

ARTICLE: MARRIAGE AND THE FAMILY IN ECONOMIC THEORY AND POLICY

Summer, 2006

Reporter

4 Ave Maria L. Rev. 435 *

Length: 30018 words

Author: Maria Sophia Aguirre +

+ Dr. Maria Sophia Aguirre, Professor, Department of Economics and Business, The Catholic University of America

Text

[*435]

Introduction

Human beings are social by nature; the most basic manifestation of this sociability is the family. ¹ In his article, Alfonso Cardinal Lopez Trujillo underlines the reality that man is a social being who is naturally oriented toward the family - family based on the natural unit of marriage. Marriage, the union of a man and a woman, generates children. Marriage in itself establishes the beginning of the family community. ² A community is something radically different from considering "family members separately" ³ or as a sum of isolated individuals living together by simple chance or biological reasons. Rather, a community is "a social subject," ⁴ "a unit into which all the members of the family are integrated." ⁵ It follows from this view that an understanding of either marriage or the family that converts a relationship between persons into an exchange of "things" or "objects" is not fitting to them. A person normally comes into the world within a family, and it is there where he develops, grows, and matures into an adult capable of being a productive member of society. ⁶

¹ The ancient Greeks already addressed this issue. See, e.g., Aristotle, *The Nicomachean Ethics*, Bk. VIII, Ch. 12 (H. Rackham trans., rev. ed. 1999).

² Alfonso Cardinal Lopez Trujillo, *The Nature of Marriage and its Various Aspects*, [4 Ave Maria L. Rev. 297, 305 \(2006\)](#).

³ Id. at 316 (quoting Alfonso Lopez Trujillo, *familia y privatizacion*, in *Lexicon 490* (Consejo Pontificio para la Familia eds., 2004) [hereinafter Trujillo, *familia y privatizacion*]).

⁴ Trujillo, *supra* note 2, at 316-17.

⁵ Id. at 316 (quoting Trujillo, *familia y privatizacion*, *supra* note 3, at 490). Not only theologians have come to realize the importance of the family. See, e.g., Jennifer Roback Morse, *Love & Economics: Why the Laissez-Faire Family Doesn't Work* 32 (2001); Norval D. Glenn et al., *Why Marriage Matters*, *Am. Experiment Q.*, Spring 2002, at 36.

⁶ Across the sciences there is evidence that shows that all human beings best develop within a family that is functional (i.e., with his biological or adoptive mother and father in a stable marriage). Growing within the context of a healthy marriage decreases the risk that children will suffer from emotional or behavioral problems, be victims of abuse or neglect, and struggle in school. Adults also benefit from healthy and stable marriages. Married mothers have a lower rate of depression, enjoy higher income and lower living costs, and have higher savings and wealth. Healthy families are good for children, adults, and the states. For a

[*436] From an economic policy point of view, both marriage and the family are important. Healthy families are essential because they directly impact human, moral, and social capital; and, therefore, they impact resource use, economic activity, and economic structures.⁷ Thus, resources are used inefficiently when they are directed toward policies that weaken families instead of policies that strengthen them. This, in turn, hampers the sustainability of real economic growth and perpetuates poverty.⁸

Both economic theory and policy are engaged in trying to understand the reality of marriage and the family within economic activity. Within economics, Nobel Prize winner Gary S. Becker's work on human capital and his neoclassical economic analysis of human behavior, including the family, have set the course of these efforts for the past four decades.⁹ More recently, economists such as **[*437]** Jennifer Roback Morse and John D. Mueller, among others, have attempted to contribute to mainstream economic theory by introducing a more holistic understanding of the person into the economic analysis of human behavior. This article presents some of the approaches that mainstream economic theorists have taken toward the analysis of marriage and the family, and it evaluates their consequences for policy design as well as implementation. In doing so, this article proposes some modifications to this framework to analyze the family within the economy. With this view in mind, it evaluates some of the policies implemented in the past fifty years in both developed and developing countries, taking into account the needs of the families in these regions and the empirical evidence thus far available.

Empirical data indicate that when economic policy is either indifferent to the family structure or undermines it, the consequences for the economy of a country are disastrous and economic growth can become unsustainable.¹⁰ Policy shapes behavior; thus, it behooves policymakers at all levels to design policies that foster and support healthy families, both directly and indirectly. Since, as previously mentioned, an individual develops within the family, it follows that this person will be able to contribute the most to society as an economic agent when the family is promoted by the very same economy in which the member is working. Furthermore, evidence seems to suggest that when the family is framed by an individualistic understanding of the human person, the natural sociability of men is reduced to utility, which in turn leads to the view that relationships are exchanges of commodities for the sake of utility maximization.¹¹ Until recently, mainstream economic analysis and policy have fallen into this

review of relevant literature, see Maria Sophia Aguirre, *The Family and Economic Development: Socioeconomic Relevance and Policy Design*, in *Family & Policy* (Scott Love ed., 2004) [hereinafter Aguirre, *The Family and Economic Development*]; Maria Sophia Aguirre, *Family, Economics and the Information Society*, 28 *Int'l J. Soc. Econ.* 225 (2001) [hereinafter Aguirre, *Family, Economics and the Information Society*]; Glenn et al., *supra* note 5, at 34.

⁷ Empirical evidence also shows that when the family is disrupted, the individual and social costs are very large. See, e.g., Francis Fukuyama, *The Great Disruption: Human Nature & the Reconstitution of Social Order* 112-26 (1999); Steven L. Nock, *The Social Costs of De-Institutionalizing Marriage*, in *Revitalizing the Institution of Marriage for the Twenty-First Century: An Agenda for Strengthening Marriage 1* (Alan J. Hawkins et al. eds., 2002); Aguirre, *Family, Economics and the Information Society*, *supra* note 6.

⁸ On this point, I have good company. Gary S. Becker, Nobel Laureate 1992, stated that "no discussion of human capital can omit the influence of families on the knowledge, skills, values, and habits of their children," and therefore on their present and future productivity. Gary S. Becker, *Human Capital* 21 (3d ed. 1993) [hereinafter Becker, *Human Capital*]. Similarly, Amartya Sen, Nobel Laureate 1998, and Sudhir Anand remind us that "the human development approach must take full note of the robust role of human capital while at the same time retaining clarity about what the ends and means respectively are. What needs to be avoided is to see human beings as merely means of production and material prosperity." Sudhir Anand & Amartya Sen, *Human Development Report, Sustainable Human Development: Concepts and Priorities*, pt. 4.4 (1994), http://hdr.undp.org/docs/publications/ocatoinal_papers/Oc8a.htm.

⁹ Already, Adam Smith in *The Wealth of Nations* refers to the family within the economy, yet he fails to see the reality of the family as a unit. Rather, he focuses on each of its members separately. Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* 79-80 (Regnery Publ'g 1998) (1776). Most recently, Becker has renewed this interest. For a review of his original work, see Gary S. Becker, *A Treatise on the Family* (enlarged ed. 1991) [hereinafter Becker, *Treatise on the Family*] and Gary S. Becker, *The Economic Approach to Human Behavior* (1976).

¹⁰ See *supra* notes 7-8 and accompanying text.

mistaken view, which is particularly damaging when addressing marriage and the family. In order to be effective, economic policy must take into account the effect it has on the family, the latter considered as a social subject rather than a sum of individuals connected by a contract.

This article is divided into three sections. Section I presents the treatment of marriage and the family within modern neoclassical theory. Some modifications to the model and views of the role of the family within economic growth are proposed. Section II addresses [*438] the relationship between policy and the family. Section III presents the most salient challenges that the family in both developed and developing countries faces today, as well as the policies that have proven helpful in promoting and fostering healthy families. The article finishes with conclusions.

I. Marriage and the Family Within Neoclassical Theory

When addressing the functions of production, consumption, and distribution in the economy, neoclassical macroeconomic theory approaches the household's decision-making processes typically from an individualistic point of view (i.e., assuming a self-interested¹² and utility-maximizing¹³ behavior on the part of the economic agent). In the context of marriage and the family, this approach applies to both the economic nature of the marriage agreement and the decision-making processes of the individual members, both as consumers and producers. This section will address Becker's approach (as well as modifications proposed to it) to the analysis of the marriage agreement, the formalization of the economic decision process within the family, and the production and consumption roles of the family.

A. Formalizing the Economic Nature of the Marriage Agreement

Becker, consistent with the neoclassical approach, presents a theory that views and compares marriage, which is the foundation of [*439] a family, to a contract. He proposes that people marry when the utility they expect to gain from marriage is greater than that from being single, and that they stay married as long as the expected utility from being married is greater than that of becoming single and possibly remarrying.¹⁴ He also suggests that this process is applicable to other contracts of indefinite duration in which the parties involved have the option of termination. He compares the relationship between employee turnover and length of employment to marriage by evaluating the utility-based decisions that take place regarding termination, either of marriage or employment.¹⁵

¹¹ See, e.g., George A. Akerlof et al., *An Analysis of Out-of-Wedlock Childbearing in the United States*, 111 Q. J. Econ. 277 (1996) [hereinafter Akerlof et al., *Out-of-Wedlock Childbearing*]; George A. Akerlof, *Men Without Children*, 108 Econ. J. 287 (1998) [hereinafter Akerlof, *Men Without Children*].

