

July 2015

Beyond the Sex-Ed Wars: Addressing Disadvantaged Single Mothers' Search for Community

Helen M. Alvaré

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Alvaré, Helen M. (2011) "Beyond the Sex-Ed Wars: Addressing Disadvantaged Single Mothers' Search for Community," *Akron Law Review*: Vol. 44 : Iss. 1 , Article 5.

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**BEYOND THE SEX-ED WARS: ADDRESSING
DISADVANTAGED SINGLE MOTHERS' SEARCH FOR
COMMUNITY**

*Helen M. Alvaré**

I. Introduction: Births to Single Women, Privacy Discourse and the Common Good.....	168
II. Single Mothers' Testimonies, Programs that Work, and The Empirical Data Linking Self-Donation and Human Flourishing.....	177
A. Data By and About Single Mothers.....	178
1. Gender Distrust and Sexual Decisions	178
2. Romantic Partner Means Baby	180
3. Taking on the Motherhood Mindset	182
4. The Crucial Role of the Baby – Personal Fulfillment and Becoming a Good Citizen of the Community	183
5. Sex as Nonmoral, Mothering as Very Moral.....	187
B. Caring is Flourishing	189
C. Successful Governmental Programs and Ameliorating Factors which Indicate the Role Played by Community Connections and Status.....	195
III. Current Messages: Learn This and Take Care of Number One	201
A. Sex Is About Choosing To Do Or Not To Do Individual Actions Involving Particular Body Parts; It Is Not Mostly About Relationships.....	205
B. Sex Is About Self-Maximization	209

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IV. Conclusion: Acknowledging Single Women's Community-Facing Orientation.....212

I. INTRODUCTION: BIRTHS TO SINGLE WOMEN, PRIVACY DISCOURSE AND THE COMMON GOOD

Single mothers seem irrational to the political and the educated classes. Contraception is all around them, and they have a constitutional right to use it.¹ A large number of well-intentioned educators and community leaders, not to mention politicians and health professionals, stand ready to help young women learn all about their reproductive biology and methods of contraception, to boost their communications and refusal skills, and to occupy their time during the hours they are unsupervised by their parents. Furthermore, a huge amount of literature documents the emotional, educational, financial, and relational difficulties experienced on average by children born to single mothers, disadvantages which are not solely a function of their parents' income.² Not only social science experts, but also political and religious leaders, seem to have reached a rough consensus that single parenthood is best avoided. According to the summary offered by the Centers for Disease Control: "Children born to single mothers typically have more limited social and financial resources."³ Furthermore, this rough consensus regularly appears in the popular press.

The social welfare costs of single motherhood have also garnered their share of national attention, most prominently in recent years, via the efforts leading up to the passage of the 1996 "welfare reform" law (the Personal Responsibility and Work Opportunity Reconciliation Act⁴). Furthermore, states are grappling with the high costs of child

1. Eisenstadt v. Baird, 405 U.S. 438, 452-53 (1972).

2. See, e.g., Sara MacLanahan and Irwin Garfinkel, *The Fragile Families and Child Well-Being Study: Questions, Design and a Few Preliminary Results* 4, 10 (May 2000) (Institute for Research on Poverty, Discussion Paper No. 1208-00); Ming Wen, *Single-Parent Family Structure, Child Development, and Child Well-Being*, (Aug. 12, 2005) (Extended Abstract presented at the American Sociological Assn. Phila.); Sara MacLanahan, *The Consequences of Single Motherhood, in Sex, Preference, and Family*, in *ESSAYS ON LAW AND NATURE* 306, 310 (David M. Estlund & Martha C. Nussbaum eds., 1997).

3. Stephanie J. Ventura, *Changing Patterns of Nonmarital Childbearing in the United States*, Data Brief No. 18, NAT'L CENTER FOR HEALTH STAT, May 2009 at 1 (citing SARA MCLANAHAN, U.S. DEPT. OF HEALTH AND HUM. SERVICES, DHSS 95-1257 *THE CONSEQUENCES OF NONMARITAL CHILDBEARING FOR WOMEN, CHILDREN, AND SOCIETY*, in NATIONAL CENTER FOR HEALTH STATISTICS REPORT TO CONGRESS ON OUT-OF WEDLOCK CHILDBEARING (1995)).

4. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No.104-93, 110 Stat. 2105.

support collection.⁵ The state of California alone budgeted 945 million dollars in the current fiscal year, for the administrative costs of collecting child support for the children of divorced and never-married households.⁶ According to the U.S. Department of Health and Human Services (“HHS”), during fiscal year 2007, the federal government and all state governments together spent approximately 5.6 billion dollars to collect 25 billion dollars owed in child support.⁷ A 2008 report compiled by the National Fatherhood Initiative maintains that the federal government spends about 99.8 billion dollars per year for fourteen federal social welfare programs directed to father-absent families.⁸

Additionally, some social scientists are now worried about an emerging and possibly intransigent cultural and economic divide between the more- and the less-educated and between the wealthy and the poor, based upon who bears children within marriage and who does not.⁹ Marriage is associated with a host of economic, emotional and social advantages,¹⁰ but poor women and women of color give birth outside of marriage far more often than their more privileged sisters. In 2006, nonmarital birth rates among single women varied drastically according to race and ethnicity. The figures were: 72 per 1000 African American women of child-bearing age, 106 per 1000 Hispanic women, and 32 per 1000 non-Hispanic white women.¹¹ A mere 7% of college-

5. See, e.g., John Witte Jr., *Sex May Be Free, But Children Come with a Cost We Must Accept*, ATLANTA J.-CONSTITUTION, Aug. 10, 2008, at C1; CARMEN SOLOMON-FEARS, NONMARITAL CHILDBEARING: TRENDS, REASONS, AND PUBLIC POLICY INTERVENTIONS, S. Rep. No. 110-34756, at 2 (2008); Steven L. Nock & Christopher J. Einolf, *The One Hundred Billion Dollar Man: The Annual Public Costs of Father Absence*, THE NAT'L FATHERHOOD INITIATIVE, 3, 11 (June 2008), <http://www.fatherhood.org/Page.aspx?pid=743>.

6. See Memorandum from Linda Adams, Budget Officer, Cal. Dept. of Child Support Serv. to the Recipients of the May 2009 Revisions of the 2009-10 Governor's Budget Table 1 (May 19, 2009).

7. See *Administration for Children and Families, Office of Child Support Enforcement*, U.S. DEPT. OF HEALTH AND HUM. SERVICES, http://www.acf.hhs.gov/opa/fact_sheets/cse_factsheet.pdf.

8. Nock & Einolf, *supra* note 5, at 3.

9. See, e.g., KAY HYMOWITZ, MARRIAGE AND CASTE IN AMERICA: SEPARATE AND UNEQUAL FAMILIES IN A POST-MARITAL AGE 15-30 (2006); W. Bradford Wilcox, *The Evolution of Divorce*, NAT'L AFFAIRS, 89-91 (Fall 2009), available at <http://www.nationalaffairs.com/publications/detail/the-evolution-of-divorce>; Amy L. Wax, *Engines of Inequality: Class, Race, and Family Structure*, 41 FAM. L. Q. 567, 574-75 (2007); W. Bradford Wilcox, *The Real Pregnancy Crisis*, WALL ST. J., May 22, 2009, available at <http://online.wsj.com/article/SB124294779002345281.html>.

10. HYMOWITZ, *supra* note 9, at 15-30; MAGGIE GALLAGHER & LINDA WAITE, THE CASE FOR MARRIAGE: WHY MARRIED PEOPLE ARE HAPPIER, HEALTHIER, AND BETTER OFF FINANCIALLY (2000).

11. Ventura, *supra* note 3, at 3.

educated women gave birth outside of marriage as compared with 50% of women who did not go to college.¹²

Despite, decades of intervention by various state and private actors—particularly in disadvantaged communities experiencing the highest rates of nonmarital births—the national rate of nonmarital births has continued to climb, reaching a “historic peak,”¹³ of nearly 40% in 2007.¹⁴ This represents a 26% increase since 2002, led by women in their twenties and thirties¹⁵; teenagers accounted for only 23% of such births, with the highest rates among single women 18- to 19-years-old.¹⁶

Responses to these figures by various entities dedicated to curbing non-marital births are not satisfying. They have generally involved pledges either to tweak or expand current responses, or, to promote a narrower band of programs for adolescents—i.e., programs which are “evidence based.”¹⁷ In this spirit, for example, HHS announced reported in September 2010 that an office for teen pregnancy prevention (“Office of Adolescent Health”) now elevated to the Office of Assistant Secretary for Health, would promote programs “shown to be effective through rigorous evaluation,” via grants totaling 155 million dollars in the current fiscal year.¹⁸ The National Campaign to Prevent Teen and Unplanned Pregnancy (“the National Campaign”), arguably the most respected national organization dealing with nonmarital pregnancy,¹⁹ and the one most closely cooperating with the federal government, emphatically endorsed these moves, in addition to calling for improved abstinence and birth control messages, better promotion of positive alternatives to pregnancy (i.e., education and a good job), more strenuous efforts to gain parental involvement, and improved

12. Lisa Mincieli, Jennifer Manlove, Molly McGarrett, Kristin Moore & Suzanne Ryan, *The Relationship Context of Births Outside of Marriage: The Rise of Cohabitation*, CHILD TRENDS RESEARCH SEARCH BRIEF, 2 fig. 3 (May 2007), http://www.childtrends.org/Files/Child_Trends-2007_05_14_RB_OutsideBirths.pdf/.

13. Brady E. Hamilton, Joyce A Martin & Stephanie J. Ventura, *Births: Preliminary Data for 2007*, 57 NAT'L VITAL STAT. REP 1, 2 (2009); see also Ventura, *supra* note 3, at 2, 6.

14. Hamilton, Martin & Ventura *supra* note 13, at 3, 6 & tbl.1; See also Ventura, *supra* note 4, at 6.

15. Ventura, *supra* note 3, at 2 & fig.2.

16. *Id.* at 1-2 & fig.2.

17. COMM. ON APPROPRIATIONS, 111TH CONG. SUMMARY: FY 2010 LABOR, HEALTH AND EDUCATION APPROPRIATIONS CONSOLIDATED APPROPRIATIONS BILL 4 (Comm. Print 2008), available at http://appropriations.house.gov/images/stories/pdf/press/laborhealth/FY10_LHHS_Conference_Summary.pdf.

18. See *News Release, HHS awards evidence-based pregnancy prevention grants*, U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, <http://www.hhs.gov/news/press/2010pres/09/20100930a.html>.

19. See generally, THE NATIONAL CAMPAIGN, <http://www.thenationalcampaign.org>.

cooperation from the media in presenting an accurate portrayal of the risks and consequences of nonmarital sex.

