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Family Structure Choice: Taxation as an Incentive to Change

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ABSTRACT

Traditionally defined as the union of one man and one woman charged with the responsibility of rearing children, the notion of family now includes a variety of living arrangements including non-marital cohabitation and single parents. The current study investigates individual incentives to change family structure from a person's original status as single. This conceptual research, which is grounded in theories of marriage, proposes that federal, personal income tax is an input to change in family structure. A model of family structure change and propositions of the relationship between the federal tax and family structure are developed.

Family Structure Choice: Taxation as an Incentive to Change

The notion of family has taken on various meanings in the United States (US) over the last decade. Traditionally defined as the union of one man and one woman charged with the responsibility of rearing children, the notion of family now includes various living arrangements such as non-marital cohabitation and single parents. With the traditional marriage rate decreasing (Bumpass, Sweet, and Cherlin 1991), the divorce rate increasing (Thornton 1985), and the growth rate of non-marital cohabitation exploding (Clarkberg, Stolzenberg, and Waite 1995), the social concept of family continues to change. These dramatic changes impact everyday life (e.g., social norms and employment) and the rights (e.g., taxation, health care coverage, and inheritance) of thousands US citizens. Furthermore, the concept of family (i.e., marital status drives tax rates) is the basis of individual federal taxation in the US. With 85% of United States' tax revenues generated from individual income taxes (Council of Economic Advisers 2007), how the notion of family is perceived and codified by law has pervasive effects for both individuals and the United States' economy. The current study explores the concept of family and how the legal constraints and the tax benefit/cost of "marital status" is exhibited in family structure. Specifically, the current study seeks to develop a conceptual framework for addressing two questions. First, what influences individuals to change their family status? Second, how do legal constraints

and federal tax incentives (disincentives) influence choice of family structure? In investigating these questions, the current study makes several important contributions. First, the current study offers a conceptual framework of family structure change. Second, this study synthesizes existing literature and identifies factors that influence a person's choice to change his or her family structure.

THEORETICAL FOUNDATION AND RELEVANT LITERATURE

The concept of family is a topic of investigation in various areas of study including family studies (e.g., Roy 2008, Soto 2006), sociology (e.g., Clarkberg 1999), law (e.g., Bowman 2004), business (e.g., Lee and Beatty 2002), population studies (e.g., Emisch 2008;), and economics (Winkler 1997). Although a meta-analysis of the literature is not in the scope of the current study, a broad review of the research provides insight into the fundamental theories of family and the conceptualization of family across disciplines.

Theories of Family

The most prevalence theory of family is an economic explanation of marriage. Economists hold that individuals form unions when doing so makes both partners better off (Becker, 1965, 1973). The economic gain of the joint arrangement is derived from the notion of specialization. Becker's seminal work, for which he was awarded the Nobel Prize in 1992, focused on the family as production units that produce both goods in the home and in the marketplace. By having one person specialize in domestic responsibilities while the other provided financial support, couples are more efficient than singles (Stevenson 2008). Furthermore, Becker (1965) predicts that opposites will attract to maximize the benefit of specialization. Lam (1998) found empirical support for the notion of "opposites will attract."

Similar to the Becker's economic theory is Marx's epistemology, which suggests families are social arrangements to formalize primal relationship and attend elementary needs of reproduction and survival. Two types of relationships emerge among humans: 1) those originated in elementary survival needs (i.e., mating and conjugal bonds, paternity and offspring care, transferring to patrimonial knowledge for survival), and 2) those originated for social relationships, which provide the foundation of culture (Soto 2006).

Cohen's (1987, 2002) life-profile theory argues that the woman traditionally invests in child bearing, child rearing, and homemaking early in a marriage with the expectation of reaping the benefits in the long-run. The man, who is relatively free of domestic responsibilities, can dedicate his efforts to climbing the latter to economic security. The life-profile theory suggests

that marriage may be a mechanism for protecting the woman's early marriage-specific investments over time in the face of possible later mistreatment by her partner (Dnes 2007).