¹² This approach is already clearly present in Adam Smith's *The Wealth of Nations*:

Give me that which I want, and you shall have this which you want, is the meaning of every such offer [i.e., of any bargain] It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest. We address ourselves not to their humanity but to their self-love [self-interest], and never talk to them of our own necessities but of their advantages.

Smith, *supra* note 9, at 14. Jeremy Bentham, one of the founders of Utilitarianism, and his disciple, John Stuart Mill, further developed this approach. See generally Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* (J.H. Burns & H.L.A. Hart eds., Oxford Univ. Press 1996) (1789); John Stuart Mill, *Utilitarianism* (George Sher ed., Hackett Publ'g Co. 1979) (1861).

¹³ Economists use the concept of utility to describe preferences. The benefit or satisfaction that a person gets from the consumption of a good or service is called utility. The units of utility are considered arbitrary. Consumption choices are determined by many factors, which can be summarized in terms of two concepts: consumption possibilities and preferences. See, e.g., Burton A. Weisbrod, *Comparing Utility Functions in Efficiency Terms or, What Kind of Utility Functions Do We Want?*, 67 Am. Econ. Rev. 991, 993 (1977). The key assumption of marginal utility theory is that the household chooses the consumption possibility that maximizes its total utility.

¹⁴ Gary S. Becker, *A Theory of Marriage: Part I*, 81 J. Pol. Econ. 813, 815-16 (1973) [hereinafter Becker, *Marriage: Part I*].

¹⁵ Gary S. Becker et al., *An Economic Analysis of Marital Instability*, 85 J. Pol. Econ. 1141, 1145 (1977).

Becker furthers this analysis by examining the process behind a spouse's decision to divorce. Within the marriage contract, Becker claims that the decision to divorce is based on whether the couple's combined wealth is greater than their combined single wealth. A spouse will choose to terminate the marriage if his or her expected single wealth after any redistribution due to divorce will be greater than that of his or her pre-divorce division of outputs.¹⁶ Becker applies the same argument to show the distinction between "quits" and "layoffs." If the employee's expected wealth is greater after terminating his position, he will quit, though the company will still want him. If the company's expected wealth is greater without employing the same employee, then it will lay him off, even though the employee's expected wealth is greater while still employed by the company.¹⁷ According to Becker's analysis, the decisions being made by the employer and the employee are the same as those made by both spouses within a marriage.¹⁸

Through Becker's analysis of marriage as a contract, it is clear that the Nobel Laureate reduces the relationships within both marriage and the family to the seeking of utility, thereby reducing the natural sociability of man to self-interest. In doing so, he distorts the definition of a household because he converts a relationship between persons into an exchange of "things" or "objects."¹⁹ Morse attempts [*440] to correct Becker's distortion by proposing the use of a partnership instead of a contract when comparing marriage to any commercial relationship.

She proposes that the relationship between husband and wife bears the closest similarity to a contract of all family relationships; yet, she acknowledges that it falls short in capturing the reality of marriage. This is so because: 1) it "is chosen by the parties"; 2) in choosing the other party, a person "expects to be better off"; 3) "marriage vows are promises expressly and publicly exchanged, similar to the exchange of promises in a contract"; and 4) "at the most superficial level, a marriage is the sharing of a household by two adults and usually involves exclusive sexual rights."²⁰ Yet, she argues that the "key elements of marriage" are "commitment and self-giving to another person."²¹ She claims that these elements explain "some seemingly anomalous facts about modern marriage" when compared to contracts.²² First, people usually do not marry based on renegotiable contracts, although almost "every other form of negotiation [occurs] over the traditional terms of marriage."²³ Second, contrary to what some people expected, social science data clearly show that people who cohabit before marriage have a significantly higher probability of getting divorced than people who do not.²⁴ The first anomaly speaks to self-giving, while the

¹⁶ Id. at 1144-45.

¹⁷ See id. at 1145.

¹⁸ Id.

¹⁹ Cardinal Trujillo refers to the danger of the objectification of the individual when he addresses the "mutual gift of self" as a qualification of what marriage is. In this context, he states, "the husband and wife are persons, and because of this, the mutual gift of self must be in the quality of a person. The other person cannot be converted into a 'thing' or 'object.'" Trujillo, *supra* note 2, at 303. It is worth noting, however, that Becker acknowledges that in his studies, he ignores love but does not deny it as a cause of marriage. The justification for doing so is that this is a nonmarketable commodity. Specifically, he states:

At an abstract level, love and other emotional attachments ... can be considered particular nonmarketable household commodities, and nothing much need be added to the analysis That is, if an important set of commodities produced by households result from "love," the sorting of mates that maximize total commodity output over all marriages is partly determined by the sorting that maximizes the output of these commodities.

Gary S. Becker, *A Theory of Marriage: Part II*, 82 J. Pol. Econ. S11, S12 (1974) [hereinafter Becker, *Marriage: Part II*].

²⁰ Morse, *supra* note 5, at 63.

²¹ Id.

²² Id. at 64.

²³ Id.

²⁴ Id.

second speaks to commitment and underlines that "self-giving is required at the heart of the committed marriage."²⁵

In Morse's view, a partnership is more than a contract because it involves a voluntary exchange in which each member of the [*441] partnership contributes something to the joint venture and receives something for her or his efforts. While a basic contract establishes the relationship between the parties, it also "brings it into being as a legal entity distinct from either of the two individual persons."²⁶ Furthermore, she notes,

The partnership differs from other contractual relationships in significant ways. The contract between the partners does not govern every detail of the relationship's functioning. The partners do not attempt to specify every duty of each party during the course of their relationship: only the most basic duties are so specified [therefore it includes the possibility of uncertainty]. The contractual relationship between partners is not the end of the relationship nor the method for how the parties relate to one another [yet it acknowledges the uniqueness of the other person]. The parties expect to do a great many things of mutual benefit that cannot be included in the set of legally enforceable promises.

The partnership is more open-ended in duration, while a contract typically has a specified period during which transactions are to take place. In a partnership, the parties establish a relationship using a contract and then proceed with their business until further notice. The partnership contract establishes an ongoing framework within which business can be conducted.

... In a partnership, the partners share responsibilities, decision-making, and risks.²⁷

Partnerships, therefore, are more flexible and open-ended with respect to the specifications of the duties and obligations of each party. While Morse proposes a solution that overcomes the neoclassical self-interested and individualistic approach to an economic understanding of marriage, it is not entirely clear that her proposal overcomes the utilitarian approach to the institution of marriage. In her proposal, the partnership allows for an important component of marriage: the fact that it is a social subject that creates a reality different from the two persons who give the consensus in marriage, because it also "brings ... into being ... a legal entity distinct from either of the two individual persons."²⁸ Yet, she notes, "the parties expect to do a great many things of mutual benefit that [*442] cannot be included in the set of legally enforceable promises."²⁹ It seems as if, for Morse, self-giving is not completely disinterested; at least some elements of satisfaction or gain (i.e., "mutual benefit") need to be present.³⁰ It is in the formalization of the decision-making process of the economic agent where the self-giving element of marriage and the family is often compromised by neoclassical theory.

B. Formalizing the Economic Decision Process of the Family

²⁵ Id.

²⁶ Id. at 65 (emphasis added).

²⁷ Id. at 65-66 (footnote omitted) (emphasis added).

²⁸ Id. at 65 (emphasis added).

²⁹ Id. (emphasis added).

³⁰ Id. It is worth noting that Morse argues that in the typical economic analysis of love (which in these studies is equated with altruism), the other person is treated "as if he were an object similar to ice cream or a baseball game. We give something to the other person because we receive happiness from doing so. We value the other person because he does something for us." Id. at 201. The author goes on to argue that "[a] person whom we love is not an object, and love consists in more than a simple transfer of resources... . Genuine love involves some kind of giving of the self." Id. When speaking of the need for love, however, the analysis is carried out in terms of benefit. See id. at 203-20.

In neoclassical theory, consumption possibilities are constrained by the household's income as well as by the prices of goods and services. The available resources in turn limit the prices of goods and services.³¹ The budget line, which is used to describe the limits to consumption choices, captures the income constraint; thus, it marks the boundary between the consumption possibilities that the household can and cannot afford.³² Since consumption possibilities depend on both income and prices, if the prices of any goods or services change or if the household's income changes, then the consumption possibilities necessarily change.

So, how does a household decide what to spend its income on? The second element within neoclassical theory that affects household consumption choices, preference, can be used to answer this question. In making these choices, households try to receive the maximum benefit from the goods and services they will consume. A household's total utility is maximized when it has spent all available [*443] income and equalized the marginal utility per dollar spent on all goods.³³

Becker proposes applying this framework to the analysis of human behavior in social interactions within the family. Becker points out that the goods and services demanded by a household include goods purchased in the marketplace as well as non-market household resources such as time. Furthermore, Becker proposes that a "household selects the combination of goods and effective time that minimizes the cost of producing commodities."³⁴ He also acknowledges the fact that people act for reasons other than self-interest. To incorporate these reasons, he introduces the concept of altruism; the idea being that, when someone is altruistic, his or her utility is dependent upon the utility of the person to whom he or she is being altruistic. Specifically, Becker defines altruism by claiming that a person's (h's) "utility function depends positively on the well-being of w [the beneficiary of the altruistic actions] and 'effectively' means that h's behavior is changed by his altruism."³⁵ While acting altruistically, h spends part of his income on w, increasing w's income so that it is now his original income, plus part of h's. This increase in income thereby increases w's utility, which in turn increases h's utility. In the framework of the family, the altruist benefits from actions that increase the family's income, and since the beneficiary's income is dependent upon the altruist's, the beneficiary also benefits from those actions. In acting altruistically a person raises his own utility when the utility of the beneficiary is raised.