Another regular but inadequate response to news of soaring nonmarital birth rates is a bout of public sparring between supporters of “abstinence” sex education and supporters of “comprehensive” sex education.²⁰ Speaking very generally, abstinence education does not recommend birth control to single women; it primarily offers information and skills related to avoiding sexual intercourse, although it sometimes describes birth control methods with an emphasis on their risks and shortcomings. Comprehensive sex education on the other hand, recommends abstinence to a greater or lesser degree, but tends more to emphasize the proper and consistent use of birth control, on the assumption that it is unrealistic to believe that young, single women and men will choose to remain abstinent until marriage. Proponents of either type regularly (and vehemently) blame the other for continuing high rates of births to single mothers. Expert observers of this ongoing debate suspect that its ferocity plays a role in preempting different approaches to solving the problems associated with high rates of nonmarital birth rates.²¹ Furthermore, neither approach seems to be making significant headway against a several-decades-long record of increasing rates of nonmarital births, even if there did occur improvement in the rates of teen births rates as between 1991 and 2006.²² With regard to abstinence strategies, despite very recent reports

20. See, e.g., competing groups’ reactions to report of 2007 increase in the rate of nonmarital pregnancies. A large portion of the reaction involved mutual recriminations. The U.S.’s largest provider and advocate of contraception and legal abortion, Planned Parenthood, took the occasion to bash abstinence programs, and abstinence programs returned the favor, pointing out that contraceptive education is far more prevalent and enjoys a 4 to 1 funding advantage over abstinence in the United States. *Planned Parenthood Calls for Comprehensive Sex Education on Eighth Annual National Day to Prevent Teen Pregnancy*, PLANNEDPARENTHOOD.ORG, (May 8, 2009), <http://www.plannedparenthood.org/about-us/newsroom/local-press-releases/planned-parenthood-calls-comprehensive-sex-education-eighth-annual-national-day-prevent-teen-pr-26960.htm> [hereinafter *Eighth Annual*]; *Teen Pregnancy Rates Demand Honest Look*, ABSTINENCE ASSOC., http://www.abstinenceassociation.org/newsroom/032409_teen_pregnancy_rates_demand.html (claiming that 68% of nation’s schools have sex education which includes contraceptive instruction); SIECUS 2008 report listed among its first nine Highlights of 2008, ways SIECUS countered abstinence education. *SIECUS 2008 Annual Report*, SEXUALITY INFO. AND ED. COUNCIL OF THE U.S., 6-7 (2008), available at http://www.itsthewatsons.com/cmsdocuments/Siecus_AR08_fin.pdf.

21. *Reducing Nonmarital Births: Hearing Before the Subcomm. on Human Resources of the Comm. on Ways and Means H.R.*, 106TH Congress 25 (1999) (statement of Richard P. Nathan position Nelson A. Rockefeller Institute of Government); *Reducing Nonmarital Births: Hearing Before the Subcomm. on Human Resources of the Comm. on Ways and Means H.R.*, 106th Cong. 68 (1999) (statement of Isabel Sawhill, Senior Fellow, Brookings Institution and President of the National Campaign to Prevent Teen Pregnancy).

22. COMM. ON APPROPRIATIONS, 111TH CONG., SUMMARY: FY 2010 LABOR, HEALTH AND EDUCATION APPROPRIATIONS CONSOLIDATED APPROPRIATIONS BILL, at 4 (Comm. Print 2008)

about the success of one type of abstinence program among very young African American adolescents,²³ there has been little widely-accepted evidence that abstinence programs significantly reduce the number of sexual encounters or pregnancies among single women over an extended period of time.²⁴

With regard to comprehensive sexuality education, even the current president of the National Campaign, Sarah Brown, has been reduced to equivocal statements about the effects of contraceptives-focused programs, stating: “It is unlikely that careful evaluation would find no net effect on unintended pregnancy.”²⁵ A comprehensive Congressional Research Service report in 2008 stated: “In general, the use of contraceptives has increased substantially over the last twenty years and women have become more proficient in properly using contraceptives. Thus, contraceptive misuse or non-use is not discussed in this report as a reason for increased nonmarital childbearing.”²⁶ Kathryn Edin and Maria Kefalas’ landmark qualitative research involving lone mothers in low income neighborhoods²⁷ (discussed at much greater length, *infra*) revealed the mothers’ high level of familiarity with and access to contraception. Single mothers told the researchers that the locations of the local Planned Parenthood clinics were “so well known . . . that few have to look in the phone book to find the address.”²⁸ Additionally, “[s]ome laughed when we asked this question [about access to contraception], pointing out how clinics and schools in their communities pushed contraception.”²⁹ In their landmark article in the

available at http://appropriations.house.gov/images/stories/pdf/press/laborhealth/FY10_LHHS_Conference_Summary.pdf at p.4 [hereinafter *Reducing Nonmarital Births*]; see also Rob Stein, *Rise in Teenage Pregnancy Rate Spurs New Debate on Arresting It*, WASHINGTON POST, Jan. 26, 2010, available at <http://www.washingtonpost.com/wp-dyn/content/article/2010/01/25/AR2010012503957.html>.

23. John B. Jemmott III, Loretta S. Jemmott & Geoffrey T. Fong, *Efficacy of a Theory-Based Abstinence-Only Intervention Over 24 Months: A Randomized Controlled Trial With Young Adolescents*, 164 ARCHIVES PED. ADOLESCENT MED 152, 157 (2010).

24. See, e.g., Douglas Kirby, *Emerging Answers 2007: Research Findings on Programs to Reduce Teen Pregnancy and Sexually Transmitted Diseases*, THE NAT’L CAMPAIGN TO PREVENT TEEN AND UNPLANNED PREGNANCY, 15 (Nov. 2007), http://www.thenationalcampaign.org/EA2007/EA2007_full.pdf.

25. THE BEST INTENTIONS: UNINTENDED PREGNANCY AND THE WELL-BEING OF CHILDREN AND FAMILIES 222 (Sarah S. Brown & Leon Eisenberg eds., 1995).

26. CARMEN SOLOMON-FEARS, NONMARITAL CHILDBEARING: TRENDS, REASONS, AND PUBLIC POLICY INTERVENTIONS, S. Rep. No. 110-34756, at 24, n.72 (2008) (citing Stephanie J. Ventura & Christine A. Bachrach, 48 no. 16 NAT’L VITAL STAT. REP. 9 (2000)).

27. KATHRYN EDIN & MARIA KEFALAS, PROMISES I CAN KEEP: WHY POOR WOMEN PUT MOTHERHOOD BEFORE MARRIAGE (2005)..

28. *Id.* at 38.

29. *Id.* at 48.

Quarterly Journal of Economics, prominent economists George Akerloff, Janet Yellen and Michael Katz have even suggested that the combination of the easier availability of both contraception and abortion has actually resulted in more births to single women via effects on the relationship “marketplace.”³⁰ That is, single women’s participation in the mating market increasingly began to require sexual availability due to growing numbers of women who are willing to use the available tools of contraception or abortion to prevent pregnancy and childbirth; single women who were *unwilling* to use contraception or abortion, on the other hand, were nonetheless embarking on sexual relationships, but becoming pregnant and giving birth more often.³¹

So what’s next regarding nonmarital births? A wide variety of interested parties are asking, and apparently amenable to additional ideas. There has emerged a rough consensus among sociologists, economists, lawmakers that it would be better for the individuals involved—particularly the children, but also the parents and society—if this figure were lower. There is a growing fear that marriage and family practices will divide us instead of uniting us racially and socioeconomically. One can detect this in leading voices’ greater willingness to speak on this subject, evidently without being unduly distracted by fears of giving offense to listeners who are not situated in marital families.

This article—inspired by the relatively recent availability of a great variety of quantitative and qualitative evidence about disadvantaged single women’s decision-making about sex and pregnancy—proposes that future efforts by the state and cooperating entities take single women’s thinking more into account. Current efforts—whether under the heading of abstinence or comprehensive sex education, or even under another heading such as “youth development”—fail in particular to account for the way that disadvantaged single women think about sex and pregnancy as “community-facing” behaviors. Extant efforts assume instead that disadvantaged single women make sexual and reproductive choices based upon materialistic, individualistic, and self-maximizing grounds. Perhaps this is because such programs are regularly designed by more advantaged women and men. It might also be a function of U.S. family law’s tendency to interpret women’s choices regarding sex and reproduction through the *legal* categories of privacy and individual

30. George A. Akerlof, Janet L. Yellen & Michael L. Katz, *An Analysis of Out-of-Wedlock Childbearing in the United States*, 111 THE Q. J. OF ECON. 277, 279-80 (1996).

31. *Id.*

self-fulfillment. These are after all the categories the Supreme Court has regularly deployed to describe women's right to access birth control³² and abortion.³³ They were also used by the Court to describe all consensual sexual relations in the *Lawrence v. Texas*³⁴ opinion, where the Supreme Court called such relations the "most private human conduct"³⁵ which pertained to the "individual."³⁶ This tradition continues today in state supreme court opinions recognizing same-sex marriage,³⁷ and in the notable lack of regulation of assisted reproductive technologies.³⁸ But while the testimonies of single women suggest that their decisions have important private aspects, they also suggest that they cannot be completely described by the legal categories of "privacy" or "autonomy." Their decisions even about individual sexual encounters—let alone about pregnancy and childbearing—are also inherently community-making and community-facing.

Immediately, I should assure the reader that I am not suggesting here that state or private actors throw out everything they are presently doing and start from scratch. It is undeniable that childbearing by single women is the consequence of myriad factors, many of which are regularly addressed in extant programs and messages. These might include more proximate factors such as ignorance about reproduction, weak interpersonal or refusal skills, and ignorance about or lack of access to birth control or abortion. They might also include more remote causes such as the influences of media and culture, welfare rules, the sexualization of young adolescents, increased cohabitation, later ages at first marriage, and even our national history of slavery and racism. There are also individual-level factors affecting particular women including the circumstances of their families of origin, level of optimism about the future, educational, economic and employment situations, and neighborhood values. This paper does not recommend ignoring such

32. *Eisenstadt v. Baird*, 405 U.S. 438, 453-54 (1972).

33. *Roe v. Wade*, 410 U.S. 113, 154 (1973); *Planned Parenthood of Southern Pennsylvania v. Casey*, 505 U.S. 833, 901 (1992).

34. *Lawrence v. Texas*, 539 U.S. 558, 567 (2003).

35. *Id.* at 567.

36. *Id.* at 578 (emphasis added).

37. See, e.g., *Goodridge v. Dep't of Pub. Health*, 440 Mass. 309, 326 (2003) (Massachusetts Supreme Court describing marriage as an individual's right to choose with whom to share an exclusive commitment, and an individual's interest in being exposed to the "full range of human experience").