The "opportunity-cost" hypothesis suggests that childbearing itself is negatively related to perceived employment opportunities (Ward and Butz 1980; Hogan and Kitagawa 1985). According to Olsen and Farkas (1990), when both partners (i.e., husband and wife) have economic opportunities, it is expected that the marriage rate will increase because of the male employment effect, and that childbearing rates will decrease because of the female opportunity-cost effect. Together, these effects should decrease out-of-wedlock childbearing.

Brien, Lillard, and Stern's (2006) model of marriage, cohabitation, and divorce is based on the match quality economic theory. According to this theory, single individuals not currently in a co-residential relationship randomly meet one potential partner, who has an associated match quality that is not immediately observed by the individual. "Rather, an individual receives a noisy signal of the true quality" (Brien, Lillard, and Stern 2006, p. 457). The decision to enter into a relationship is made without the realization of the true match quality. This uncertainty is eliminated with relationship experience. Individuals evaluate the match quality and may choose to continue in the relationship (i.e., stay married or continue cohabiting) or change the relationship (i.e., convert cohabiting into marriage, dissolve the relationship, or divorce).

In summary, theories of marriage are grounded in the fundamental notion of give and take. Individuals engage in social arrangements with the expectation of maximizing their return on their investment. Although many exogenous factors influence the decision of if or when to engage in marriage, the basic foundation of marriage is grounded in a mutually consensual social union that benefits both parties. These unions are the basis for the structure of family.

Cohabitation

A less studied topic is the notion of cohabitation. More often associated with lower socioeconomic status (Ressler and Waters 1995) and same-sex couples (e.g., Rostosky, Riggle, Brodnicki, and Olson 2008), cohabitation as a type of family has received limited consideration in the literature. Rather, studies of cohabitation focus on outcomes of such arrangements, including the cause of decline in the traditional family (Axinn and Thornton 1992; Bumpass, Sweet, and Cherlin 1991) and economic decision-making (Cherlin and Fomby 2004; Lichter, Qian, and Crowley 2005).

Research of cohabitation in economics, sociology, and family studies provide rich descriptive data. Western societies, in general, have shown greater acceptance of individual choices including cohabitation (Ressler and Waters 1995). This social trend is evident in the fact that half of the US population has cohabited by the age 30 (Bumpass and Sweet 1989). Bumpass, Sweet, and Cherlin (1991) found cohabitation to be a true family status, with most cohabitating individuals expecting to marry their partner. Cohabitation was found to be a cause of the decrease in marriage rates (Axinn and Thornton 1993); however, Bumpass and Sweet (1989) suggest the relationship direction to be from divorce to cohabitation. Cohabitation prior to marriage is correlated with higher divorce rates than marriage without prior cohabitation (Axinn and Thornton 1993). Reasons for cohabiting include: less personal commitment; less sexual faithfulness; individual independence; and assurance of compatibility before marriage (Bumpass, Sweet, and Cherlin 1991).

Numerous studies rely on secondary data to develop models of marriage, cohabitation, and divorce. As noted by Brien, Lillard, and Stern (2006), data from the National Longitudinal Study of the High School Class of 1992 (NLS72) is the basis for numerous studies and have found that: 1) many relationships begin as a non-marital cohabitation; 2) cohabitations are shorter lived than marriages; 3) many cohabitants are converted into marriage; 4) the risk of separation declines with the duration of the relationship; and 5) the risk of divorce in marriages preceded by a non-marital cohabitation with the same partner is higher than in other marriages. Marriage and cohabitation differ in many ways. Cohabiting couples, as compared to married couples, are less educated (Bumpass and Sweet 1989), participate less in religion (Thornton, Axinn, and Hill 1992), are less likely to support traditional behaviors for men and women (Blumstein and Schwartz 1983; Lesthaeghe and Surkyn 1988), and are more likely to keep finances separate (Blumstein and Schwartz 1993; Winkler 1997).

In summary, cohabitation as a type of family has evolved as attitudes in Western societies move toward individual choice. Cohabiting arrangements are consistent with theories of marriage as a union of give and take, seeking benefit optimization.