The problem with Becker's theory of altruism as an explanation of reasons for an individual's actions other than self-interest is that, ultimately, the altruistic individual, h, is acting altruistically because by increasing the utility of w, h maximizes his own total utility beyond that of what he could, given his own constraints. It follows that this theory, when applied to the family, still falls short of capturing the reality of the family as a community because it considers each family member separately. Each member of the family incorporates the other with the goal of maximizing his own utilities. The understanding of marriage as a communion - a social subject in which a disinterested mutual self-giving takes place - is not present.

³¹ Typically, it is assumed not only that resources are scarce, but that the household has neither impact on nor ability to affect the prices of goods and services in the market. See, e.g., Stephanie Domitrovich, Utilizing an Effective Economic Approach to Family Court: A Proposal for a Statutory Unified Family Court in Pennsylvania, *37 Duq. L. Rev. 1* (1998).

³² If one assumes that for the household, expenditures equal income, and one defines expenditure as the sum of the price of each good multiplied by the quantity bought of that good, the budget line can be defined as $Q = (p_{<1>} \times q_{<1>}) + (p_{<2>} \times q_{<2>})$, where Q is the household total income, $p_{<1>}$ is the price of each good, and $q_{<1>}$ is the quantity bought of each good by the household.

³³ This is represented by the marginal utility of a good divided by its price. See, e.g., Murray N. Rothbard, *Man, Economy, & State* ch. 4 (2004).

³⁴ Becker, *Treatise on the Family*, supra note 9, at 68.

³⁵ Id. at 278. The utility function in this case is defined as " $U_{<h>} = U[Z_{<1>}, \dots, Z_{<mh>}, [PSI] (U_{<w>})]$ " and " $U_{<h>} / U_{<w>} > 0$ " where $U_{<h>}$ and $U_{<w>}$ are the utilities of the altruist and his beneficiary respectively, ϕ is a positive function of $U_{<w>}$, and $Z_{<jh>}$ is the jth commodity consumed by h." Id.

[*444] Mueller expounds upon Becker's theories of utility and the decision-making processes of allocation of time and wealth within the family by proposing a "human approach to economic behavior."³⁶ At the heart of this approach is the distinction between the ranking of scarce goods as means (the utility function) and the ranking of persons as ends (the distribution function) when describing the processes of economic choices. According to Mueller, Becker's economic approach fails to recognize that people have preferences for things as well as people and leaves out the consideration of persons as ends. Becker reduces all human behavior to a maximization of utility and then reduces utility to a satisfaction of basic pleasures that are identical for all persons and unchanging over time. Mueller claims that what is missing in the neoclassical theory of consumption, and therefore also in Becker's theory, is a theory of distribution. He challenges Becker's analysis, claiming that no equation specifies the final distribution of goods and services among persons. Furthermore, he notes that Becker solves this problem by assuming that the final objects of choice are identified with basic commodities included in the utility function. These commodities include both persons and objects, and tastes for these final goods are assumed to be constant over time.³⁷ Thus, any change in behavior is justified by changes in prices or income and, from a point of view of production, by an improvement in human capital within the household which is solely based on utility.

Instead, Mueller proposes that people express their preferences for individuals through their allocation of resources and for things through their preferences for goods. In his view, it is the preference for individuals that determines distribution - the missing puzzle piece in neoclassical theory. He proposes that it is the relative significance of the self versus other persons that is described in each person's distribution function. Mueller proposes an alternative to Becker's theory of the economic application to altruism by arguing that love, in material terms, can be described as a gift or voluntary transfer payment not made in compensation for useful services rendered. The resources of the distribution and the relative importance of the recipient in the eyes of the distributor, Mueller **[*445]** argues, determine such transfer.³⁸ Mueller's proposal provides an important, helpful, and missing tool for the analysis of distribution within the economy, both for theory and policy.

Following a utilitarian approach to marriage, Becker argues that people get married and have children because they expect this to increase their utility functions; it is the maximization of this utility, given their resources, that determines distribution within an economy. For Morse, people get married because the parties expect mutual benefits. Although she does not provide a formulation of distribution, her argument seems to follow a distribution of income that is consistent with Becker's, with the variation that it is the "partnership," not the individual maximization of benefit, that is pursued. Becker believes that persons can only enter into others' lives as basic commodities. Morse disagrees because she recognizes a social subject. Mueller claims that the problem with both views is that in either perspective, love cannot be based on utility precisely because love is derived from utility.³⁹ Mueller instead contends that loving someone is treating that person as an end, and it is because of that end that the means selected to serve that end have any value. Consequently, love plays a key role in distribution within the economy and, more specifically, within the family. Loving someone does not increase one's utility but rather determines how much a person is willing to lower it in order to love the other person.⁴⁰ For this reason, he concludes that

³⁶ John D. Mueller, *God and Money: Human and Divine Economy in the 21st Century* 135 (Feb. 16, 2005) [hereinafter Mueller, *God and Money*] (unpublished manuscript, on file with the Ave Maria Law Review). The title of the book to be published has changed. See John D. Mueller, *Redeeming Economics: Free Markets and the Human Person* (forthcoming 2007).

³⁷ Becker, *Marriage: Part I*, supra note 14, at 816.

³⁸ See John D. Mueller, *How Does Fiscal Policy Affect the American Workers*, [20 Notre Dame J.L. Ethics & Pub. Pol'y 563, 566, 611 \(2006\)](#).

³⁹ See *id.* at 603-08. It is important to keep in mind, however, that in spite of his claim, Becker clearly states that love is a non-marketable good and therefore should not be included in the economic analysis. Rather than love, it is altruism that Becker analyzes. Becker, *Marriage: Part II*, supra note 19, at S12.

⁴⁰ See generally Mueller, *God and Money*, supra note 36. Similarly, he claims that "mutual love (as it is ideally in marriage) is not essentially an exchange of utilities, ... [but] is best viewed as a simultaneous pair of gifts or voluntary transfer payments, of which there is no reason to believe that any equality in gifts should apply." *Id.* at 136.

distribution in the economy should be ruled by St. Augustine of Hippo's interpretation of what it means to love "your neighbor as yourself."⁴¹ According to St. Augustine, "since you cannot be of assistance to everyone, those especially are to be cared for who are most closely bound to you by place, time or opportunity."⁴²

[*446] Mueller's approach brings to light, in an original manner, the shortfall that neoclassical theory encounters when love is introduced as a factor in the utility maximization activity of the economic agent. Mueller's framework allows for an analysis of the relationship between persons ("gifts") as well as for the exchange of things ("basic commodities") that also takes place within the family. A combination of Morse's "partnership" with Mueller's "distribution function" can be used to address, from an economic point of view, the fundamental characteristics of marriage and the family: social subject and self-giving.

What is the function of economics? The function of economics is to provide and meet the material needs of people in the best way possible given scarce resources. This concept is referred to as efficiency. Human economic activity is defined as those activities directed to meet the material needs of people. From this point of view, Mueller is correct in pointing out that because of human limitations, one needs to make choices, and that love is sometimes expressed in the transfer of material goods to the subject of one's love, such as his or her spouse or children. Furthermore, he is correct in that the sole motive for economic activity is not self-interest, as the role of the family within the economy shows. This is clearly reflected in both the consumption and the production functions of the family.

C. Formalizing the Production and Consumption Role of the Family

A fundamental contribution of Becker to the analysis of the family within the economy is the view of the family as a unit of human capital production.⁴³ Becker, building on the work of Theodore W. Schultz on human capital, proposes the idea that the family combines goods purchased in the marketplace with non-market resources to produce basic commodities.⁴⁴ He advances this theory by analyzing the importance of the family in ensuring the production of human **[*447]** capital. This element, in his view, is fundamental to a well-functioning economy and thus, for economic growth.⁴⁵

An important aspect of Becker's theory for economic growth is that the rate of returns on human capital investments rises, rather than declines, as the amount of human capital increases. This idea is based on the assumption that man is creative and that education will not be stagnant, but that instead, the education of today implies more productivity in the future.⁴⁶ Becker also acknowledges that "parents have a large influence on the education, marital stability, and many other dimensions of their children's lives."⁴⁷ It follows that the family, and more

⁴¹ Luke 10:27.

⁴² Augustine, *On Christian Doctrine*, Bk. I, Ch. 28 (D.W. Robertson, Jr. trans., Prentice Hall 1997) cited in Mueller, *God and Money*, supra note 36.

⁴³ See Becker, *Human Capital*, supra note 8.

⁴⁴ See Gary S. Becker, *A Theory of the Allocation of Time*, 75 *Econ. J.* 493 (1965). Theodore W. Schultz was one of the first economists to use the term "human capital." He used it to describe economic investments in people, thus expanding the understanding of investments beyond material things. In Schultz's view, the acquisition of useful skills and knowledge is a form of capital accumulation. In fact, he sustained that this capital has grown in Western societies at a faster rate than non-human capital. Schultz furthered his argument by claiming that the quality of human effort can be improved and productivity enhanced by an increase in education. See generally Theodore W. Schultz, *Investment in Human Capital* (1971).