38. See PRESIDENT'S COUNCIL ON BIOETHICS, REPRODUCTION AND RESPONSIBILITY: THE REGULATION OF NEW BIOTECHNOLOGIES 8-12 (2004); see also Alison Stateman, *The Fertility Doctor Behind the "Octomom,"* TIME, Mar. 7, 2009, available at <http://www.time.com/time/nation/article/0,8599,1883663,00.html>.

factors. Rather, it is the more narrow aim of this paper to suggest that there are additional and possibly important factors influencing single women's decisions about sex and reproduction, which are presently overlooked or even sometimes contradicted in extant programs and messages. I will describe these factors—which can be summarized under the heading of “community making” or “community facing” considerations—and suggest how they might be incorporated into government efforts to address nonmarital sex and pregnancy.

The new data to which I will refer throughout this paper, includes a variety of sources which have one thing in common—each reveals some aspect of single mothers' reasoning about their choices in connection with sex and parenting. Perhaps the most important source among those available in recent years is Kathryn Edin and Maria Kefalas', *Promises I Can Keep: Why Poor Women Put Motherhood before Marriage* (2005).³⁹ In this text, the authors describe their encounters with 162 single mothers in the Philadelphia area over a five-year period. There is also Paula England and Kathryn Edin's, *Unmarried Couples with Children* (2007),⁴⁰ summarizing the authors' qualitative and quantitative analyses in connection with 202 nonmarital pregnancies among seventy-six parents. Margaret K. Nelson's *The Social Economy of Single Motherhood: Raising Children in Rural America* (2005)⁴¹ summarizes interviews with sixty-eight single mothers in rural Vermont between 1995 and 2000. And Judith Musick's *Young, Poor, and Pregnant* (1993),⁴² relies upon both qualitative interviews and qualitative data about the circumstances and choices of adolescent mothers.⁴³ I have also relied upon a number of first person narratives from middle class mothers. These include Christine Coppa's *Rattled!*⁴⁴ *A Memoir*, and blogs such as the *New York Times'* *Motherlode*⁴⁵ and *BlackMomsClub*,⁴⁶ which showcase the thinking of modern single mothers. Finally, in recent years, there has been an explosion of quantitative data on the subject of gender mistrust among disadvantaged single women and men, and about their views of sex, parenting and marriage.

39. EDIN & KEFALAS, *supra* note 27.

40. PAULA ENGLAND & KATHRYN EDIN, *UNMARRIED COUPLES WITH CHILDREN* (2007)..

41. MARGARET K. NELSON, *THE SOCIAL ECONOMY OF SINGLE MOTHERHOOD: RAISING CHILDREN IN RURAL AMERICA* (2005).

42. JUDITH S. MUSICK, *YOUNG, POOR, AND PREGNANT: THE PSYCHOLOGY OF TEENAGE MOTHERHOOD* (1993).

43. *Id.* at 19-20.

44. CHRISTINE COPPA, *RATTLED!: A MEMOIR* (2009).

45. MOTHERLODE, <http://parenting.blogs.nytimes.com> (last visited Oct. 10, 2010).

46. BLACKMOMSCLUB.COM, <http://blackmomsclub.ning.com> (last visited Oct. 10, 2010).

A great deal of the more recent research considers the situation of adolescent single women (under twenty-years-old), and women who are economically and educationally disadvantaged. Because there is a larger amount of data about these groups, and because they are the object of so much state-sponsored speech about sex and pregnancy, this paper will for the most part treat their situation. When there is analogous or particularly revealing information about other groups of women who become single mothers (e.g., middle-class women), however, I will discuss that as well.

It should be noted there that this paper builds upon but also adds substantially to, observations made by other commentators—across a variety of disciplines and across the political spectrum—who have suggested, for example, that single motherhood is the fallout of a “crisis in the enduring relations between young adult men and women,”⁴⁷ or a function of adolescents’ failure to understand the place of sex in the overall scheme of interpersonal relationships.⁴⁸ My proposal adds flesh to these observations. In brief, I suggest that revealing data shows how young women frame their choices about sex, pregnancy and childbearing as part of a larger strategy both to “construct community” where one is lacking, and then to take their place in the larger community which they understand to expect and to value giving or self-donation from its good citizens. Sexual connection and the following motherhood are understood to be important parts of realizing these goals. More privileged women have similar goals, but are more likely to realize them in their own social milieu, via different sexual and reproductive behaviors, including postponing childbirth until marriage, or at least until they are economically self-sufficient. Unlike less-advantaged women, better-off women do not have to choose between a more materialist view of success (*i.e.* academic and financial) and living in their preferred community as a member in good standing. Less advantaged women, however, regularly are faced with a choice as between these goods, and appear often to regard their community-facing goals as indispensable.

In an attempt to assist public and private actors seeking to address nonmarital births—in ways respecting the personal dignity as well as the social aspirations of disadvantaged single women—this paper will

47. *Reducing Nonmarital Births*, *supra* note 21, at 45 (statement of Robert Rector, Senior Policy Analyst, Heritage Foundation).

48. *See, e.g.*, Marline Pearson, *Ignoring Teens’ Romantic Lives*, Keynote Address at the Smart Marriage Conference 2 (June 2003), available at http://www.virginia.edu/marriageproject/pdfs/print_pearson.pdf.

proceed as follows: Part II will set forth the current qualitative and quantitative data showcasing young and often educationally and economically disadvantaged single women's thinking about the meaning of sex and reproduction. It will suggest that their testimonies reveal how they link sexual and reproductive choices with the goals of making a community for themselves, and taking a place in that community as a good citizen. Part II will also propose that this interpretation of what young women are doing helps to explain both why some government programs and messages are more successful than others, and why certain factors (e.g., parental connection, religiosity, and team-membership) predict lower rates of nonmarital births. Part II will also discuss current psychological and neurobiological evidence about the good of relationships—particularly those involving self-donation—for human flourishing. Part III will characterize the content of current government-sponsored speech about sex and pregnancy directed to the unmarried. It will conclude that this speech regularly fails to address, and sometimes even contradicts, disadvantaged young women's community-facing goals. Part IV will suggest ways that state-sponsored speech and programs concerning the sexual and reproductive choices of young women might better reflect young women's need to have a community, and to attain a certain status within it.

II. SINGLE MOTHERS' TESTIMONIES, PROGRAMS THAT WORK, AND THE EMPIRICAL DATA LINKING SELF-DONATION AND HUMAN FLOURISHING

This section begins with the evidence that single mothers' decisions about sex and reproduction reflect a strategy to build community for themselves and to take their place in it as good citizens. It goes beyond the often-heard speculation that young women get pregnant simply because they "want someone to love them or need them," or because neither their families of origin nor the men in their lives loved them enough. These generalizations certainly hold some truth, as captured by a *Philadelphia Inquirer* interview with a poor single mother. To wit:

You're being manipulated by a man you want to impress. He says he'll love me if I don't ask him to use birth control. Your mother says you're a loser, and your father's on drugs. You just want to be loved. And here's this man asking for only one thing – no condom. So you do it.⁴⁹

49. Alfred Lubrano, *Witness to their own lives*, PHILADELPHIA INQUIRER, Nov. 26, 2008, available at <http://www.philly.com/inquirer/special/35141559.html?text=xlg&c=y>.

Yet there is more to know about the shape of the relationship and ultimately the community they are seeking, and how their decisions about sex and pregnancy respond to these. This section specifies in greater detail disadvantaged young women's community-making strategy, including how it manifests itself in the relationship with the father, the child and the larger community.

A. *Data By and About Single Mothers*

An important source for proposing that single women's sexual and reproductive choices are influenced by their desire to build relationships and attain a certain place in the community, are their own testimonies as collected by qualitative researchers, as well as the quantitative data measuring things such as gender mistrust, birth control decisions, and aspirations regarding marriage. A review of this literature reveals the following elements.

1. Gender Distrust and Sexual Decisions

Credible sociological research indicates that disadvantaged women often move forward with sexual relationships with men while simultaneously expressing gender distrust. In a recent study of gender mistrust among low-income mothers, renowned sociologist Andrew Cherlin and colleagues reported that 96% of the mothers studied made an average of twelve "gender mistrust" comments each over the course of the study.⁵⁰ These included comments such as "Don't trust a man any farther than you can throw him," or "they are dirty," or "En los hombres no se puede confiar [you can never trust a man]."⁵¹ There are obvious grounds for such mistrust. Men in these communities are regularly unfaithful and the women know it; rates of physical and sexual abuse are relatively high.⁵² At the same time, however, women's mistrust does not translate into consistent behavior. Rather, like the mother quoted immediately above, many women enter into sexual relationships with men, sometimes serially, and sometimes even agreeing to cohabit with a man after only a brief acquaintance.⁵³ This occurs in the teeth of

50. Linda M. Burton, Andrew Cherlin, Donna-Marie Winn, Angela Estacion & Clara Holder-Taylor, *The Role of Trust in Low-Income Mothers' Intimate Unions*, 71 J. OF MARRIAGE AND FAMILY 1107, 1114 (2009)..

51. *Id.*

52. See ENGLAND & EDIN, *supra* note 40, at 139 and EDIN & KEFALAS, *supra* note 27, at 94-98.

53. Burton, Cherlin, Winn, Estacion & Taylor, *supra* note 50.

women's relatively lower taste for cohabitation,⁵⁴ and disadvantaged women's insistence that they both value fidelity and realize its importance in successful relations.⁵⁵

Little is said in women's own testimonies⁵⁶ about whether sexual intercourse is sought or resisted in their romantic relations; it simply happens. Perhaps a way of summarizing the literature is to conclude that sex is simply the standard in their communities for "being in a relationship" that is romantic (although there are more reports of involuntary sex from very young women⁵⁷).

The blending of gender distrust and heterosexual involvement is also present in more affluent communities of single women. Books and Internet blogs commonly reveal gender distrust by woman of nearly every economic class. A single mother writing on the *New York Times'* *Motherlode* blog feels free to tell readers that men "drop dead . . . walk out, . . . cheat, [and] leave," or that divorce rates are so high that "moms fend for themselves anyway, right?"⁵⁸ Others openly refer to men as nothing but babies themselves,⁵⁹ or as bringing more of their own "needs" to the table than "money and fun."⁶⁰ One divorced mother expressed relief that she no longer had to urge her ex to "stop slacking."⁶¹ Another contrasts the pleasures of children with the misbehavior of men with the pithy statement: "I was not going to miss out on being a mom because the boys were acting up!"⁶² These remarks are in stark contrast to the affectionate and thankful words lavished upon the other women in their lives, who are perceived as competent caregivers, and efficient multi-taskers, and who are willing to offer

54. See Karen Benjamin Guzzo, *How Do Marriage Market Conditions Affect Entrance into Cohabitation vs. Marriage?* (Sept. 4, 2003) (Unpublished NSF dissertation Improvement Grant SES – 0220543, University of Pennsylvania) at 8, 15, 32, available at <http://paa2004.princeton.edu/download.asp?submissionId=40104>.

