

2013

Why We Should Raise the Marriage Age

Vivian E. Hamilton

William & Mary Law School, vhamilton@wm.edu

Repository Citation

Hamilton, Vivian E., "Why We Should Raise the Marriage Age" (2013). *Popular Media*. 123.
https://scholarship.law.wm.edu/popular_media/123

Copyright c 2013 by the authors. This article is brought to you by the William & Mary Law School Scholarship Repository.
https://scholarship.law.wm.edu/popular_media

- Concurring Opinions - <http://www.concurringopinions.com> -

Why We Should Raise the Marriage Age

Posted By [Vivian Hamilton](#) On January 30, 2013 @ 6:31 pm In [Family Law, Uncategorized](#) | [6 Comments](#)

[¹]My last series of [posts](#) [²] argued that states should lower the voting age, since by mid-adolescence, teens have the cognitive-processing and reasoning capacities required for voting competence. But that is *not* to say that teens have attained adult-like capacities across all domains. To the contrary, context matters. And one context in which teens lack competence is marriage.



Through a single statutory adjustment — raising to 21 the age at which individuals may marry — legislators could reduce the percentage of marriages ending in divorce, improve women’s mental and physical health, and elevate women’s and children’s socioeconomic status.

More than 1 in 10 U.S. women surveyed between 2001 and 2002 had married before age 18, with 9.4 million having married at age 16 or younger. In 2010, some 520,000 U.S. teens were married, divorced, or widowed. In an [article](#) [³] published last month, *The Age of Marital Capacity: Reconsidering Civil Recognition of Adolescent Marriage*, I describe more fully the social costs of early marriage and argue for an end to the practice.

The High Costs of Early Marriage

For decades, age at marriage has been the most consistent and unequivocal [predictor](#) [⁴] of marital failure. Of marriages entered at age 25 or later, fewer than 30% end in divorce. Of marriages entered before age 18, on the other hand, nearly 70% [end](#) [⁵] in divorce. The earliest marriers, those adolescents who enter marriage in their mid-teens, experience marital failure rates closer to a sobering 80%. Not until age 22 does marital stability improve significantly and do marriage dissolution rates begin to level off.

The costs of child marriages (entered before age 18) and early marriages more generally (entered at age 21 or younger) extend beyond their dissolution. Early marriers are more likely than those who delay or avoid marriage to discontinue their formal educations prematurely, earn low wages, and live in poverty. Women who marry early develop more mental and physical health problems than those who marry later. And following divorce, mothers (and their children) tend to suffer greater economic deprivation and instability than do their never-married counterparts. (See [here](#) [³], pp. 1799-1806)

Neither attaining age 18 (the near-universal age of presumptive marital capacity) nor obtaining the consent of parents and/or judges (generally required for those individuals seeking to marry before age 18) has an observable effect on marital stability. Only delay and factors integrally associated with it — such as more years of education — reliably increase marital stability.

Causes of Early Marriage Instability

Why are marriages entered at earlier ages so unstable? And what can be done about it? The answer to the first question is complicated; the answer to the second question is not.

Adolescents have the cognitive capacity to understand the nature of and consent to enter marriage. Yet modern marriage demands relationship skills and requires levels of emotional maturity that were not required to sustain the marriages of the past. (For those interested in the evolution of marriage in the United States, see [here](#) [³], pp. 1789-97.) Adolescents lack

these capacities. Instead, adolescent cognitive maturity exists alongside socio-emotional immaturity. Developmental neuroscientists have begun to explain the neurological bases for the coexistence of these characteristics and now posit that two neural systems develop along different timelines. Psychologists too have long observed that during adolescence, individuals' commitments and relationships tend to be in flux as they engage in a period of identity exploration that extends into the early 20's. The development *before* marriage of personal identity and relational skills, which comes only with time and life experience, seems to improve the likelihood of marriages' success and endurance. (For a discussion of the age-related attainment of marital capacity, see [here](#) ^[3], pp. 1810-16)

Adolescents, moreover, will not have attained the postsecondary education or work experience increasingly required to obtain well-paying work in our information- and technology-based post-industrial economy. Women who marry before age 19 are 50% [more likely](#) ^[6] to drop out of high school than are their unmarried counterparts, and 4 times less likely to complete college. Low-paying work and occupational instability hinders the ability to support a family, and financial insecurity stresses the marital relationship.

Higher educational attainment, on the other hand, seems to have a [protective effect](#) ^[7] against marital instability, and that protective effect has grown significantly in recent decades. Among white individuals, having at least 16 years of education (compared to having less than 12) reduced the odds of marital failure by 39% between 1990 and 1994, compared with an 8% reduction between 1970 and 1979. For African Americans, the protective effect of education is even greater — 16 years or more correlated with a 75% reduction in the odds of marital failure between 1990 and 1994, compared with 19% between 1970 and 1979.

The median age at first marriage has steadily risen to what are now historic highs for both men and women (to 28 for men, and 26 for women), evincing popular acknowledgement of, and adaptation to, the new social context of marriage. The continued existence of too-early marriages, however, unnecessarily imposes significant costs — on early marriers, their children, and society. The state does well to respect individuals' life choices, even when improvident. When those choices impose sufficiently high costs on others, however, the state and its legal institutions abrogate their proper roles by failing to respond appropriately. The high costs imposed by early marriage require a legal response through which the law, too, adapts to the new social context within which its members enter and endeavor to sustain marriage.

A Proposal

States should consider raising the presumptive age of marital capacity to 21 or 22. Empirical [evidence suggests](#) ^[4] that delaying marriage to 22 would result in the most effective increase in stability. Stability continues to improve every year after 22, but at a much slower rate. At the same time, a number of age-related rights already accrue at 21. Given its current existence as a marker of maturity of sorts, then, there may be less political resistance to having the right to marry also accrue at 21.

States would also do well to remove altogether statutory exceptions allowing adolescents younger than 18 to marry. Again, however, given that age 18 is currently the age of legal majority in most states, there may be less resistance to a policy change that sets 18 as the minimum marital age, but that requires young people aged 18-20 to obtain judicial (not parental) approval before obtaining a marriage license. Parental approval has provided little or no safeguard against the instability of early marriages. Statutes might thus impose clearer (and higher) standards for judicial approval.

Law is only one of the influences on family formation, but legal change bringing the marital age in line with the modern social institution will go far to alleviate the strain on individuals and cost to society imposed by early marriage.

Image: <http://www.sxc.hu/photo/1056041>

Article printed from Concurring Opinions: <http://www.concurringopinions.com>

URL to article: <http://www.concurringopinions.com/archives/2013/01/why-we-should->

raise-the-marriage-age.html

URLs in this post:

- [1] Image: **<http://www.concurringopinions.com/archives/2013/01/why-we-should-raise-the-marriage-age.html/6-teen-marriage>**
- [2] posts: **<http://www.concurringopinions.com/?p=69423>**
- [3] article: **http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2079045**
- [4] predictor: **<http://search.ebscohost.com/login.aspx?direct=true&db=a9h&AN=6491824&site=ehost-live>**
- [5] end: **http://www.clasp.org/admin/site/publications_archive/files/0087.pdf**
- [6] more likely: **<http://search.ebscohost.com/login.aspx?direct=true&db=a9h&AN=53070097&site=ehost-live>**
- [7] protective effect: **<http://www.jstor.org/stable/3600218>**

Copyright © 2010 Concurring Opinions. All rights reserved.