⁴⁵ See supra note 7 and accompanying text.

⁴⁶ See, e.g., Sebnem Kalemli-Ozcan et al., *Mortality Decline, Human Capital Investment, and Economic Growth*, 62 *J. Dev. Econ.* 1 (2000).

⁴⁷ Becker, *Human Capital*, supra note 8, at 21.

specifically the parents, have a significant role in the current and the future state of the economy, as they influence their children's productivity. This position is fully supported by the evidence provided across the social sciences. ⁴⁸

Morse also analyzes the family-related problems that plague society today and attributes them to the laissez-faire family. According to Morse, the laissez-faire family extends the libertarian approach to economics and government to the personal lives of family members, thus considering each member to be bound to his or her fellow family members only inasmuch as they have consented to be bound. ⁴⁹ Morse argues that the family is of central importance because it is within the family that a person develops into a rational being capable of acting as an economic agent. It is within the family that helpless babies are transformed into people capable of social behavior who know how to trust, to cooperate, and to restrain themselves. She notes that trust is fundamental to a well-functioning economy because not even the most basic exchange can take place without the belief that the other party will carry through. Trust is not something that individuals are born with, but rather parents must give unconditional love to their children, seeking nothing in return, in order to begin the cycle of trust. ⁵⁰ Both Becker and Morse assert that neither free-market nor self-governing political institutions can survive without the vast majority of the population possessing this attribute. ⁵¹

[*448] I have formulated how the family affects the three fundamental economic activities: production, exchange, and consumption. Table 1 summarizes this formulation. For production, individuals need to use resources, or factors of production, which include labor, capital, land, and entrepreneurship. ⁵² Families, by themselves or through associations and institutions, provide these resources necessary for production. It is here that the importance of human capital ⁵³ is felt, for it affects both the quality of the labor force and the way resources are used in order to meet the production necessary for the needs of the family, therefore affecting the welfare of all of the individual members of the family.

Table 1 ⁵⁴

How Does the Family Fit in the Economy?

Basic Activities	Means Used	Role of the Family	Purpose
Production	Resources and Optimization	Human Capital	Basic Needs

⁴⁸ See supra note 6 and accompanying text.

⁴⁹ Morse, supra note 5, at 3-10.

⁵⁰ Id. at 33-34.

⁵¹ Id. at 48; see also Becker, *Treatise on the Family*, supra note 9.

⁵² Aguirre, *The Family and Economic Development*, supra note 6, at 4. In economics, land captures all natural resources, and labor includes the work time and work efforts that people devote to producing goods and services. This includes both physical and mental efforts. The quality of this work depends on human capital. Capital includes tools, instruments, machines, buildings, and other constructions that businesses use to produce goods and services. It does not include financial capital (money, stocks, bonds, or any other type of financial instruments) because, although they enable people and businesses with financial resources, they are not used to produce goods and services. In this sense businesses are not productive. Finally, entrepreneurship is the human resource that organizes all the other resources. It is the resource that coordinates the ideas generated about how and what to produce, making business decisions, and bearing the risks that arise from these decisions. See, e.g., M.B. Neace, *Entrepreneurs in Emerging Economies: Creating Trust, Social Capital, and Civil Society*, 565 *Annals* 148 (1999).

⁵³ Human capital is generally understood as the physical and technical efficiency of the population. For a clear presentation of human capital and the family, see, e.g., Becker, *Treatise on the Family*, supra note 9, at 238-76.

⁵⁴ Aguirre, *The Family and Economic Development*, supra note 6, at 5.

Exchange	Market	Human, Moral, Social Capital	Income and Profit
Consumption	Buying Power and Distribution	Appropriate Distribution	Well-being (Welfare)

In order to receive income or compensation for production, everyone must exchange. This exchange takes place in a market, [*449] which, as previously stated, must include basic economic, institutional, and structural conditions such as competitive terms of trade and openness to trade in order to survive.⁵⁵ Other fundamental characteristics such as trust, communication, order, and political stability are key in order to have a successful marketplace.⁵⁶ This also demonstrates why human, moral, and social capital are critically important to a well-functioning economy.⁵⁷ Those producers make decisions about all aspects of production, including how much to produce, when, and in what manner.⁵⁸

The third fundamental activity of an economy is consumption. In order to be able to consume, however, one first needs to obtain goods and services. In order to obtain goods and services, one needs buying power and distribution power, acquired through income and redistributed profits.⁵⁹ This redistribution is influenced by history, luck, and nature, as well as by every economic agent's behavior, including how he or she votes.⁶⁰ The influence of each economic [*450] agent's behavior demonstrates human capital's need for a fair and equitable distribution system to enable goods and buying power to meet the needs of the family.

Capitalist theories defending private property propose that because it is a given economic agent who carries out work, he or she "is therefore the owner of it," and "has the right to keep and enjoy" its fruits.⁶¹ Because no one could work having not first received some type of education and/or training, and because "no one can work without the help of others" (i.e., we are social by nature), this justification is flawed.⁶² To some extent, any input of

⁵⁵ Here, the market is understood as any arrangement that enables buyers and sellers to gather information and to do business with each other. American Heritage Dictionary of the English Language 1071-72 (4th ed. 2000).

⁵⁶ See, e.g., Francis Fukuyama, *Social Capital and Civil Society* 3-4 (Int'l Monetary Fund, IMF Institute, Working Paper No. 74, 2000); Bernardo Kliksberg, *The Role of Social and Cultural Capital in the Development Process* 14-15 (Maria Boszco, trans. Univ. of Md. Latin Am. Studies Ctr., *Issues in Culture, Democracy, and Development* No. 3, 2000).

⁵⁷ For a definition of human capital, see *supra* note 54 and accompanying text. Social capital has been defined in several ways. One definition encompassing most of the others is "an instantiated informal norm that promotes cooperation between two or more individuals. The norms ... can range from a norm of reciprocity between two friends, all the way to complex and elaborately articulated doctrines like Christianity or Confucianism." Fukuyama, *supra* note 56, at 3. Already, James S. Coleman, in his seminal paper on social capital, has emphasized both the interrelation that exists between social and human capital as well as the fundamental role that the family plays on their development. Specifically, Coleman states: "There is one effect of social capital that is especially important: its effect on the creation of human capital in the next generation. Both social capital in the family and social capital in the community play roles in the creation of human capital in the rising generation." James S. Coleman, *Social Capital in the Creation of Human Capital*, 94 *Am. J. Soc.* S95, S109 (Supp. 1988).

⁵⁸ Production generally stops if there is no profit or income and is then typically taken over by corrupted individuals or institutions. Recession, capital flight, black markets, and other types of disruptions in the economy are typical features of political and economic instability in developing countries. See, e.g., Leslie Elliot Armijo, *Inflation and Insouciance: The Peculiar Brazilian Game*, 31 *Latin Am. Res. Rev.* 7 (1996).

⁵⁹ There are three ways for this transfer to take place: voluntary payments, which include gifts, theft, as well as taxes and benefits organized by the government. See Mueller, *Redeeming Economics*, *supra* note 36.

⁶⁰ Concerning the issues of luck, history and growth, see, e.g., William Easterly et al., *Good Policy or Good Luck?: Country Growth Performance and Temporary Shocks*, 32 *J. Monetary Econ.* 459 (1993). For a discussion of how choices affect economic growth, see Becker, *Human Capital*, *supra* note 8.

⁶¹ Aguirre, *Family, Economics and the Information Society*, *supra* note 6, at 228.

⁶² *Id.*

production or final good, "is not the economic agent's alone, but some other members of that society have rights upon the same product," beginning with the members of his or her family.⁶³ "This implies that it is possible to find support for the right to private property" based on a person's work, but it does not mean that this right is absolute.⁶⁴ "Private property encourages production and belongs to someone, but the product of this property transcends the owner since he does not work in isolation or for himself alone."⁶⁵

"Production and spending are neither mere 'individual' things ... nor mere 'social' things, but they are human activities and therefore must be directed towards meeting family needs."⁶⁶ When production and spending are not so directed, consumerism or "controlled and planned economies" develop.⁶⁷ Production and spending are instrumental in providing the family with the material means for both subsistence and development.⁶⁸ It is the need to distribute goods that causes the economy to go beyond the needs of the individual, since it is within the family that this need is mainly felt.⁶⁹

[*451] This section has presented the usefulness and shortcomings of neoclassical theory in addressing marriage and family within the economy. In this effort, it has explained how the family affects economic activity. This next section addresses how economic policy affects the family and why the relationship between family and economics matters.

II. Marriage and Family in Economic Policy

What does economic theory have to offer to economic policy in terms of the family? From an economic policy point of view, the family can be approached by looking at the production, exchange, and consumption processes. Becker sees the family as a key element in these processes because it is within the family that human capital is produced. Since human capital is also important for social and moral capital, and economic development and growth cannot be sustained without these three elements, good economic policies with regard to the family are those that foster the healthy constitution, preservation, and development of the family.⁷⁰ It follows that, as with any other aspect of the economy, it is not enough to seek the implementation of remedial policies (i.e., those that seek to solve or assist the victims of disrupted families). Rather, the policies need to foster healthy families so that, in turn, families generate good human capital. In this manner, good policy should aim at fostering healthy families and preventing the social and economic ills that stem from familial disintegration.⁷¹ Family-friendly policies are needed at both the

⁶³ Id.