55. ENGLAND & EDIN, *supra* note 40, at 108, 112.

56. See, e.g., EDIN & KEFALAS, *supra* note 27; ENGLAND & EDIN, *supra* note 40; MUSICK, *supra* note 42; NELSON, *supra* note 41.

57. Joyce C. Abma, Gladys M. Martinez, William D. Mosher & Brittany S. Dawson, *Teenagers in the United States: Sexual Activity, Contraceptive Use, and Childbearing*, in VITAL AND HEALTH STAT., at 22-23 (U.S. Dept. of Health and Human Services: Centers for Disease Control and Prevention, Vital and Health Statistics, Series 23, No. 24, 2000) (among girls fourteen or younger, 18% said it was involuntary; 27% said unwanted).

58. Lisa Belkin, *Married v. Single Moms*, N.Y. TIMES MAG. BLOG (May 21, 2009, 10:33AM), <http://parenting.blogs.nytimes.com/2009/05/21/married-or-single-which-mothers-have-the-better-deal/?scp=1&sq=lisa%20belkin%20may%2021,%202009&st=cse>.

59. *Id.*

60. *Id.*

61. *Id.*

62. *Id.*

mutual support and other help to ease both the fears and the difficulties of pregnancy and single motherhood. In the autobiographical account of her own nonmarital pregnancy, for example, *Glamour* magazine writer Christine Coppa regularly refers in glowing terms to her baby's "aunts," i.e., the friends who encouraged and entertained and assisted her throughout the pregnancy and afterwards.⁶³

In sum, having a romantic partner, even if the relationship is short-lived and he is unreliable, appears to be quite important to the felt happiness of disadvantaged women who become single mothers.

2. Romantic Partner Means Baby

Another interesting aspect of the testimonies of disadvantaged single mothers is their explicit linking of their romantic feelings for a man with the desire to bear his child. This link stands out against the modern presumption and practice of severing decisions about sexual attraction from decisions about parenting. True, women today still report the intention to become a mother at some point during lives, whether they are more⁶⁴ or less privileged, and even if they are highly privileged women.⁶⁵ But more privileged women put off having children until after marriage, even years after their wedding day. During interviews, however, disadvantaged young women often report that an ongoing heterosexual relationship causes them quickly to entertain thoughts about childbearing. Both qualitative and quantitative studies on birth control usage show how lower income couples begin to neglect or deliberately reject birth control as a relationship becomes more serious. One or both partners comes to the conclusion that its continued use indicates less intimacy and trust.⁶⁶ Edin and England's interviews revealed that Hispanic women are even likely to believe that avoiding a pregnancy in the context of a longer term relationship is "unnatural."⁶⁷

63. COPPA, *supra* note 44, at 4, 142, 144, 147, 295-99, 316, 322, 324 ("To the NYC and NJ aunts (and Aunt T in LA)—I don't have any sisters, but my son sure does have a lot of aunts").

64. *This Year's Freshman at 4 Year Colleges: A Statistical Profile*, THE CHRONICLE OF HIGHER EDUC. (Jan 26, 2007), <http://chronicle.com/article/This-Years-Freshmen-a/8113>.

65. SYLVIA ANN HEWLETT, CREATING A LIFE: PROFESSIONAL WOMEN AND THE QUEST FOR CHILDREN 33, 86 (2002).

66. Joseph H. Pleck, Freya L. Sonnenstein & Scott O. Swain, *Adolescent Males' Sexual Behavior and Contraceptive Use: Implications for Male Responsibility*, 3 J. OF ADOLESCENT RESEARCH 275, 283 (1988); Leighton Ku, Freya L. Sonnenstein & Joseph H. Pleck, *The Dynamics of Young Men's Condom Use During and Across Relationships*, 26 FAM. PLANNING PERSPECTIVES 246, 251 (1994); EDIN & KEFALAS, *supra* note 27, at 38.

67. ENGLAND & EDIN, *supra* note 40, at 49.

The perceived link between an ongoing romance and a baby is evident too in the data showing that cohabiting couples today are more likely than they were in the past to plan childbearing,⁶⁸ despite the drumbeat of published evidence regarding the relative instability of cohabiting (versus married) households, even cohabiting households containing children. Two years from a baby's birth, 30% of cohabiting pairs have dissolved as compared to only 6% of married parents,⁶⁹ and half of cohabiting households disintegrate by the time a child is nine.⁷⁰ But even short of cohabitation, England and Edin's research indicate that involved couples are either specifically planning their pregnancy, or leaving it to chance. In their *Unmarried Couples with Children*, these authors report that among the 202 nonmarital pregnancies they studied, 12% were planned, and 18% were "in between planned and unplanned."⁷¹ Another 47% were "unplanned" in the words of the parents, but the couple knowingly failed to use contraception at all, or used it inconsistently.⁷² Only 23% were ascribed to technical contraceptive failure or to a misconception about a partner's fertility.⁷³ In Edin and Kefalas' *Promises I Can Keep* ("*Promises*"), 47% of the mothers "characterized their most recent birth as neither planned nor unplanned but somewhere in between."⁷⁴ And half of the women claiming "accidental pregnancies" were using no contraception at all at the time they became pregnant.⁷⁵ Edin and Kefalas further report that young single mothers are "well versed in the use of birth control prior to conception," and in fact "practiced contraception in the early days of their relationships with their children's fathers."⁷⁶ Only after the relationships "moves to a higher level" do they cease using contraception or use it less consistently.⁷⁷ A National Campaign study similarly concluded that among those unmarried teenagers who had

68. Mincieli, Manlove, McGarrett, Moore & Ryan, *supra* note 12, at 2 & fig.2.

69. William A. Galston, *The Changing Twenties*, THE NAT'L CAMPAIGN TO PREVENT TEEN AND UNPLANNED PREGNANCY, 11 & fig.15 (2007), http://www.thenationalcampaign.org/resources/pdf/pubs/changing_20s.pdf.

70. ANDREW J. CHERLIN, *THE MARRIAGE GO-ROUND: THE STATE OF MARRIAGE AND THE FAMILY IN AMERICA TODAY* 164 (2009).

71. ENGLAND & EDIN, *supra* note 40, at 30.

72. *Id.*

73. *Id.*

74. EDIN & KEFALAS, *supra* note 27, at 37.

75. *Id.* at 37.

76. *Id.* at 47.

77. *Id.*

stopped using birth control, only 7% claimed it was too hard to get, and only 2% that it was too expensive.⁷⁸

In sum, disadvantaged single mothers regularly associate having children with being in an ongoing romantic relationship. For them, children are part of the meaning and value of a heterosexual relationship.

3. Taking on the Motherhood Mindset

There is evidence that after single women link motherhood with a romantic relationship, they may move toward thinking about motherhood as a desirable role in life and in their community. The first piece of evidence is the fact that single women are becoming mothers at much higher rates during ages at which people are beginning to think about matters like “roles” and “community standing.” Older single adolescent women (ages 18 to 19) give birth at twice the rate of women ages 15 to 17.⁷⁹ Birth rates for women in their early twenties increased 13% since 2002.⁸⁰

Second, once her first child is born, the single woman is quite likely to give birth to another within the next four years based in part on her wish for her child to have a sibling near in age.⁸¹ This would not be the case if her pregnancies were a function of ignorance about sex or birth control. It would not be the case if a nonmarital pregnancy was perceived as a tragedy to be avoided in the future at all costs. Rather, this phenomenon indicates that these single women are thinking like mothers, as sociologist Judith Musick writes. They are having the second baby at least in part to evidence their love for the first.

The sexual strategies pursued by more-privileged female adolescents illustrate how they too understand sexual decisions as community-facing. Sociologist Mark Regnerus in his *Forbidden Fruit: Sex and Religion in the Lives of America's Teenagers*⁸² illustrates how the sexual choices of middle class adolescents—though different from those described above—are also oriented to maintaining community connection and standing. These adolescents more often turn to practices

78. K. Suellentrop, *Teen Contraceptive Use*, NAT'L CAMPAIGN TO PREVENT TEEN PREGNANCY, 7 (Sept. 2006), http://www.thenationalcampaign.org/resources/pdf/SS/SS29_Contraceptive.pdf.

79. Hamilton, Martin, & Ventura, *supra* note 12, at tbl.7 (Number and percentage of births to unmarried women, by age: United States, final 2006 and preliminary 2007, 13).

80. Ventura, *supra* note 3, at 2.

81. MUSICK, *supra* note 42, at 214-16.

82. MARK D. REGNERUS, *FORBIDDEN FRUIT: SEX AND RELIGION IN THE LIVES OF AMERICAN TEENAGERS* (2007).

like masturbation, oral sex, and pornography for sexual gratification, and as a means of avoiding pregnancies.⁸³ They do this in large part to preserve their good standing in their families, in their churches and in their larger communities, both now and in the future, via preserving their chance to complete higher education by *not* becoming a parent.⁸⁴

Community connection and standing is apparently achieved differently among those with fewer advantages. Interestingly, despite sometimes aggressive public and private campaigns to convince less-privileged adolescents to resort to masturbation or outercourse,⁸⁵ they continue to have intercourse and to become pregnant. Becoming a mother, rather than avoiding it, can serve the community strategy of the more disadvantaged single woman.

4. The Crucial Role of the Baby—Personal Fulfillment and Becoming a Good Citizen of the Community

Single mothers' testimonies indicate how, for them, the baby is the pathway not only for receiving love, but also and crucially, for giving love. It is not uncommon to encounter hyperbolically positive language in single mother's descriptions of the role that their children play in their lives. They say things like the baby is "mine," or my "heart."⁸⁶ The women interviewed in *Promises* regularly opined that life without a child would be "meaningless."⁸⁷ They say that the child "saved me."⁸⁸ Nor is such language restricted to disadvantaged single women. *Glamour* magazine editor Christine Coppa describes her experience as a single mother by saying that the child not only made her whole and happy, but completed her to "infinite ends."⁸⁹

It is easy to see the flip side of these statements. The child's gift to the mother is also the mother's opportunity to be a gift to the child. Single mothers often express gratitude to their child for giving them the opportunity to be of service. Sometimes they say it explicitly—that the

83. *Id.* at 204.

84. *Id.*

85. See, e.g., Op-Ed, *A Surgeon General's Untimely Candor*, N.Y. TIMES, Dec. 10, 1994, at 122, available at <http://query.nytimes.com/gst/fullpage.html?res=9C00E4DC1139F933A25751C1A962958260>; *Outercourse*, PLANNED PARENTHOOD.ORG, <http://www.plannedparenthood.org/health-topics/birth-control/outercourse-4371.htm> (describing outercourse as "sex play . . . to prevent pregnancy; safe, effective, and convenient"); Barbara Dafoe Whitehead, *The Failure of Sex Education*, ATLANTIC MONTHLY, Oct. 1994, at 64-65.

86. EDIN & KEFALAS, *supra* note 27, at 204, 211.

87. *Id.* at 49.

88. *Id.* at 96-97, 184.