Marriage and the Laws

The concept of marriage is a matter of state law. For the exception of a few states (i.e., Georgia, Illinois, and Louisiana), most states recognition some rights for non-married, cohabitating couples under common-law rights (Gordon 1998-1999). However, these rights are generally limited to the division of property accumulated during the tenure of the union and exclude rights of third parties (i.e., rights of inheritance, rights to be covered under

companion's medical insurance). Cohabiting couples who have written contract may be afforded rights under contract laws; however, few cohabiting couples executed written contracts (Bowman 2004).

Most statute-based cohabitation laws in the US have been created in response to the pressure of same-sex marriages (Bowman 2004). Vermont passed a statute recognizing an alternative status to marriage called civil unions. Couples registering as civil unions in the state of Vermont are afforded all the benefits and protections of marriage including, but not limited to, property rights, adoption, tax treatment, insurance benefits, and hospital visitation. Massachusetts followed Vermont and was the first state to issue same-sex marriage licenses. However, these rights may not be valid in other states. For example, if a couple married in Massachusetts moves to Georgia, the rights afforded them in Massachusetts are not transportable to Georgia. Several states have embraced the notion of domestic partnership. Hawaii's Reciprocal Beneficiaries Act of 1997 states that couples that are legally prohibited from marrying may register as domestic partners and receives several rights including the right of inheritance, worker's compensation survivorship benefits, health-related benefits, family leave, and the right to make health care decisions for a partner. After the unilateral decision of the San Francisco mayor to issue same-sex marriage license, the California courts were forced to act and passed the Domestic Partner Registration Act in 2001. Amending the Domestic Partner Registration Act in 2003 and effective in January 2005, the Domestic Rights and Responsibilities Act gives the most extensive rights to domestic partners in California behind Massachusetts and Vermont. This act gives domestic partners the same rights as married couples with the exception of federal income filing status.

In summary, the notion of non-marital unions is recognized by most states in the US. However, the rights afforded these non-traditional unions varies widely across states with some states specifically denouncing rights for anything except legally sanctioned unions between one man and one woman to states providing all rights afforded heterosexual married to same-sex unions.

Taxation

Before 1948, the US personal federal income tax focused on the individual by taxing each person's "entire net income received" (Revenue Act of 1916, ch. 463, 39). The Revenue Act of 1948, and several subsequent modifications, changed the focus from each person to marital and family affiliations (Neill 1983). This act allowed married couples to file a joint return in which their consolidated income would be equally split, with taxes paid on each half regardless of the actual earning ratio between the spouses. Creating a situation for a wife, contemplating to enter the labor force is faced with tax on her earnings that depended on the level of her husband's earnings. In 1980, for

example, a homemaker with two children would face a marginal tax rate of 16% on her first dollar earned if her husband earned \$10,000 that year, 22% if he earned \$20,000 that year, and 32% if he earned \$30,000 that year. Under the system of individual filing that prevailed before 1948, her marginal tax rate was independent of her husband's earnings. This tax regulation allowed for a marriage bonus or single's penalty, because by marrying someone with little or no income a person could substantially lower his or her tax burden. Conversely, the loss of a spouse could entail a rise in tax liability (Neill 1983).

In 1951 a third set of tax rates were introduced for head of households effectively providing partial income splitting privileges to non-married persons with dependents. To qualify for the head of household filing status a person must be unmarried and pay more than half the cost of maintaining a home for themselves and another relative who lives with them for over half the year and can be claimed as their dependent. In 1969, Congress enacted a fourth set of rates for single tax payers, ensuring that their rates would generally not be higher than 120% of the joint return schedule. However, married couple choosing to file separately could use the new rates for single taxpayers. As a result, many two-income couples pay a combined tax that is considerably higher than the taxes paid by the two single persons with the same total income. Taxes of these two-income couples would fall if they divorced, and taxes of the two single persons would rise if they married. It is this feature of the tax regulation that is dubbed the marriage penalty. However, married, two-income couples were not made worse off as result of the 1969 act (Neill 1983).