⁶⁴ Id.

⁶⁵ Id. See also Aguirre, *The Family and Economic Development*, supra note 6, at 6.

⁶⁶ Aguirre, *Family, Economics and the Information Society*, supra note 6, at 227.

⁶⁷ Id.

⁶⁸ Id. at 227-28.

⁶⁹ Id. at 228. Elsewhere, I have argued that it is within the family that the need for distribution is felt most acutely; thus, "it is through the family that the economy transcends the mere individual level... . Distribution within the family is usually carried out through women." Aguirre, *Family, Economics and the Information Society*, supra note 6, at 228. One can see, therefore, the importance of the role of women in the economy: "Woman, because of her characteristics, has the capacity to distribute goods in a just manner, according to the specific needs of each member of the family." Id. This is an important idea when thinking about income distribution theory and policy, as well as about sustainable real economic development.

⁷⁰ It is interesting to note that literature in the area of economic development today typically incorporates social indicators, such as generational equity, causes of death, or family stability to measure the health of an economy. A clear example of this recent shift is the Millennium Development Goals proposed by the United Nations, which include noneconomic indices. United Nations Millennium Declaration, G.A. Res. 55/2, at 5, 8th plen. mtg., U.N. Doc. A/Res/55/L.2 (Sept. 8, 2000) [hereinafter U.N. Millennium Declaration].

⁷¹ In this sense one can say that the end of economic policy with regard to the family cannot be reduced to solving directly the personal and familial problems that follow its disruption. Much less, it can create a welfare dependency on the part of its victims.

microeconomic and the macroeconomic levels. In order to accomplish this, all sectors of society need to be engaged, including the government, religious institutions, and firms, as well as civil societies.

To ensure the design of effective family-friendly economic policies, a clear understanding of the nature of marriage and the **[*452]** family is fundamental. If one conceptualizes the economic nature of marriage as a partnership, as Morse proposes, and the family as a social subject, as Cardinal Trujillo describes it, then some underlying principles can be proposed as policy guidelines.⁷² These include: 1) the government's respect for the fundamental human rights of every person, including the right to freely marry or remain single; 2) the government's respect for the unique and irreplaceable role of marriage and the family in society, which cannot be equalized to other types of cohabiting arrangements; 3) the government's recognition of the social character that the reality of the family entails (i.e., its condition as a social subject); 4) the subsidiary role of the government and any other institution with respect to the family;⁷³ 5) the government's role in creating the conditions that allow families to thrive (e.g., it ought to keep the tax burden on families as low as possible and it ought to create conditions whereby both parents are not forced into the workplace in order to cover the family's basic needs); and 6) the government's recognition of the unique and irreplaceable contribution of both mothers and fathers within the family.

One way in which these principles can be incorporated into economic policy is to treat marriage as a whole-life partnership, where this partnership is understood not as any type of agreement between persons, but as a permanent and legal commitment between a man and a woman from where children can be expected to come. For the sake of children and the health of rising generations, the state, within appropriate limits, should engage in promoting healthy marriages, strengthen and support the institution of the family, and support all families who need assistance.

[*453] Today, a large body of evidence across the social sciences indicates that human beings develop in the healthiest way within a functional family (i.e., with the biological or adoptive mother and father in a stable marriage).⁷⁴ A child's academic and social performance is closely related to the structure of the family in which a person is raised; and such performance is important for the quality of human and social capital.⁷⁵ The psychological stability

⁷² See supra notes 2-5, 20-30 and accompanying text.

⁷³ The principle of subsidiarity states that

a community of a higher order should not interfere in the internal life of a community of a lower order, depriving the latter of its functions, but rather should support it in case of need and help to co-ordinate its activity with the activities of the rest of society, always with a view to the common good.

Pope John Paul II, *Centesimus Annus* [Encyclical Letter on the Hundredth Anniversary of *Rerum Novarum*] P 48 (St. Paul ed. 1991). See also Pope Pius XI, *Quadragesimo Anno* [Encyclical Letter on the Fortieth Anniversary of *Rerum Novarum*] P 79 (1931), reprinted in Claudia Carlen, I.H.M., *The Papal Encyclicals 1903-1939*, at 428 (1981). In this context, it means that economic policies should facilitate the development and fulfillment of the family's functions in society without taking over or substituting its functions with higher levels of society.

⁷⁴ See, e.g., Paul R. Amato & Bruce Keith, *Parental Divorce and the Well-Being of Children: A Meta-Analysis*, 110 *Psychol. Bull.* 26 (1991); William S. Aquilino, *The Life Course of Children Born to Unmarried Mothers: Childhood Living Arrangements and Young Adult Outcomes*, 58 *J. Marriage & Fam.* 293 (1996); Lise M.C. Bisnaire et al., *Factors Associated with Academic Achievement in Children Following Parental Separation*, 60 *Am. J. Orthopsychiatry* 67 (1990); Darin R. Featherstone et al., *Differences in School Behavior and Achievement Between Children from Intact, Reconstituted, and Single-Parent Families*, 27 *Adolescence* 1 (1992).

⁷⁵ See, e.g., Marilyn Binkley & Trevor Williams, U.S. Dep't of Educ., *Reading Literacy in the United States* (1996); David W. Grissmer et al., RAND Inst. on Educ. & Training, *Student Achievement & the Changing American Family* (1994); Thomas M. Smith et al., U.S. Dep't of Educ., *The Condition of Education* (1994).

and health of a child is closely related to healthy families. ⁷⁶ All of these factors are important for workers' productivity, governmental finances, and institutions or social capital (i.e., healthy civil societies). ⁷⁷

Social science research also shows that the breakdown of the family weakens social capital because it accentuates social pathologies. ⁷⁸ Abuse of women and children is more likely to occur in irregular families. ⁷⁹ Men who have witnessed domestic violence **[*454]** are more likely to abuse their own wives and children. ⁸⁰ Non-maternal care increases children's aggressive and violent behavior ⁸¹ and substance abuse and teenage pregnancies are higher in broken families. ⁸² George Akerlof demonstrates how policies that have negative effects on families, and therefore on human capital, are harmful policies. ⁸³ His report argues that the increase in availability of contraceptive devices caused a decline in shotgun marriages, which accounts for a significant portion of the increase in out-of-wedlock births. ⁸⁴ The report analyzes the negative effects that are felt by both those who take advantage of these new policies and those who choose not to do so. He considers the negative effects by examining how they affect the family unit, both in structure and in the production quality of human capital. The results show that these policies caused both a significant shift in the structure of the family, and therefore on the family unit's ability to produce human capital, as well as the "feminization of poverty." ⁸⁵ The breakdown of the family increases poverty, because this significantly increases the probability that women and children will live in

⁷⁶ See, e.g., Sharon K. Houseknecht & Jaya Sastry, Family "Decline" and Child Well-Being: A Comparative Assessment, 58 J. Marriage & Fam. 726 (1996); Yongmin Sun, Family Environment and Adolescents' Well-Being Before and After Parents' Marital Disruption, 63 J. Marriage & Fam. 697 (2001); Marieke Zwaanswijk et al., Factors Associated with Adolescent Mental Health Service Need and Utilization, 42 J. Am. Acad. Child Adolescent Psychiatry 692 (2003).

⁷⁷ See, e.g., Sheetal K. Chand & Albert Jaeger, Int'l Monetary Fund, Aging Populations and Public Pension Schemes (1996); David B. Larson et al., Nat'l Inst. for Healthcare Res., The Costly Consequences of Divorce: Assessing the Clinical, Economic, and Public Health Impact of Marital Disruption in the United States (1995); Aguirre, Family, Economics and the Information Society, supra note 6.

⁷⁸ See, e.g., Akerlof, Men Without Children, supra note 11, at 288.

⁷⁹ Abuse of women is twenty-five times more likely to occur in irregular families. Laura Ann McCloskey reports that in the United States, the mothers and children not living in a traditional family were particularly vulnerable to abuse: "41 percent of the Anglo and 48 percent of the Mexican-American [battered] women had ever been married to their abusive partners." Laura Ann McCloskey et al., A Comparative Study of Battered Women and Their Children in Italy and the United States, 17 J. Fam. Violence 53, 61 (2002). Furthermore, in the United States, child abuse is at least six times higher in irregular living arrangements. See, e.g., Patrick F. Fagan & Kirk A. Johnson, Heritage Found., Marriage: The Safest Place for Women and Children 1 (Backgrounder No. 1535, Apr. 10, 2002), <http://www.heritage.org/Research/Family/BG1535.cfm>. Data available from Great Britain is similar. Id.

⁸⁰ See, e.g., American Psychological Association Presidential Task Force on Violation and the Family, Violence and the Family (1996).

⁸¹ David J. Smith & Susan McVie, Theory and Method in the Edinburgh Study of Youth Transitions and Crime, 43 British J. Criminology 169, 185 (2003).