89. *Id.* at 69, 136, 311, 320, 324; COPPA, *supra* note 44, at 324.

child “saved”⁹⁰ them precisely by providing them the best possible reason to work hard and keep clean.⁹¹

Poor and minority young women also regularly make an additional choice which affirms their positive evaluation of motherhood—particularly relative to other roles that might be offered them: they express a low view of abortion and quite regularly reject it. This is so, even though abortion is legal, abortion clinics frequent their neighborhoods, and poverty and lack of education are among the more sympathetically received rationales for having an abortion.⁹² Overall, as summarized by the authors of *Promises*, “affluent teens faced with an unplanned pregnancy choose abortion about two-thirds of the time, while their poor counterparts do so only about half of the time.”⁹³ The women interviewed in *Promises* indicated that abortion seemed an ungenerous act to them, beneath their dignity, and an indicator of irresponsibility in all but very desperate circumstances.⁹⁴ Possibly, abortion’s easy availability and the lowered stigma of choosing it as part of an economic survival strategy,⁹⁵ only provide greater opportunity for their choice against abortion to be seen as responsible and heroic. Certainly, the single mothers interviewed in *Promises* were explicitly critical of women who delay motherhood in order to obtain material gains for themselves first.⁹⁶

Very interestingly, better off women who *choose* abortion sometimes interpret their choices also according to the theme of “giving.” This was explored first in Carol Gilligan’s groundbreaking study of women’s moral decision-making in *In a Different Voice*.⁹⁷ There, women regularly interpreted their decision to choose abortion as a way of maintaining an ability to provide care for others in their lives. Women use similar language in their reports to researchers collecting rationales for abortion. In one study “[t]wo-thirds of women . . . identified concern for, or responsibility to, other individuals [as a

90. EDIN & KEFALAS, *supra* note 27, at 96-97.

91. *Id.* at 174-79, 192.

92. See Shalia Dewan, *To Court Blacks, Foes of Abortion Make Racial Case*, N.Y. TIMES, Feb. 26, 2010, available at <http://www.nytimes.com/2010/02/27/us/27race.html>.

93. EDIN & KEFALAS, *supra* note 27, at 45.

94. *Id.*

95. See, e.g., Leigh Graham, *Pre-abortion “Counseling” Costly and Risky*, CHANGE, May 15, 2009, http://uspoverity.change.org/blog/view/pre-abortion_counseling_costly_and_risky.

96. *Promises*, *supra* note 27, at 164-65, 208-09.

97. CAROL GILLIGAN, *IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN’S DEVELOPMENT* (1982).

rationale for seeking abortion]”⁹⁸ A famous (and infamous) article by an abortion provider writing in the *New York Times* makes the same case. Physician Elizabeth Karlin—a well-credentialed doctor who provided elective abortions in a Wisconsin college town—wrote that “there is only one reason I’ve ever heard for having an abortion: the desire to be a good mother. Women know when we don’t have the resources to be the mother we expect to be. ... Women still risk all this to be better mothers. They deserve medals for bravery.”⁹⁹

It appears, then, that either reproductive decision—the choice to have an abortion or to refuse it—can be perceived by different women as a community-facing decision. The woman is aware of which decisions present her with an opportunity to gain or maintain a place in the community in which she travels. For better-off women, their community expects mothers to provide a high level of attention and material support to children. For less-advantaged women, there are somewhat different expectations. In fact, in *Promises*, Edin and Kefalas note more than once that there is particularly in poorer and African American communities, a recognized “success narrative” that includes being a brave single mother, a woman who, despite tremendous obstacles, manages to provide sufficiently for her child.¹⁰⁰ It includes a woman who reorients her priorities around the child.¹⁰¹ Relations with father and friends often suffer, and the child takes pride of place.¹⁰² The mothers take a dim view of fathers who fail to do the same.¹⁰³ When fathers fail to measure up, disadvantaged women react with an expression so common in their communities, that it became the title of a popular Tyler Perry movie in 2009: *I Can Do Bad by Myself*.¹⁰⁴ While there is often a good deal of talk, in school and even at home, about the possibility that the adolescent girl will beat the odds and finish high school, maybe enter college and move out of poverty, there is always another success narrative available to the woman living in a poor community.¹⁰⁵ Other investigators closely observing poor communities have reached the same conclusion: “[Single] motherhood seemed like a pretty good opportunity to at least have some sense of an adult role and

98. Lawrence B. Finer et al., *Reasons U.S. Women have Abortions: Quantitative and Qualitative Perspectives*, 37 PERSP. ON SEXUAL AND REPRODUCTIVE HEALTH 116 (2005).

99. Elizabeth Karlin, *An Abortionist’s Credo*, N.Y. TIMES MAG., Mar. 19, 1995, at 32.

100. EDIN & KEFALAS, *supra* note 27, at 46.

101. *Id.* at 46, 61, 65.

102. *Id.* at 68.

103. *Id.* at 68, 82-84.

104. See INTERNET MOVIE DATABASE, <http://www.imdb.com/title/tt1385912/>.

105. EDIN & KEFALAS, *supra* note 27, at 46, 61, 65, 96-97.

respect from others,” and could even rise to the level of the “principal accomplishment” of many women in poorer communities.¹⁰⁶

Sociologist Orlando Patterson refers to this narrative – which ties mothering to meaning and success – in his book about the Black experience in America, *Rituals of Blood*.¹⁰⁷ There, he contrasts Black males’ situation with females’, *vis a vis* their relations with their children born outside of marriage. Patterson concludes that the role of mother, difficult as it is, is at least a “burden[s]” which is also “at least *partly* generative, empowering, and humanizing,”¹⁰⁸ because the woman is acting as a source of life and strength for another. He offers a similar conclusion about African American women’s frequent employment as domestic nurses or nannies. In these roles, women are “of service” in relations involving intimate dependence.¹⁰⁹ Thus, these roles potentially empower women. By contrast, Patterson writes, Black men do not commonly assume similar roles in the lives of others.¹¹⁰

There is an additional and very important aspect of the relationship of single mothering to community status that should be explicitly surfaced here. It is the desire to prove that as a single mother, they are not more a taker than a giver. According to the research of Margaret Nelson, single mothers apparently take conscious steps to prevent the perception that they are a selfish taker – whether refusing to ask relatives for money too repeatedly, even if they are in desperate straits, to consciously offering help in advance to someone who has not asked for it, in order to have the sense of putting money into a “checking account” against a time when they might need a future “withdrawl.”¹¹¹ As one mother expressed it: “But when it doesn’t feel balanced to me is when I feel like I can’t give to anyone else, when people are giving to me and I can’t give to anyone else.”¹¹² In Professor Nelson’s words, while these sentiments reflect a desire to be independent, and also to “evade scorn and stigma,”¹¹³ they can also be understood “within the anthropological

106. *Reducing Nonmarital Births*, *supra* note 21, at 34 (question and answer between Senator Benjamin Cardin (D – MD) and Dr. Nicholas Zill, Westat Research).

107. ORLANDO PATTERSON, *RITUALS OF BLOOD & CONSEQUENCES OF SLAVERY IN TWO AMERICAN CENTURIES* (1998).

108. *Id.* at 20 (emphasis in original).

109. *Id.* at 21.

110. *Id.* at 20.

111. NELSON, *supra* note 41, at 67; *see also id.* at 71, 81 (stating “first you put the money in and then you make the withdrawal and there’s no problem”).

112. *Id.* at 87.

113. *Id.* at 64.

perspective of the gift.”¹¹⁴ In fact, lone mothers sometimes even reported to Professor Nelson that they believe that, like themselves, people who give to them are thereby made happier by it.¹¹⁵

Single mothers’ choices about sex and pregnancy appear to be at least partly motivated by their desire not only to have a relationship with a child, but to be recognized as a good person, a giver, a mother who sacrifices for her children, and is thereby a recognized good citizen in her community.

5. Sex as Nonmoral, Mothering as Very Moral

The relative importance that disadvantaged women assign to their achieving community recognition as a good mother/provider is further supported, I believe, by the nearly complete absence of “moral” discourse in connection with the decision to engage in nonmarital sexual relations, or even their decision deliberately to conceive a child with a boyfriend. This is a noteworthy feature of the many personal testimonies featured in *Promises, Unmarried Couples with Children* and *The Social Economy of Single Motherhood*, although it went virtually unrecognized by the authors. It has been noted explicitly, however, in a study entitled “A Study of Folk Black Mores and the Non—Sinful Outlook Regarding Unwed Motherhood Among Poor Urban Black Mothers.”¹¹⁶ Increasingly, this viewpoint is being adopted by more privileged women. A 2007 Pew Research Center poll reported that 59% of American adults believed that nonmarital sex as “not at all or only sometimes wrong.”¹¹⁷ Among those 18 to 29 years old, there is 77% approval of nonmarital sex.¹¹⁸ This is on display in the memoir *Rattled!* where the *Glamour* magazine editor/single mother recounts her shock at being offered a private baptism for her nonmarital child by a priest who assumed that she would appreciate his discretion: “Oh right . . . *I’m bad*”

114. *Id.* at 65 (quoting CAROL STACK, *ALL OUR KIN* 65 n.4 (1974)).

115. NELSON, *supra* note 41, at 80-84.

116. Annie Ruth Johnson Leslie, *A Study of Folk Black Mores and the Non-Sinful Outlook Regarding Unwed Motherhood Among Poor Urban Black Mothers* (June 1983) (unpublished Ph.D dissertation, Northwestern University) (on file with University Microfilms International).

117. *Generation Gap in Values, Behaviors: As Marriage and Parenthood Drift Apart, Public is Concerned About Social Impact*, PEW RES. CENTER, 54 (released July 1, 2007), <http://pewresearch.org/pubs/?ChartID=415> (Morality of Premarital Sex survey taken Feb. 16-Mar. 14, 2007).

118. George H. Gallup, Jr., *Current Views on Premarital, Extramarital Sex*, GALLUP, <http://www.gallup.com/poll/8704/current-views-premarital-extramarital-sex.aspx>.

she exclaims, then continues by saying that she can “barely contain my laughter.” “I suppose this should really bother me, but it doesn’t.”¹¹⁹

I propose that this phenomenon is a function *not only* of a declining cultural antipathy for nonmarital sex, and *not only* of the trend to think of the sexual choices of single women from “public health” and “privacy” perspectives.¹²⁰ It is also very likely a function of the tremendous value many single women attach not only to their baby, but also to the sense of accomplishment, even courage, that they derive from making the decision to give birth to their baby, in admittedly difficult situations, and from taking care of the baby, largely by their own strenuous efforts. This decision can garner a certain amount of praise in their community: they have accepted the consequences of their choices, and have put the baby before material things. Furthermore, once the baby makes his or her appearance, the mother is again willing to engage in “morals talk”—but only about what is owed to the baby, by herself and by the father. It appears then that the subject of the morality of nonmarital sexual intimacy is completely overshadowed by the narrative of freely accepted sacrifices made on behalf of the child.