A husband and wife may file a joint return only if they are not legally separated (i.e., separated under decree of divorce or separate maintenance agreement) on the last day of the year. Spouses who are separated under an interlocutory decree of divorce are considered husband and wife and are entitled to file a joint return until the decree becomes final. The filing of a joint return will result in a savings of tax in those instances in which differences in the tax rate brackets for joint and separate returns result in higher tax rates for married individuals filing separately. Generally, a husband and wife are generally jointly and individually liable for the entire tax on a joint return. However, relief from this general rule is available under certain circumstances, commonly referred to as innocent spouse relief.

In summary, the status of married, and all associated benefits under federal income tax law, is reserved for legal unions between heterosexual partners. Therefore, cohabiting couples are not afforded the tax benefits awarded to legally married couples under federal tax acts. Conversely, cohabiting couples are not liable for each other's tax obligations as are legally married couples.

MODEL OF CHANGE IN FAMILY STRUCTURE

The decision to marry, cohabitate, divorce, or remain single is complex and incorporates incentives (disincentives) that are both monetary and non-monetary. Therefore, a model of the change of family structure should incorporate both dimensions (i.e., monetary and non-monetary). Although the focus of the current study considers the monetary incentives (disincentives) of federal taxation, non-monetary incentives (disincentives) must be considered when developing a model of family structure choice. In the following discussion, the authors draw on theories of family and relevant literature to develop a conceptual Model of Family Structure.

Theories of family argue that individuals choose a family structure based on economic benefit. Current tax regulations offer economic benefit for married filing joint; however, the ability to take advantage of the tax benefit is not available to all individuals in the US (i.e., same-sex marriage are not recognized as a marriage under federal law). There is also a tax incentive for unmarried head-of-household (i.e., single parents), which implies an incentive to divorce for married couples with a qualified dependent.

The only family structure not recognized under federal law is non-marital cohabitation. There is no federal tax incentive for individuals to engage in non-marital cohabitation. However, research shows that the rate of non-marital cohabitation is skyrocketing. Furthermore, research suggests a causal relationship between non-marital cohabitation and divorce (Axinn and Thornton 1993). This phenomenon supports the complexity of marriage and numerous factors that individuals consider when making a family structure decision.

Drawing on existing literature, in addition to economic incentives (disincentives), factors that influence family structure include individual traits (e.g., age, sexual orientation), attitudes (e.g., culture, religion, family and commitment), socioeconomic status (i.e., cohabitation is more likely in lower socioeconomic couples), and legal constraints (i.e., civil unions, domestic partners, common-law marriage, same-sex marriages) (Figure 1).

It is proposed that all individuals begin as single persons. Personal traits such as age and sexual orientation, as well as learned values and attitudes (i.e., culture) influence whether or not the individual will move from his or her single status to another family structure. Legal constraints mediate the movement from a person's original single status. Two variables moderate the choice to move from single to another family structure: socioeconomic status and economic incentives. Theories of marriage suggest that specialization leads to a greater benefit for joint living arrangements (couple) compared to the sum of the individuals. Furthermore, it is proposed that tax incentives

(disincentives) moderate individuals' decision to change their family structure.

Although the variables that impact change of family structure are identified in the proposed model, the intensity of these variables is unknown. For example, the amount of the tax rate incentive may not be great enough to instigate a change in family structure. Research shows that singles remain longer in the parental home than in previous decades. It is logical to suggest that the intensity of the incentives to change one's status is too low to motivate one to change his or her family structure.

Figure 1: Model of Family Structure Change

Attitudes

(Culture and values - religion, social norms, *family*)

Single

(Original status)

Traits

(Age, sexual orientation)

Legal Constraints

(Civil unions, domestic partners, common-law marriage, same-sex marriages)

Socioeconomic Status

(Income, occupation)

Change of Family Structure

[Single (no change), non-marital cohabitation, marriage]

Economic Incentive

(Specialization; tax benefit/cost)

PROPOSITIONS

The fundamental notion of family forms the basis for US taxation. It is proposed that the concept of family and other non-marital concepts of human union are all grounded in the notion of economic benefit. Individual form relationships, because doing so puts them in a better position than without the relationship. This notion is supported by various theories of marriage (e.g., Becker 1965, 1973) and is conceptually generalizable to non-marital unions such as same-sex union, heterosexual singles, and single

parents. If or when the economic benefit of a human union changes, the relationship will also change. If economic gain is positive, the cohabitation moves to marriage or the relationship is registered. If economic gain is negative, the result is separation or divorce.