⁸² See, e.g., Shanta R. Dube et al., Childhood Abuse, Neglect, and Household Dysfunction and the Risk of Illicit Drug Use: The Adverse Childhood Experiences Study, 111 Pediatrics 564 (2003); William H. Jaynes, The Effects of Recent Parental Divorce on Their Children's Consumption of Marijuana and Cocaine, 35 J. Divorce & Remarriage 43, 43 (2001).

⁸³ Akerlof et al., Out-of-Wedlock Childbearing, supra note 11.

⁸⁴ Id. at 278-79.

⁸⁵ Id. at 313. While Akerlof demonstrates how large the impact of policies that negatively impact the family unit is, he fails to see that simply because a policy has been put into effect and had negative consequences does not mean it is impossible to repair the damage. Akerlof argues that once the tide has changed it is too late to go back and reverse the policy, and we must instead move forward from this new point with policies that will not cause more destruction. Id. at 282. David Paton reports similar effects in the United Kingdom. David Paton, The Economics of Family Planning and Underage Conceptions, 21 J. of Health Econ. 27 (2002).

poverty.⁸⁶ Furthermore, the insurance of future generations, as well as the security of the elderly, is put at risk when the family breaks down.⁸⁷

Thus, it is clear that the family is relevant not only to the private sphere but also to the public sphere. Furthermore, as Cardinal [*455] Trujillo's article accurately notes, empirical evidence across the sciences clearly underlines that, from an economic point of view, there is no place for a "relativization of the family ... in which specific social pathologies are becoming accepted as equivalent to the family ... as if these pathologies constituted the same natural reality."⁸⁸ Sustainable economic growth requires marriage and families to be defined as the union between a man and woman in a stable relationship from which children can be expected. Accordingly, one must consider which type of economic policies should be avoided and which should be pursued in modern societies to foster and promote healthy marriages and families.

III. Economic Policies and Their Effects on Marriage and the Family: The Good, the Bad, and the Ugly

A. Developed Countries

Today, the family faces serious challenges both in developed and developing countries. In developed countries, the nuclear family is disintegrating while other types of arrangements, such as single-parent households and cohabitation, have been on the rise.⁸⁹ The changes that have taken place in Western families are familiar to most people and are captured in statistics on fertility, marriage, divorce, cohabitation, out-of-wedlock childbearing, teenage pregnancy, and youth's behavioral pathologies, among others. These changes are also reflected in the rise of welfare expenditures to support those who suffer the consequences of broken families: women and children in poverty, rehabilitation, crime, drug abuse, teenage pregnancy, special education, and aging populations.⁹⁰ Industrialized economies, for the most part, have been supporting new efforts to reverse the negative effects of the weakening of the family and to reinforce this basic unit [*456] of society. Yet policies that seriously weaken the family often co-exist with these new efforts, thus undermining their positive effects.⁹¹

Developed countries seem to be realizing the consequences that the breakdown of the family has had in their societies. Therefore, they are seeking out policies that will help reverse this trend. The evidence shows that neither the modern form of individualism, such as the one prevailing in the United States, which fosters personal autonomy and a self-interested mindset, nor the socialized approach evidenced in numerous governmental policies of the welfare states, such as those in Europe, can create the conditions to strengthen the family. The welfare state "may

⁸⁶ See, e.g., Robert E. Rector et al., Heritage Found., *Increasing Marriage Will Dramatically Reduce Child Poverty* 1 (May 20, 2003), http://www.heritage.org/research/family/upload/CDA_0306.pdf; Aguirre, *The Family and Economic Development*, supra note 6, at 8.

⁸⁷ See, e.g., Nicholas Eberstadt, *Prosperous Paupers & Other Population Problems* (2000); Akerlof, *Men Without Children*, supra note 11.

⁸⁸ Trujillo, supra note 2, at 324.

⁸⁹ For a recent analysis of the state of the family in the developed world, see David Popenoe & Barbara Dafoe Whitehead, *The Nat'l Marriage Project, Marriage and Family: What Does the Scandinavian Experience Tell Us?*, in *The State of Our Unions: The Social Health of Marriage in America* 6 (2005).

⁹⁰ It is true that the European countries that have various family-support and income-maintenance programs in place show a less damaging impoverishment of women and children as a consequence of family breakdown. They have yet to solve the social problems that the breakdown of the family brings, as well as the financial burden that government finances impose. Sweden, for example, which is often presented as the leading example for family policies, has the lowest marriage rate in the world and one of the highest taxation levels. *Id.* at 7.

⁹¹ It is worth noting that the European Union Parliament has denied homosexual couples the right to marry and to adopt children, in this manner sending a clear message of support toward protecting marriage and children. Yet country members of the EU have legalized same sex relationships and even given them the same status as marriage. See, e.g., Nicola Woolcock, *Lesbians Go to Court to Get Marriage Recognised*, *Times* (London), Aug. 12, 2005, at 27.

help to soften the impact of the family breakup, but [it] appears relatively powerless to contain family decline and often even contributes to it." ⁹² In fact, both in the United States, prior to welfare reform, ⁹³ as well as in most European countries, welfare policies were not designed to encourage marriage or to limit family breakup. Rather, they provided few or no economic disincentives to becoming single parents, to cohabitating, or to divorce, while penalizing those who wished to marry and have children within a stable relationship. ⁹⁴ At the same time, particularly in European countries where the welfare policies resulted in harmful situations for children, the policies also provided significant benefits to children. More recently, due to low fertility rates in Europe, welfare policies have also aimed at encouraging women to have children. ⁹⁵ Thus, benefits to child-rearing women, whether married or not, have also increased. However, these types of policies do not necessarily strengthen marriage, and they continue to provide incentives for out-of-wedlock births.

[*457]

B. Developing Countries

Although rising, family breakdown is not as high in developing countries as in the developed world. In developing countries, however, the family faces other types of health and poverty problems. These countries often lack income and assets to attain basic needs such as food, shelter, clothing, and acceptable levels of education and health. They lack access to human assets because they do not have skills and training and, at times, even good health. They also lack access to natural assets such as land. They often do not have access to infrastructure or physical assets such as housing, sewers, electricity, and so forth, as well as to financial structures such as savings and lines of credit. They also have diminished access to social assets such as networks of contacts, political influence over resources, and reciprocal obligations that can be called on in time of need. Finally, they are without old-age security, as they have no access to sound social security systems. In most developing countries, the social security system is provided by the families. Yet, the families themselves are becoming smaller as population control policies are imposed either by a country's own government or by developed countries. ⁹⁶ Furthermore, these policies are

⁹² Popenoe & Whitehead, *supra* note 89, at 14.

⁹³ This welfare reform, called the Federal Welfare Reform Legislation of 1996, established several goals, including an increase in the number of children living with two parents and a reduction in the number of out-of-wedlock children. [42 U.S.C.A. §601\(a\)](#) (West 2003).

⁹⁴ For studies in this area, see Fukuyama, *supra* note 7, at 116; Elise F. Jones et al., *The Alan Guttmacher Inst., Pregnancy, Contraception, and Family Planning Services in Industrialized Countries* (1989); Evelyne Sullerot, *Le grand remue-menage: La Crise de la Familia* (1997); Eva Bernhardt, *Att gifta sig - eller bara bo ihop? [To marry, or just live together?]*, 4 *ValfardsBulletin* 4 (2001); Jan M. Hoen, *Cohabitation in Sweden*, 89:2 *ValfardsBulletin* 435-67 (1997).

⁹⁵ See, e.g., Aguirre, *Family, Economics and the Information Society*, *supra* note 6, at 239, 243.

⁹⁶ Among others, the United Nations has encouraged compulsory population control programs, through its own institution or through other international organizations, as a condition for international aid. Such links are clearly stated in the U.N. international conferences' programs of action such as those at the Fourth World Conference on Women, Beijing, China, Sept. 4-15, 1995, Report of the Fourth World Conference on Women, U.N. Doc A/CONF.177/20/Rev.1 (1996); World Summit for Social Development, Copenhagen, Den., Mar. 6-12, 1995, Report of the World Summit for Social Development, U.N. Doc A/CONF.166/9 (Apr. 19, 1995); International Conference on Population and Development, Cairo, Egypt, Sept. 5-13, 1994, Report of the International Conference on Population and Development, U.N. Doc A/CONF.171/13/Rev.1 (1995). In September of 2000, the United Nations Population Fund (UNFPA) presented a strategic approach entitled *A Global Strategy for Reproductive Health Commodity Security*. The report emphasized the importance of responding to the present crisis in developing countries by increasing access to reproductive health commodities in developing countries, especially contraceptives and condoms. The report's findings have been summarized:

All partners must work together to expand their efforts on both the global and national levels. With UNFPA's leadership and coordination, the success of the efforts of the various partners can be maximized. These broadened efforts are already underway, including the improvement of advocacy and resource mobilization, strengthening of national capacity, and reinforcement of program sustainability and coordination.

often targeted at the poor [***458**] because they are considered the ones in most need of such policy.⁹⁷ Access and the return of these assets not only depend on the behavior of the market, but also on the performance of governmental and private institutions. Their performance, in turn, is closely linked to human, moral, and social capital, as previously mentioned. These problems make families in developing countries highly vulnerable to adverse shocks because they are unable to cope with them.

