial impact of marital disruption on women and men. This observation, however, should not detract from the fact that all estimates show that divorce affects men and women differently.

Although Weitzman's conclusion about the impact of the divorce law reforms on divorce settlements and her conclusion about the differential impact of divorce on men and women are well supported by empirical evidence, her conclusion that "...the systematic impoverishment of divorced women and their children" is "the major economic result of the divorce law revolution" is not supported by her empirical data. In order to support this conclusion one must go beyond the observations that the California divorce law reform
changed divorce settlements and that divorce currently impoverishes women and children; one must show that the new law caused the standard of living of divorced women and their children to be lower than the standard of living of similar people under the old system. What is needed is a comparison of the economic well being of people divorced before and after the divorce law reform--a comparison which Weitzman's research design does not permit.

Without this longitudinal comparison we can only observe that under the present system divorce causes impoverishment of women and their children, but we cannot make any conclusions about how the economic impact of divorce may have been changed by the modification of the legal system.

I believe that when appropriate data are gathered and interpreted, we will find that the impact of the divorce law reforms on the actual living standards of divorced women and their children will be less than suggested by Weitzman. Although Weitzman sometimes refers to the fact that the old system of divorce may not have always protected divorced women and their children, the book, taken as a whole, seems to downplay the economic problems divorcing women and their children experienced under that system as compared to the financial problems experienced by such people after the legal reforms.

Divorce produced very negative economic results for women and children substantially before the divorce law reforms of the 1970s. The primary social, economic, and legal factors that Weitzman and others argue are the basic causes of economic misfortune among divorced women and their children today were essentially in place before the divorce law reforms: alimony was only awarded in a small minority of cases; alimony and child support awards were probably small and often not paid; couples had few assets to divide; the most important assets such as human capital, business goodwill, pensions, and insurance were not included as marital property to be divided; women were
disadvantaged in the labor market; and women had the constraints and demands of rearing the family's children. Although the new system and its impact on divorce settlements may have accentuated these preexisting negative factors, I would be surprised if the appropriate data would show that the actual living standards of divorced women and their children were substantially better before the divorce law reforms than they are today.

While I do not believe that the divorce law reforms caused the impoverishment of divorced women and their children, since divorce probably produced that result before the new laws, I am sympathetic with Weitzman's concern that laws mandating equality may, under certain circumstances, actually produce inequality and inequity. Weitzman is probably correct when she argues that the equal treatment of wives and husbands in divorce proceedings is likely to produce inequity when differential experience and gender-based specialization bring men and women to the divorce court with unequal skills, opportunities, and responsibilities. Thus, it is possible that if the old system had not itself impoverished women economically after divorce, the new system would have produced that outcome.

As I read The Divorce Revolution, I sometimes found myself distracted by the book's reliance on the mass media as its source of information about the family and by concerns about the accuracy of facts presented about the family. An example of this concern occurred when I read on page 187 that: "Just 25 years ago only 4 percent of the divorces involved couples married more than 15 years. Today, 20 percent of the divorces dissolve marriages of 15 years or more." Having just co-authored a paper showing the uniformity of the trends in divorce by marital duration (Thornton and Rodgers, 1984), I was surprised by this statement. A footnote said the source of this information was the Wall Street Journal. The article in the Wall Street Journal reported its
source of data as a person from the Older Women's League, but did not provide a published document to consult. I used data from the vital statistics of the United States (Public Health Service, 1957, 1964, 1985) to estimate the fraction of all divorces occurring to people married 15 years or longer to be about 18 percent in 1955, 21 percent in 1960, and 20 percent in 1981. Consequently, I am doubtful about the 4 percent figure for 25 years ago. Another example of the book being flawed by incorrect data occurs when Weitzman reports that Hoffman and Holmes (1976) found that the standard of living of divorced or separated women declined by 29 percent when the original article reported the figure as 7 percent.

In Recycling the Family Furstenberg and Spanier argue that there are important differences between a person's first and second marriage. Remarrying individuals must face the reality of their earlier divorce and consider their potential for success in a new marriage. The authors suggest that individuals entering second marriages have a less idealized image of marriage, believe that they have used greater care in the selection of their second spouse, are more pragmatic and less romantic in their second courtship, downplay the importance of romantic love, are acutely aware of the possibility of failure in the second marriage, and believe that they must hedge their commitment to marriage. The respondents in second marriages also report more open communication and more egalitarian decisionmaking. Of course, as the authors point out, the comparisons they make are not between all first marriages and remarriages, but between remarriages and first marriages ending in divorce. Also, as the authors tell us, the timing of the comparisons—between contemporary reports of the early stages of remarriage and retrospective reports of the waning period of the first marriage—could cause an overstatement of the differences between the first and second marriages of
the same individuals. Also, given the design of the Central Pennsylvania study, period or life cycle differences could influence the way individuals approach and conduct first and second marriages. For these reasons additional research using panel designs that follow people through their first marriages, into divorce, and into remarriage will be required to confirm the conclusions of the authors. At the same time it is important to recognize the author's point that individual perceptions of differences the second time around are important, even if there are no real objective differences, because they allow the person to rationalize their experience in their first marriage with optimism for success in the second.

Furstenberg and Spanier also document the importance of children in the kinship structure of divorced and remarried persons. Children usually live with their mothers following a marital dissolution; contact with the noncustodial parent is reduced sharply following divorce and declines even further with time. Consequently, the involvement of the noncustodial parent in childrearing is limited although that involvement is judged to be higher by the noncustodial than the custodial parent. There is also limited and declining contact and communication between the former spouses themselves. Similarly, contact between children and the noncustodial grandparents tends to decline over time. Despite these disruptions of the kinship system by divorce, children continue to be important in preserving ties between ex-spouses and among former-in laws, and the ties between children and their noncustodial grandparents are usually not completely dissolved. The kinship system is also elastic and expandable; just as divorce tends to reduce the number of kin, remarriage augments the number of relatives available in the network. The result is a very complex family system with individuals linked together through chains of divorce and remarriage.
One crucial message sent explicitly and implicitly by The Divorce Revolution and Recycling the Family is that the revolution in divorce and remarriage is modifying the institution of marriage, the structure of the family, and the commitment of individuals to their kin. Without the ability to place full confidence in marriage as a source of financial and emotional security and with increased options outside the family institution to support themselves economically, women may become less motivated to devote themselves primarily to children and homemaking and more motivated to invest in themselves, their careers, and their capacity to earn money to support themselves. This outcome could cause women to be less desirous of entering marriage, less motivated to have children, less devoted to rearing children, more concerned about their own careers, and more able and willing to terminate an unsatisfactory marriage. In fact, many of the trends predicted by this line of reasoning are being documented by a growing body of research. Unfortunately, we have not yet done the research which demonstrates the causal connections between the various trends in family life in the United States.

In summary, The Divorce Revolution and Recycling the Family are useful for people interested in the American revolution in divorce and remarriage. Weitzman provides convincing new information about the way the reform of divorce law has influenced divorce settlements. Her book has also been a major vehicle for publicizing the economic consequences of divorce for women and children. Recycling the Family is useful in providing a framework for thinking about the institution of remarriage and making the transition from divorce to remarriage. Although the two books leave many unanswered questions and a substantial amount of research to be done concerning the causes and consequences of the divorce and remarriage revolution, they are provocative and useful books for understanding one of today's most important
transformations.
References