Tax regulations represent an economic benefit. Prior to 1948, tax rates offered no benefit for married couples; all income was based on individual income. After 1948, the marriage bonus or single penalty was passed. The 1948 act provided an economic incentive to marry.

P1: Holding other variables constant, the percentage of federal, individual tax returns for married filing joint filings increases after 1948.

P2: Holding other variables constant, the percentage of federal, individual tax returns for single filings decreases after 1948.

In 1951, the designation of unmarried head-of-household was enacted providing a tax incentive (i.e., low tax rate) for unmarried parents. Hence, the following is proposed.

P3: The percentage of federal, individual tax returns for unmarried head-of-household filing increases after 1951.

P3: Holding other variables constant, the percentage of federal, individual tax returns for single filings increases after 1952.

In considering the proposed relationships, other factors that influence the choice of family structure must be considered. First, the natural increase in the US population and the age composition of the population are essential. The US population increased at a decreasing rate between 1950 and 1990 (U. S. Census Bureau 2001c); the 50- to 54-year age group experienced the largest percentage growth between 1990 and 2000 (U. S. Census Bureau 2001a); and the number of non-family households (i.e., two or more non-relative person in a household) represented 6.1% of all household types (U. S. Census Bureau 2001b).

In considering the behavior of individuals concerning family structure, it is also important to consider differences among geographic areas. For example, in 2000, 31% of all households in the US resided in four states (i.e., California, Texas, New York, and Florida) (U. S. Census Bureau 2001b). The

effect size for those States might be different from the aggregate population. Similarly, the youngest population resides in the West where the median age is 33.8 years (U. S. Census Bureau 2001a).

DISCUSSION AND DIRECTION FOR FUTURE RESEARCH

Understanding what motivates individuals to enter into or change their family status is pervasive in the study of human behaviors. The current study is a preliminary attempt to identify variable that influence human behavior in the creation of family structures. The benefits/costs associated with federal taxes offer an economic incentive (disincentive) to change one's family structure. Empirically testing is necessary to assess the intensity of tax incentives (disincentives) to motivate a change.

The Future of Family and Taxation

The notion of family is dynamic. The notion of family has evolved over time as social movements (i.e., change in social values and norm; trend toward individual choice) reshape US society. What defines a family is as complex as the various living arrangements now embraced by individuals. Even the most basic function of what once defined a family, child bearing and rearing, has been relegated to a variety of human union. Surrogate mothers take child bearing outside the family; genetically developed embryos can create three-parented children (Mangu-Ward 2008). It is likely that the notion of family will continue to change in the US, as social norms change and evolve.

It is not likely that the federal government will recognize the various family structures now present in the US. For example, tax regulations do not recognize same-sex marriages that are now sanctioned by two states; same-sex marriages do not qualify as married filing joint for federal tax purposes. The non-recognition by the federal government is not likely to change for several reasons. For example, the federal government has relegated the interpretation of what constitutes a marriage to individual states. The division between federal government and the states is a doctrine long recognized and honored in the US. Furthermore, there is no bridge among and between states to provide a uniform meaning, so "marriage" is not transportable between states. Furthermore, the sheer size of the bureaucracy of government makes it difficult to quickly react to changes in the environment. Some progress is evident; in the U. S. Census 2000, the federal government defined and distinguished "household," "family household," and "nonfamily household." However, it is not likely that tax reform will afford

non-traditional human unions (e.g., same-sex marriages) the same benefits reserved for legally sanctioned heterosexual marriages.

Direction for Future Research

Future research is necessary to fully understand the process of family structure choice and the factors that influence those choices. First, empirical research to test the propositions set forth in this paper is prescribed. The model provided in this paper is an overall, broad conceptualization of family structure. Future research should investigate differences between various family structures. Each type of “human union” presents a unique set of conceptual and operational challenges. Future research should seek to delineate between the various arrangements. For example, tax rates may be a moderator for the choice to move from single and married, but not a significant element of movement from single to non-marital cohabitation.

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