The approach that international organizations have taken toward dealing with the problems of poverty and the lack of economic development that families face in developing countries is outlined, among other places, in the eight United Nations Millennium Development Goals defined in the United Nations Millennium Declaration.⁹⁸ Two of the main means advanced to deal with these problems have been population control and the promotion of condoms as a means of managing the crises of AIDS and poverty.⁹⁹

[*459] Population control has usually been promoted on two main premises: the existence of an inverse relationship between population growth and development, and the Neo-Malthusian view that sees people as destroyers of resources and violators of environmental limits. The problem, of course, is that the scientific evidence points in the other direction.¹⁰⁰ Empirical evidence suggests that population control hampers the most important resource - population - and sets countries on a path toward an aging population trap.¹⁰¹ The reversal of the age

The Interim Working Group on Reproductive Health Commodity Security, Country Perspectives on the Future of Contraceptive Supplies: Meeting the Challenge 2 (April 2001) (footnotes omitted).

⁹⁷ In some countries, regulation of fertility includes compulsory measures such as forced sterilization, sterilization performed without properly informed consent, contraception, and abortion. Introduction of chemical contraception techniques and the frequent legalization of abortion have been widespread, while policies in favor of welcoming new lives have been weakened. In recent years, Mexico, Peru, Brazil, Guatemala, India, Pakistan, Uganda, Zambia, and several other developing countries have denounced forced sterilization. However, such sterilization measures have not been limited to less developed countries; cases have been found in Sweden among handicapped women as well as in several refugee camps. Based on the information available, the first victims of these programs seem to be innocent and helpless populations. Some of these matters have been dealt with in CLADEM, Nada Personal, Report of Committee de America Latina y el Caribe (1998); Steven W. Mosher, Broken Earth: The Rural Chinese 224-61 (1983); Amartya Sen, Fertility and Coercion, [63 U. Chi. L. Rev. 1035 \(1996\)](#).

⁹⁸ U.N. Millennium Declaration, *supra* note 70, PP 11-23. These include: 1) eradicate extreme poverty and hunger; 2) achieve universal primary education; 3) promote equality of gender and empower women; 4) reduce child mortality; 5) improve maternal health; 6) combat HIV/AIDS, malaria and other diseases; and 7) ensure environmental sustainability of land and air. *Id.* PP 19, 20, 23.

⁹⁹ Proponents of these means contend that this leads to "safe sex." Examples supporting this assessment are numerous, but a good summary is given by Dr. Nafis Sadik, UNFPA Executive Director, who stated that "UNFPA's work is guided by the Cairo agreement, which called on governments to provide universal access to reproductive health care by 2015 as a global human rights imperative." Press Release, UNFPA, U.N. Population Fund Welcomes Restoration of United States Funding in 2000, U.N. Doc. POP/748 (Nov. 23, 1999). Similarly, the Centers for Disease Control and Prevention spent a total of \$ 848 million on "domestic and international HIV/AIDS programs - including research, surveillance, interventions, and evaluation," and it was expected to spend another \$ 871 million in 2002. Fact Sheet, U.S. State Dept., U.S. Government Support for the Fight Against HIV/AIDS, Tuberculosis, and Malaria, <http://www.state.gov/g/oes/rls/fs/2001/3547.htm>. The United States Agency for International Development (USAID) provides approximately one third of all condoms to the developing world through its AIDS prevention efforts. See, e.g., Editorial, A Model of How to Fight AIDS: Success in Thailand Shows Just What Can Be Done, *Herald* (Glasgow), July 7, 2004, at A19.

¹⁰⁰ Analyses at both levels suggest that there is no statistically proven simple relationship between population growth and economic growth, population size and economic growth, population size and resources, or population growth and environment. The absence of a correlation contradicts the conventional Malthusian deductive conclusion. The only persuasive argument in the face of this absence of correlation, as Julian L. Simon points out, is a plausible scenario in which one or more specified variables that have been omitted from the analysis would, in fact, lead to a negative relationship between population growth and economic growth. Thus, results suggest that population growth is not the only relevant variable for development, and thus, empirical evidence suggests that Thomas Malthus' dynamic growth theory has failed. See generally Julian L. Simon, *The State of Humanity* (1995).

pyramid affects several developed countries today, and developing countries are approaching this problem at a much faster rate than developed countries did. Implosion, and the consequent aging in population, brings with it serious problems for developed, and even more so for developing, countries because the latter are poor, have little or no savings, and have no social security. ¹⁰² It is **[*460]** clear that the promotion of population control to obtain sustainable economic development does not help solve the developing countries' problems, but rather, it makes them worse.

C. Public Policy Solutions

Governments can foster and promote the family by using multiple tools: taxes, education, health care, home ownership, and work participation policies, among others. In order to strengthen the family, these policies need to provide families with a more significant role in the decisions that affect both children and parents. Such an approach fosters greater freedom and responsibility, as well as flexibility. Yet, it is important to keep in mind that different groups of people need different types of help, and while policies that are oriented to the prevention of family ills are important, broken families remain a reality that needs to be addressed by both the public and the private sector.

Tax policies that have been helpful in strengthening the family include lessening the tax burden on families through the increase of child tax credits, the lowering of federal income tax rates, and the reduction of the marriage penalty, which taxed a working married couple more than if both were single. ¹⁰³ Unfavorable tax policies for marriage and families and high fertility rates within families were key disincentives to marry in both the United States and Europe. ¹⁰⁴ It is through implementation of these tax policies that the importance of recognizing the whole-life partnership of the family becomes manifest.

Other economic incentives directed toward an increase in the number of children per family include additional economic support to mothers with young children, ¹⁰⁵ subsidies for large families, and child-care policies. ¹⁰⁶

¹⁰¹ The causes of the aging population trap are complex. Some of the causes are living conditions and sociocultural changes, including: (1) decreased infant mortality; (2) sharply increased mean age at which women first give birth; and, (3) in developed countries, a widespread attitude that keeping a certain quality of life is more important than having children. Ben J. Wattenberg, *The Birth Dearth* 116-30 (1987). Wattenberg describes the paradox that although Americans now have more money with which to raise a child than in past generations, some people believe that "it costs so much to raise a child these days." *Id.* at 128.

¹⁰² Some of these problems include: 1) a need to support an aging population that is less active and has a greater need of healthcare and medical services (if one adds to this the fact that most social security systems are predominantly of the pay-as-you-go type, the absence of younger generations endangers the possibility of supporting the older population); 2) a decrease in savings; 3) the resort to euthanasia to solve some of these problems; 4) tension between the young and somewhat older people, as the latter try to protect their jobs while younger generations enter into reduced job markets; 5) a decrease in education, as governments cut back on the money allocated for the training of new generations in order to provide for the economic burden of the elderly; 6) danger of "moroseness"; 7) the problem of increasing illegal immigration into population-imploding countries; and, 8) increasing loneliness among the population because of small families and the reduction of extended family. Jean Bethke Elshtain, *What's at Stake in the Family Debate? Family Autonomy and the Civil Good*, Remarks to the World Congress of Families II, 1999 Geneva, Switzerland, http://www.worldcongress.org/wcf2_spkrs/wcf2_elshtain.htm.

¹⁰³ See, e.g., James Alm & Leslie Whittington, *Income Taxes and the Timing of Marital Decisions*, 64 *J. Pub. Econ.* 219 (1997) (study of the United States); Damien Echevin, *L'individualisation de l'impôt sur le revenu: équitable ou pas?*, 160 *Economie et Prévision* 149 (2003) (study of Europe).

¹⁰⁴ For a study of these differences, see Cathal O'Donoghue & Holly Sutherland, *Accounting for the Family in European Income Tax Systems*, 23 *Cambridge J. Econ.* 565 (1999).

¹⁰⁵ The Integrated Plan for the Support of the Family, 2001-2004, approved in Spain in 2001, included all of these incentives. Informe: Plan Integral de Apoyo de la Familia 2001-2004, in 40 *Revista del Ministerio de Trabajo y Asuntos Sociales* 105 (2002).

¹⁰⁶ Most of France's family policies are directed to reinforcing family support. For example, "as of 1999 ... all families with at least two children receive family subsidies independent of their income level... [France] also extends child-support to parents to 19 years of age, or 20 if the dependent is a student. [France] also expands credits and subsidies for family housing." Aguirre, *Family, Economics and the Information Society*, *supra* note 6, at 243.

[*461] Regarding education, vouchers provide low-income families, as well as large families, with the possibility of sending children to the schools of their choice, especially where schools do not meet acceptable standards. At the same time, vouchers reduce the education penalty for those parents who choose to send their children to private schools and who are already funding public education through property taxes or income taxes. The presence of an education penalty is especially true in the United States.¹⁰⁷ Similarly, access to new technologies and means of communication that could improve the quality of life for families and help integrate them into the labor force are important.¹⁰⁸ These plans should not only target schools, libraries, and the heads of households, but also youth, homemakers, and the elderly. Professional training is often an effective way to raise families out of poverty and dependency. Its implementation, however, cannot be generalized, as its success depends on the effectiveness of the program in addressing cultural, as well as geographical, characteristics.¹⁰⁹

Health care provision is of utmost importance to promote healthy families. Practically all governments around the world provide free health care, but this does not always meet a minimum standard.¹¹⁰ In countries where health care is not socialized, policies that lower medicine costs, especially for the elderly, and that monitor health care providers in order to avoid monopolies or any other type of abuse of the market, have proven to help the family.