There is one final but important indication that the story of single parenting, especially among those suffering a dearth of strong human relationships and financial resources, is at least in part the story of young women’s efforts to find their place as contributing adults in their communities. It is the fact that young women frequently become pregnant again at about the time they are moving out of a familiar community. Researchers have observed that repeat pregnancies tend to occur when the woman is leaving a program for single mothers in which she has developed close relations with staff, or leaving her immediate family, or getting ready to graduate a level of school.¹²¹ In effect, the repeat pregnancy appears to be her bid to stay in the community she knows and which knows her.

119. COPPA, *supra* note 44, at 314.

120. See, e.g., REGINA KUNZEL, *FALLEN WOMEN, PROBLEM GIRLS: UNMARRIED MOTHERS AND THE PROFESSIONALIZATION OF SOCIAL WORK 18-69, 168, 1890-1945* (1993) (Historian of social work has suggested that social workers deliberately attempt to convert single motherhood from a moral to a social and psychiatric problem as a means of establishing their place as experts respecting such women); Ventura, *supra* note 3, at 1; Mary Eberstadt, *Is Food the New Sex?* POLICY REVIEW (2009), <http://www.hoover.org/publications/policyreview/38245724.html> (The author points out in a clever essay claiming that elite Americans have entirely reversed sex and food as subjects for moral reasoning. Today, one may express opinions about other people’s food choices without fear of being considered narrow or unfairly judgmental. One might even advocate for public policies which help bring others’ practices into line with one’s own view and that of other enlightened people. Fifty years ago—but not today—one might have said the same about sex).

121. MUSICK, *supra* note 42, at 216-17.

To summarize this section of Part II, it appears that beginning with her choices regarding the sexual encounter, to the acceptance or even welcoming of the pregnancy and the refusal to choose abortion, to the willingness to sacrifice for the child, one can detect in the actions particularly (but not exclusively) of the disadvantaged single woman who becomes a mother, a strong theme of her striving to create a certain kind of community and take her place in it as a good citizen who gives to others. The next section will describe briefly some emerging psychological and neurobiological evidence which confirms the existence and strength of the human beings' inclination to self-donate, and which appears to show a link between human flourishing and self-donation.

B. Caring is Flourishing

There is increasing scientific evidence that human beings are “programmed” to care for one another, that there are tangible benefits to health and happiness from undertaking caring behavior which links one person to another and gives meaning to life. Conversely, people suffer from the absence of close attachments in their lives.¹²² The literature on these subjects is obviously too vast to collect here, but enough can be said to indicate how single women's choices for sexual intimacy and motherhood are likely one logical manifestation of human beings' inbuilt orientation toward seeking permanent, reciprocal connections, which allow for both giving and taking. In this section I will note, too, the possibility that a disadvantaged single woman might meet her human need for connection and for meaningful self-donation via motherhood more easily than via other avenues.

The authors of a recent book entitled simply *Loneliness*, sum up their conclusion about the role played by relationships in human life by observing that there is a social consensus that the worst punishment the state can impose short of death is solitary confinement.¹²³ People, they write, want a “tribe,” and a “purpose larger than themselves.”¹²⁴ With respect to the relationships that instigate single motherhood—heterosexual romantic relationships—it is well established that such romantic partnerships increase individuals' sense of subjective well-

122. See generally THE COMMISSION ON CHILDREN AT RISK, *HARDWIRED TO CONNECT: THE NEW SCIENTIFIC CASE FOR AUTHORITATIVE COMMUNITIES* (2003).

123. JOHN T. CAPIOCCO & WILLIAM PATRICK, *LONELINESS: HUMAN NATURE AND THE NEED FOR SOCIAL CONNECTION* 11 (2008).

124. *Id.* at 144 (quoting E.O. Wilson (citation omitted)).

being above that of individuals who never partner.¹²⁵ People who are married—though they do not remain throughout their marriage at the happiness levels measured at the beginning—still remain happier than those who do not marry.¹²⁶ Cohabitants are happier than the single, but not as happy as the married.¹²⁷ Single adults, by contrast, tend to become steadily unhappier over time.¹²⁸

There is also some evidence that our bodies seem to “facilitate” our gaining relationships—romantic as well as parental—by helping us feel pleasure when we physically bond with another. When a woman, for example, engages in sexual intercourse or breastfeeding, her body produces oxytocin, which promotes feelings of closeness and bonding.¹²⁹ Scientists have also observed that when a person is in the presence of other human bodies and their hormones, his or her thoughts, feelings, and decisions are influenced.¹³⁰

When faced with loneliness, on the other hand, people can suffer diminished mental capacity traceable to the inferior operating of certain portions of their brains. In particular, loneliness can diminish control over emotions, impulses, persistence, and defenses.¹³¹ Lonely people may even misbehave in their desire for connection, in ways that result, ironically, in eventual isolation.¹³² Whereas feeling socially connected contributes to one’s ability to get more social connection,¹³³ it appears that the very portion of the brain required for building relationships, is the most likely victim of the effects of feeling socially isolated.¹³⁴ The experience of orphans in Nicolae Ceausescu’s Romania provided stunning evidence of this phenomenon. Isolated babies, deprived of physical and emotional interaction with parents, showed marked mental slowness, impaired affect, and even physical stunting.¹³⁵

125. See, e.g., Meng-Wen Tsou & Jin-Tan Liu, *Happiness and Domain Satisfaction in Taiwan*, 2 J. HAPPINESS STUD. 269 (2001); M.D.R. Evans & Jonathan Kelley, *Effect of Family Structure on Life Satisfaction: Australian Evidence*, 69 SOC. INDICATORS RES. 303 (2004); Steven Stack & J. Ross Eshleman, *Marital Status and Happiness: A 17-Nation Study*, 60 J. MARRIAGE & FAM. 527, 532 (1998).

126. Judith P.M. Soon, Aart C. Liefbroer & Matthijs Kalmijn, *The Long-Term Consequences of Relationship Formation for Subjective Well-Being*, 71 J. OF MARRIAGE & FAM. 1254-56 (2009).

127. *Id.* at 1256.

128. *Id.* at 1266.

129. CAPIOCCO & PATRICK, *supra* note 123, at 141.

130. *Id.* at 116.

131. *Id.* at 169, 180, 183-84.

132. *Id.* at 16.

133. *Id.* at 18.

134. *Id.* at 70.

135. *Id.* at 130-31.

Not surprisingly, “unwise” sex is one of the things people do to mask pain or “self-regulate” when faced with isolation.¹³⁶ A series of famous experiments by psychologist Harry Harlow in 1958 specifically linked humans’ sexual functioning to their experience of being loved by another.¹³⁷ Harlow’s work demonstrated that when females and males were deprived of mother love, they experienced disturbed sexual functioning, including acting out abusively.¹³⁸

On the other hand, when people are engaged in satisfying relationships, and especially if they engage in the practice of altruism or “paying forward” in their relationships—and avoid focusing on their own problems—they reap psychological and even physiological rewards. A leading researcher has opined that this might be due to the role of service in building human connections: “There’s no question that it gives life a greater meaning when we make this kind of shift in the direction of others and get away from our own self-preoccupation and problems.”¹³⁹ Or as the authors of *Loneliness* write: human hunger is satisfied by “feed[ing]” not eating.¹⁴⁰

Some scientists suggest that humans’ orientation toward relationships, cooperation and mutual giving has evolutionary origins. Our chances for survival increased when people stuck together; mutual regard built group cohesion.¹⁴¹ Individualism ignores these advantages and ignores also the close relationship between parental investment and children’s survival, which is the evolutionary imperative.¹⁴²

Outside of the field of human evolution, scientists have observed that there appears to be an “underlying biology” in the relationship between self-donation and physical well-being. Altruistic behavior has been linked, for example, with better pain control, less premature death, and reduced heart disease.¹⁴³ A currently popular book—“*Twenty-nine Gifts: How a Month of Giving Can Change Your Life*”—explores one

136. *Id.* at 34.

137. *Id.* at 130.

138. *Id.*

139. See Tara Parker-Pope, *In Month of Giving, A Healthy Reward*, N.Y. TIMES, Nov. 30, 2009 at 122, available at <http://www.nytimes.com/2009/12/01/health/01well.html> (quoting STEPHEN G. POST, WHY GOOD THINGS HAPPEN TO GOOD PEOPLE (2007)).

140. CAPIOCCO & PATRICK, *supra* note 123, at 224, 231, 240.

141. Nicholas Wade, *We May be Born with an Urge to Help*, N.Y. TIMES, Dec 1, 2009, available at http://www.nytimes.com/2009/12/01/science/01human.html?_r=1.

142. CAPIOCCO & PATRICK, *supra* note 123, at 15, 63, 66.

143. Parker-Pope, *supra* note 139, at 127.

woman's experience of reducing the chronic pain associated with Multiple Sclerosis, via the regular practice of charitable behaviors.¹⁴⁴

In the case of adolescents, human longing for connection and self-donation are already present. At the same time, however, "the part of the brain that gives us strategies and organizing and perhaps warns us of potential consequences is not fully on board yet."¹⁴⁵ The human brain is still growing and changing at a significant rate during adolescence, both anatomically and biochemically.¹⁴⁶ This is especially true of the part of the brain sometimes called the "CEO": the prefrontal cortex.¹⁴⁷ This portion importantly assists impulse control, planning, prioritizing, decision making, attention-allocating, weighing consequences, and considering complex relations of cause and effect.¹⁴⁸ This is one of the last areas of the brain to fully mature,¹⁴⁹ a process which carries on into the end of one's twenties.¹⁵⁰ While researchers remain unsure what drives this development (genes, viruses, or the environment),¹⁵¹ they recommend at least that younger persons be "surrounded by caring adults and institutions that help them learn specific skills and appropriate adult behavior."¹⁵²

When we think about all of this evidence in connection with the situation of the disadvantaged single woman, we can immediately grasp how she might come to perceive motherhood as the best choice for achieving both a relationship and her chance to "pay it forward" in the context of her actual life's circumstances. Both the qualitative and the quantitative data about disadvantaged single mothers indicates how relatively infrequently they have the opportunity to experience close, strong, stable, and supportive relationships in their lives, or to experience relationships in which their personal gifts go recognized and

144. CAMI WALKER, TWENTY-NINE GIFTS: HOW A MONTH OF GIVING CAN CHANGE YOUR LIFE (2009).

145. Daniel R. Weinberger, Brita Elvevåg & Jay N. Giedd, *The Adolescent Brain: A Work in Progress*, NAT'L CAMPAIGN TO PREVENT TEEN PREGNANCY, iii (June 2005), <http://www.thenationalcampaign.org/resources/pdf/BRAIN.pdf> (citing *Frontline: Inside the Teenage Brain* (PBS Special Jan. 31, 2002), available at <http://www.pbs.org/wgbh/pages/frontline/shows/teenbrain/#>).