An important factor that contributes to adolescent academic achievement and health is adolescent success in postponing sexual activity until marriage, thus reducing the rates of adolescent pregnancies. Good choices during the early years pave the way to healthy families in the future.¹¹¹ Also, in view of the aging population problem and as a transitional measure while the pyramid is inverted **[*462]** once again, the establishment of health savings accounts for the general population could help alleviate the health care burden that so many families suffer around the world, as well as the social welfare cost that countries with aging populations are facing or will soon face.¹¹²

Redistribution of income toward the victims of family disruption is not enough. Thus, developing and implementing legislation that supports families vis-a-vis other types of arrangements is very important. Together with policies addressing education and health, policies directed to supporting healthy marriages need to be developed. Such approaches seek to strengthen marriage and the family in a manner that is preventive and forward-looking. In the United States, as well as in the United Kingdom, policies have been implemented that seek to help couples gain access to services through which they can acquire the skills and knowledge necessary to form and sustain healthy marriages.¹¹³ Funds are made available to different levels of government, as well as to communities and faith-

¹⁰⁷ For a detailed discussion of vouchers, see Jennifer Buckingham, *Families, Freedom and Education: Why School Choice Makes Sense* (2001).

¹⁰⁸ For the positive effects of access to technology, see Martin Carnoy, *Sustaining the New Economy: Work, Family, and Community in the Information Age* (2000).

¹⁰⁹ Interesting studies in this area include *Communities and Workforce Development* (Edwin Melendez ed., 2004); Giovanni L. Violante, *Technological Acceleration, Skill Transferability, and the Rise in Residual Inequality*, 117 *Q.J. Econ.* 297 (2002).

¹¹⁰ A good study of health care provision and its relevance can be found in Uwe E. Reinhardt, *Can Efficiency in Health Care Be Left to the Market?*, in *Uncertain Times: Kenneth Arrow and the Changing Economics of Health Care* 111 (Peter J. Hammer et al. eds., 2003).

¹¹¹ For the negative effects of premarital sex, see Akerlof et al., *Out-of-Wedlock Childbearing*, *supra* note 11, at 280. See also Paton, *supra* note 85.

¹¹² For a summary of the debate around the pros and cons of health care saving accounts, see Institute for Health Freedom, *Pros and Cons of Health Savings Accounts (HSAs)*, Aug. 23, 2004, <http://www.forhealthfreedom.org/Publications/HealthIns/HSAsProsCons.html>.

¹¹³ In 2000, the President proposed the Healthy Marriage Initiative, which has an emphasis on prevention rather than remedial efforts. See, e.g., Robert Pear & David D. Kirkpatrick, *Bush Plans \$ 1.5 Billion Drive For Promotion of Marriage*, *N.Y. Times*, Jan. 14, 2004, at A1. Similarly, in 1998, the United Kingdom released a report entitled *Supporting Families*, advancing a proposal to create an Institute for Family and Parenthood to advise parents in matters regarding the education of children. It also proposed the elimination of the 24-hour notice of civil marriage and the introduction of preparatory classes, so as to encourage couples to

based organizations, in order to conduct public education that addresses the importance of marriage. This education manifests as premarital education and marriage enrichment programs to help couples develop the skills and knowledge necessary to form and sustain healthy marriages. These funds also provide targeted outreach programs to troubled marriages so that couples do not opt for divorce as the only alternative when they experience marital distress. Similarly, support for healthy families is integrated into social service programs, such as child welfare programs, in order to reduce child abuse and neglect. Support is similarly integrated into adoption programs and child support enforcement programs. These last programs especially can contribute to reinforcing the role of the father within the family, since typically it is the mother who keeps [*463] custody of the child in the event of a separation or divorce. The father's contribution to children extends beyond just financial provisions because fathers make valuable social, emotional, and psychological contributions to their children's lives.

Homeownership is relevant for the economic development of low-income families. By providing collateral, homeownership opens the possibility of access to credit. Meanwhile, homeownership policies are typically directed toward disadvantaged families. Typically, these policies require the coordination of both local and federal governments because they are the first groups that are responsible for urbanization plans. In order for these policies to be effective in supporting the family, they must reflect the need to expand the supply, design and availability of subsidized housing, preferably for ownership over renting, in order to accommodate large families and provide a safe community life in neighborhoods.

In the area of work participation, not only do the policies regarding the training and education of the unemployed family members need to be addressed, but more importantly, the work structure itself must be addressed.¹¹⁴ In this area, much remains to be done. An important change in paradigm is required if these policies are to effectively address the family's needs. The needs of the different individuals who compose the household should be considered not in isolation, but as a whole, thereby approaching the family as a social subject rather than on an individualistic basis. In this manner, the work structures will attend not to the needs of only men or only women, or only children, but to the spouses and their children together, as a social subject. Holland and the United States have both introduced, as a labor right, parental leave for family needs, thus giving rise to "family days" benefits. The goal is to help parents balance their family obligations with their work obligations.¹¹⁵

At the private sector level, businesses are also responding to the need to strengthen the family. They feel firsthand the consequences of family disruption. Some of these initiatives taken include systems [*464] of flexible working hours for men and women, work sharing, the provision of facilities to allow women to work from their home some days of the week, in-house child care, and the extension of maternity leave with an option to work on a part-time basis for an additional period of time.

To be successful, however, these policies require an understanding and treatment of the family as a social subject (whole-life partnership), and of individuals, not as solely self-interested objects, but as ends (as captured by the distribution function).

Conclusion

Economic growth is an outcome of more than economic processes. It is an outcome of economic, social, and political processes that interact with and reinforce each other in ways that worsen or ease the achievement of

become aware of their rights and duties in marriage. See Ceridwen Roberts, General Monitoring Report 2004, Families in the UK: Policies, Challenges and Opportunities 12 (2004) (on file with the Ave Maria Law Review).

¹¹⁴ See, e.g., Fukuyama, supra note 7; Aguirre, Family, Economics and the Information Society, supra note 6.

¹¹⁵ On average, women work more hours than men in both developed and developing countries and spend more hours in non-market activities, mainly in their homes. U.N. Development Programme, Human Development Report 2003, Millennium Development Goals: A Compact Among Nations to End Human Poverty 326 (Sakiko Fukuda-Parr ed., 2003). On average, women in developing countries work approximately fifteen percent more hours per day than men and they allocate about sixty percent of their time toward non-market activities. Id. In developed countries, the difference is five percent, but women still allocate sixty-four percent of their time toward non-market activities. Id.

economic growth and development. To achieve growth, opportunities need to be promoted, empowerment at all levels facilitated, and stability ensured. This requires action at local, national, and global levels.

The most basic manifestation of the sociability of man is the family. From an economic policy point of view, both marriage and the family are important because healthy families are essential. They have a direct impact on human, moral, and social capital, and therefore, on resource use, economic activity, and economic structures. In his article, Cardinal Trujillo underlines two important elements of the family that are especially relevant to the economic analysis of marriage and the family - the fact that the family is a social subject and that its members cannot be treated as objects.

Evidence seems to suggest that when the family is framed within an individualistic understanding of the human person, the natural sociability of man is reduced to utility, which in turn leads to the view of relationships as an exchange of commodities for the sake of utility maximization. Until recently, mainstream economic analysis and policy have fallen into this mistaken view, which is particularly damaging with respect to marriage and the family. This article analyzed some of the approaches that mainstream economic theory has taken in studying marriage and the family, and proposed a possible solution to the understanding of the family within neoclassical theory. This proposal, drawing from Morse and Mueller, captures the economic reality of the family in its full dimension. These scholars introduce two important economic concepts. First, [*465] they promote the understanding of the family within the economy as a partnership, a whole-life partnership, of a precise form reflects the nuclear family (i.e., a mother and a father living together in a stable relationship with their biological children). Second, they introduce the distribution function that allows for the analysis of the relationship between persons ("gifts") that also takes place within the family.

The introduction of the distribution function, as proposed by Mueller, provides an important tool to economic theory. The approach to marriage and family as a whole-life partnership, rather than as separated individuals, seems advantageous to family policy design in that it better captures the reality of the family within the economy. Empirical data indicate that when economic policy is indifferent to - or undermines - family structure, the consequences for the economy of a country are disastrous and economic growth becomes unsustainable. Population control policies, such as those being implemented in developing countries, do not contribute to real economic development, but on the contrary, contribute to the deterioration of the family. The results, therefore, suggest by contrast that when the family is considered as a fundamental good and defended, sound economic policy is developed and real economic growth is made possible. This stems from the fact that a well functioning family is essential for economic activity. Policy shapes behavior; thus, it is in the interest of policymakers to take a preventive approach to family policy in order to ensure the health of future generations and to strengthen the present one.

All the same, it is important to keep in mind that macroeconomic policy design (such as health care, taxes, education, population policies, etc.), although important because of the extent of its impact, is not the only aspect to be considered in economic activity. Policies at state and local levels, such as education programs, sanitation, property taxes, and sales taxes, and at the private corporation level, such as maternity leave, stock share, flexible hours, family benefits, etc., are extremely important as well, and at many times have a heavier weight on the individual family decision-making process.