146. *Id.* at 1.

147. *Id.*

148. *Id.*

149. *Id.* Development of this architecture of cell-to cell contacts responsible for information flow, and meeting emotional challenges persists through one's twenties. *Id.*

150. *Id.* at 2.

151. *Id.*

152. *Id.* at 3.

shared, and become the foundation of their adult role or place in the community.

For example, according to very recent data from the National Campaign and ChildTrends, only 39% of single adolescent mothers lived with both of their biological parents. The other 61% lived with one parent, neither parent, a stepparent, or cohabiting adults.¹⁵³ It is now well-established that children living without one of their biological parents face more practical and emotional challenges. Young women deprived of a father's attention, for example, are more "likely to seek attention from young men and to get involved sexually with members of the opposite sex" earlier in their adolescence.¹⁵⁴ One study showed that just 5% of girls whose fathers remained in the home throughout childhood, became pregnant before marriage, versus 35% of girls whose fathers left before the girl had reached the age of 6, and 10% of girls whose fathers had departed while they were between 6 and 18.¹⁵⁵ There might even be a physical component to this phenomenon; some scientists have proposed that fathers' bodies give off pheromones which slow the sexual development of their daughters, leading to a reduced amount of sexual signaling to males.¹⁵⁶

Young women in communities with high rates of single motherhood are also possibly more often deprived of the opportunity for close friendships, whether with other females or with males. In Edin and England's *Unmarried Couples with Children*, the authors reported lowered levels of mutual trust among younger women in low income and minority communities due to the competition for males.¹⁵⁷ Male-

153. Bill Albert, *Teen Parents a More Diverse Group Than Most Believe*, THE NATIONAL CAMPAIGN TO PREVENT TEEN AND UNPLANNED PREGNANCY (Oct. 27, 2009), <http://www.thenationalcampaign.org/press/press-release.aspx?releaseID=81> (citing *Socio-Economic and Family Characteristics of Teen Childbearing The National Campaign*, THE NATIONAL CAMPAIGN TO PREVENT TEEN AND UNPLANNED PREGNANCY (Sept. 2009), http://www.thenationalcampaign.org/resources/pdf/SS/SS41_SocioEconomicFamilyCharacteristics.pdf).

154. See Bruce Ellis et al., *Does Father Absence Place Daughters at Special Risk for Early Sexual Activity and Teenage Pregnancy?* 74 CHILD DEV. 801, 802 (2003); Brad Wilcox, *The Necessity of Both Sexes in Parenting*, FAMILY-MEN.COM, <http://family-men.com/The%20necessity%20of%20both%20sexes%20in%20parenting.htm> (last visited Oct. 10, 2010) (citing Carol W. Metzler et al., *The Social Context for Risky Sexual Behavior Among Adolescents*, 17 J. OF BEHAVIORAL MED. 419 (1994); DAVID POPENOE, LIFE WITHOUT FATHER 158-60 (1996)).

155. See Ellis et al., *supra* note 154, at 811.

156. See Stuart Showalter, *Postings of Stuart Showalter Law Blawg* (Mar. 8, 2010), <http://bcchildadvocates.blogspot.com/2010/03/i-have-noticed-alarming-trend.html>.

157. ENGLAND & EDIN, *supra* note 40, at 120, 124.

female friendships were also affected¹⁵⁸ due to of fears that heterosexual friendship could turn romantic.¹⁵⁹ A *Christian Science Monitor* interview with women living in a pregnancy care home recounted the story of one woman whose boyfriend was not supporting her mutual child; yet he called her relentlessly to warn her against friendships with any of the males in her carpentry class, where she was preparing for a new career.¹⁶⁰

Reports of infidelity, more among men than women,¹⁶¹ are also rife in communities experiencing high rates of single motherhood. Infidelity featured in 59% of the breakups between unmarried couples studied by Edin and England.¹⁶² The couples studied in *Promises*, even while they are involved in pregnancy and parenting, believe that it is acceptable to date others as long as they are not married.¹⁶³ There are also higher rates of abuse against women in disadvantaged communities, perpetrated both by men in their households, and also by their romantic partners.¹⁶⁴

Finally, young women who become pregnant during their adolescent years, also more often have poor academic records.¹⁶⁵ They “do not necessarily perceive motherhood as interrupting their career trajectory,” amidst their “poverty and an environment of diminished expectations.”¹⁶⁶ There is also a circular relationship between prospects for marriage and single motherhood: on average, the young single women who become pregnant more often come from communities with lower rates of marriage; as single women with children, they are then less likely to marry during their lifetime.¹⁶⁷ Without the hope of marriage, it is quite possible that they feel less motivated to postpone sexual involvement and pregnancy.¹⁶⁸ Yet this does not mean they do

158. JEFFREY MORAN, *TEACHING SEX: THE SHAPING OF ADOLESCENCE IN THE 20TH CENTURY* 225 (2000).

159. ENGLAND & EDIN, *supra* note 40, at 127.

160. Linda Feldmann, *Making Motherhood an Option*, *CHRISTIAN SCI. MONITOR*, Jan. 23, 1997, at 1-2.

161. EDIN & KEFALAS, *supra* note 27, at 91.

162. ENGLAND & EDIN, *supra* note 40, at 139.

163. EDIN & KEFALAS, *supra* note 27, at 90.

164. *Id.* at 94-98.

165. MORAN, *supra* note 158, at 225.

166. *Id.*

167. Kathryn Edin, *What do Low-Income Single Mothers Say about Marriage?* 47 *SOC. PROBS.* 112, 114 (2000).

168. Claire Hughes, *Marriage Promotion: Will it Work?*, *THE ROUNDTABLE ON RELIGION AND SOCIAL WELFARE POLICY*, 5-6 (June 2004), http://www.religionandsocialpolicy.org/docs/.../claire_hughes_06_28_2004.pdf; *This is My Reality: The Price of Sex, An Inside Look at Black Urban Youth Sexuality and the Role of Media*, *THE NATIONAL CAMPAIGN TO PREVENT TEEN PREGNANCY*, (2004), http://www.thenationalcampaign.org/resources/pdf/pubs/My_RealityFINAL.pdf.

not wish to marry, although even then they retain some skepticism about the potential for happiness and stability.¹⁶⁹

It is not difficult to understand how, in an environment characterized by few relationships which fully engage the young woman—body, mind or soul—and few chances for a future which might capacitate and showcase her full range of gifts, a baby might represent a *relatively* more realistic, even easier and more reliable, long-term relationship, whether or not this is really so. By contrast, it is very difficult for a young woman to imagine gaining the stable relationships she seeks by repairing her family of origin, or repairing the dynamics of same- or opposite-sex friendships in a particular community. She can be fairly certain, on the other hand, that the baby is legally hers. In the words of a young woman testifying at a U.S. Senate hearing on teen pregnancy: “Most of my friends do have their babies. It seems like most of them are lost and that seems like the only thing—they feel needed, and I figure that is why they get pregnant, because they want to be needed.”¹⁷⁰ In fact, too, a baby is not only a “community” for the mother, but ties her to the community in the future, especially to communities with high numbers of single mothers.

C. *Successful Governmental Programs and Ameliorating Factors which Indicate the Role Played by Community Connections and Status*

The thesis of this article—that single women approach choices about sex and pregnancy, in part, with a “community strategy”—is supported by evidence indicating that when single women have stable communities or are capacitated to take their place as good citizens of their community, they are more likely to avoid single parenting. This is a new perspective from which to consider a seemingly disparate array of programs and factors, which in the past have been linked to successful outcomes regarding nonmarital pregnancy.

The first type of program to consider in this vein is the “service-learning” model. Evidence of its success comes from highly respected sex-ed evaluator Dr. Douglas Kirby in his *Emerging Answers*, a meta-analysis of U.S. programs dedicated to assisting adolescents with prevention of pregnancy and sexually transmitted diseases.¹⁷¹ These

169. Edin, *supra* note 167, at 129.

170. *Adolescent Health, Services, and Pregnancy Prevention and Care Act of 1978: Hearing Before the S. Comm. on Human Resources*, 95TH Cong. 135 (1978).

171. Kirby, *supra* note 24, at 8.

programs require young women to perform voluntary service in their community alongside “structured time for preparation and reflection before, during and after,” the service.¹⁷² A significant time commitment is involved; in Kirby’s review, programs ranged from 46 to 77 hours.¹⁷³ Kirby writes that there is “quite strong evidence that some service learning programs have a positive impact . . . delay[ing] the initiation of sex . . . [and] reduc[ing] pregnancy rates during the academic year in which the teens were involved.”¹⁷⁴ Kirby acknowledges that it is not possible to know precisely why service learning programs are effective,¹⁷⁵ but offers several plausible reasons including: ongoing relations with caring program personnel; a sense of attaining competence in relations with both peers and adults; and being “heartened by” the realization that one can make a difference.¹⁷⁶ The degree of adult supervision also likely impacted the young women’s opportunities for sexual behavior.¹⁷⁷ In the end, however, Kirby concluded that the “service itself is the most important component of the programs,”¹⁷⁸ given that a variety of service programs all produced good results, even while their curricula varied.

One might further deduce the dispositive role played by students’ discovery of their capacity to “make a difference” in their communities, from the *failure* of vocational educational programs.¹⁷⁹ These programs—unlike the service-learning programs—focused on acquiring a skill, versus performing community service, during many hours spent with teachers.¹⁸⁰ They did not reduce rates of sexual involvement or pregnancy, despite the amount of adult supervision and the time commitment they involved.¹⁸¹ Their failure further enhances the possibility that it was precisely service learning’s *service* component which accounted for a good deal of its success.

Another type of program which promotes the notion among young women that they have a vital community role to play is the “fertility

172. *Id.* at 19.

173. *Id.* at 162.

174. *Id.* at 19.

175. *Id.*

176. *Id.* at 162.

177. *Id.*

178. *Id.*

179. *Id.*

180. *Id.* at 19.

181. *Id.*

awareness” program.¹⁸² These programs explicitly characterize young women’s sexual capacities, including fertility, as gifts to the larger community. While these programs both encourage abstinence and describe birth control, their centerpiece is instruction about human sexual reproduction and the fertility capabilities and patterns of males and females. Young women learn how to chart their own fertility patterns, and also learn about hormonal, physical, and other bodily signs and changes which take place over the course of each menstrual cycle.¹⁸³ They are then invited to “integrate” what are characterized as “personal gifts” into their thinking about their life’s plans, and to choose in the present “behaviors which are consistent with future life goals,” which regularly include marriage and parenting.¹⁸⁴ In one study, pregnancy rates in groups exposed to fertility training were a little less than one fifth of those in the group who were not exposed, over four years.¹⁸⁵ Sponsors of these programs believe that abstinence programs, by failing to present sexual gifts positively, and by failing to invoke the good of the future child, do not sufficiently incentivize the choice to “wait to engage this power until they can make full use of it in a committed relationship which will guarantee a home for any child conceived.”¹⁸⁶

Another kind of program showing positive results according to Kirby’s 2007 report is called the Children’s Aid Society—Carrera Program (“CAS-Carrera”).¹⁸⁷ In this program, children from 15 through 18 years old are offered educational and entrepreneurial training, paid employment in the summer, family life and education training, academic assessment, homework and exam help, college entrance exam help, bank accounts, career counseling, self-expression, mental health, and reproductive health services (including contraception).¹⁸⁸ The program focused on creating “close, caring relations with participants.”¹⁸⁹ Favorable results were obtained both respecting delayed sexual involvement and reduced pregnancies, however, only in the six New

182. Carlos Cabezón et al., *Adolescent Pregnancy Prevention: An Abstinence-Centered Randomized Controlled Intervention in a Chilean Public High School*, 36 J. OF ADOLESCENT HEALTH 64, 66 (2005).

183. Hanna Klaus, Nora Dennehy & Jean Turnbull, *Undergirding Abstinence Within a Sexuality Education Program*, 4 (Teen Pregnancy Prevention Conference, Pennsylvania State University (Oct 21, 2001) (on file with the author).

184. *Id.* at 3.

185. Cabezón et al, *supra* note 182, at 67.

186. Hannah Klaus, M.S. Talk at 6th International Teen STAR Congress 4 (Ars, France) (Aug. 21, 2009) (on file with the author).

187. Kirby, *supra* note 24, at 168-69.

188. *Id.* at 168.

189. *Id.*

York sites.¹⁹⁰ Dr. Kirby concluded that the strength of a sense of “close connections” between staff and participants.”¹⁹¹ Kirby also concluded that the New York success rates were not replicated at any other sites, likely because the staff at other sites spent less time with their clients, were less “charismatic” and developed less close relationships with the young people involved.¹⁹² In short, it seems that relationships were the key to the success of the CAS-Carrera program, given that nearly identical services were provided at each of the other unsuccessful sites.¹⁹³

It is plausible, but difficult to know with certainty whether the element of “building personal connection” figures in the success rates obtained from another set of programs (seventeen in total) that Kirby identified as the most successful among all those studied in his 2007 report, *Emerging Answers*. (These seventeen are the programs to which he and the National Campaign, and now the Department of Health and Human Services apply the title “evidence based” and “rigorously evaluated.”¹⁹⁴) A closer look at the elements common to these relatively more successful programs indicates, however, that my connection thesis is a plausible one. The common characteristics of the programs rated as more successful include more than a few which indicate that they helped to create a sense of community for participants. These included: their use of focus groups or interviews with the young people and adults involved to learn the “why” of nonmarital births in that particular community, and to solicit ideas about solutions; the use of local focus groups to learn about community values; pilot testing and willingness to modify programs; attention to finding sufficient numbers of sufficiently qualified staff within the community; and evaluating potential staff for their “ability . . . to relate to [the]young.”¹⁹⁵ Kirby concluded that a program staff’s knack for relating to the young—not gender or race—in fact appeared to make the difference in the success rates observed in five of the studies he reviewed.¹⁹⁶ Looking at these factors, it is more than plausible to link these programs’ success rates, at least in part, to their having adult leaders who could express caring and support for younger

190. *Id.* at 169.

191. *Id.* at 170.

192. *Id.* at 168-70.

193. *Id.* at 169.

194. See COMM. ON APPROPRIATIONS, 111TH CONG., SUMMARY: FY 2010 LABOR, HEALTH AND EDUCATION APPROPRIATIONS CONSOLIDATED APPROPRIATIONS BILL 4 (Comm. Print 2008), available at http://appropriations.house.gov/images/stories/pdf/press/laborhealth/FY10_LHHS_Conference_Summary.pdf.

195. Kirby, *supra* note 24, at 131-35.

196. *Id.* at 135.

women, and even respect their client's interventions, as well as the community's wishes, in the shaping and modifying of messages and means.

There are other clues highlighting the possibly important role played by helping a young woman internalize a sense of being part of a community that makes demands on her behavior, and values what she has to offer.¹⁹⁷ The first is the correlation observed in the sociological literature between lower rates of nonmarital births, and the presence of religiosity, good parental connections, or participation on a sports team. Respecting religiosity, it is generally agreed that it acts as a "protective factor" against adolescent's sexual risk.¹⁹⁸ While the mediating structures are not fully understood, it is generally thought that parental religiosity plays a role,¹⁹⁹ as does the religiosity of one's peer group.²⁰⁰ Sociologist Mark Regnerus suggests that the correlation between religiosity and good outcomes might further be mediated by what Professor Peter Berger calls "plausibility structures," i.e., "network[s] of like-minded friends, family, and authorities who [not only] teach and enable [a] comprehensive religious perspective[] about sexuality . . . [but] offer desexualized time and space and [reinforce] parental values," such as the importance of completing one's education and otherwise preparing for the future.²⁰¹ These elevate religious messages about sexual and procreative choices beyond the level of information, toward the level of understanding within a comprehensive religious perspective.²⁰²

Parental presence and involvement in a young woman's life also predicts a reduced likelihood of early sexual debut and single parenting.²⁰³ Adolescents themselves assert that parents have the most influence regarding their decisions about sex,²⁰⁴ and an influential "Add

197. *Id.* at 70.

198. Brian L. Wilcox et al., *Reason for Hope: A Review of Research on Adolescent Religiosity and Sexual Behavior*, in KEEPING THE FAITH: THE ROLE OF RELIGION AND FAITH COMMUNITIES IN PREVENTING TEEN PREGNANCY 44 (Barbara Dafoe Whitehead et al. eds., 2001).

199. *Id.* at 64.

200. Margaret F. Brinig, *Children's Beliefs and Family Law*, 58 EMORY L. J. 55 (2008) (peer group effects); see also John O.G. Billy et al., *Contextual Effects on Sexual Behavior of Adolescent Women*, 56 J. OF MARRIAGE AND THE FAMILY 387, 389 (1994).

201. REGNERUS, *supra* note 82, at 159, 203.

202. *Id.* at 203.

203. Cynthia Daillard, *Recent Findings from the 'Add Health' Survey: Teens and Sexual Activity*, 4 THE GUTTMACHER REP. ON PUB. POL'Y 1, 3 (2001), available at <http://www.guttmacher.org/pubs/tgr/04/4/gr040401.pdf>.

204. *Faithful Nation: What American Adults and Teens Think About Faith, Morals, Religion, and Teen Pregnancy*, NAT'L CAMPAIGN TO PREVENT TEEN PREGNANCY, 5 (Sep. 2001),

Health Study” (the National Longitudinal Study of Adolescent Health, a nationally representative sampling of adolescents from seventh to twelfth grades) concluded that teens possessing a sense of connectedness and belonging to a family are “far more likely to delay sexual activity than their peers.”²⁰⁵ Douglas Kirby affirmed the importance of this factor in his 2007 *Emerging Answers* report²⁰⁶ a report sponsored and endorsed by the National Campaign.

Girls’ membership with a sports team further predicts a lower rate of nonmarital pregnancy.²⁰⁷ The National Campaign summarizes plentiful research on this topic as follows: “In short, athletics both encourage girls to see themselves as strong, smart and confident, and discourage risky sexual behavior that can lead to too-early sex and pregnancy.”²⁰⁸

This subpart has put forth a great deal of evidence about single mother’s reflections on men, sex, babies, and motherhood, about humans’ longing for a “tribe” and for a recognition as a person capable of giving; and about “what works” among programs and factors hoped to influence single women’s choices about sex or pregnancy. It seems fair to conclude from this eclectic assortment of evidence that state sponsored speech about the sexual and reproductive choices of single women, should take into account single women’s thinking about community connection and status. The next section will conclude, however, that existing state sponsored programs do not accomplish this. Rather, they envision young women more as individualistically-minded, materially-oriented takers. They seek to persuade her intellectually, or by means of material-type incentives, to postpone sex and motherhood on the grounds that it will serve her individual well-being. In the course of so doing, they also appear to be advising her to pursue a path that very likely will remove her from her community, psychologically and/or geographically.

I should say at this juncture that I am not dismissing the need for or the usefulness of some individualistically- or materialistically-oriented incentives in the speech and programs directed to nonmarital sex and

http://www.thenationalcampaign.org/resources/pdf/pubs/FaithfulNation_FINAL.pdf, (when it comes to your decisions about sex, who is most influential? Parents at 49%; the next closest group is peers at 16%).

205. See Daillard, *supra* note 203, at 3.

206. Kirby, *supra* note 24, at 56.

207. *Id.* at 59.

208. *Not Just Another Single Issue: Teen Pregnancy and Athletic Involvement*, NAT’L CAMPAIGN TO PREVENT TEEN PREGNANCY, <http://www.thenationalcampaign.org/resources/pdf/sports.pdf>.

pregnancy. I am offering simply that they are likely to be insufficient or even confusing or contradictory if the community orientation that also colors single women's decisions about sex and pregnancy is not factored in.

III. CURRENT MESSAGES: LEARN THIS AND TAKE CARE OF NUMBER ONE

The sum total of state sponsored messages regarding nonmarital sex and pregnancy in the United States is too large a set to detail in a single paper. The state's messages are not contained only with sex education programs, though of course, these form an important component. There are also community-based programs directed more generally at "youth development," welfare reform initiatives and child support laws. The materials are vast. Happily, there are a number of excellent sources which have taken up the project of characterizing and summarizing the vast array of government programs and speech on the subject of nonmarital sex and pregnancy. These include the Congressional Research Service Report, *Nonmarital Childbearing: Trends, Reasons and Public Policy Interventions*,²⁰⁹ the record of a comprehensive 1999 hearing about nonmarital births before the U.S. Congress' Subcommittee on Human Resources of the House Ways and Means Committee,²¹⁰ the book *The Best Intentions: Unintended Pregnancy and the Well-Being of Children and Families*,²¹¹ edited by the current Director of the National Campaign, and several reports issued or commissioned by the National Campaign. Historian Jeffrey Moran has also performed a thorough examination of American sex education in the twentieth century in his book *Teaching Sex: The Shaping of Adolescence in the 20th Century*.²¹² Materials published by the Kaiser Family Foundation—which describes itself as "a non-profit, private operating foundation focusing on the major health care issues facing the U.S.,"²¹³—provide summaries and analyses of the sex education laws of the fifty states. Sociologist Barbara Dafoe Whitehead investigated sex education in the United States in the mid-1990s, during which project she participated in sex-ed teacher training, and examined texts offered to adolescents and

209. CARMEN SOLOMON-FEARS, *NONMARITAL CHILDBEARING: TRENDS, REASONS, AND PUBLIC POLICY INTERVENTIONS*, CRS Report for Congress, Nov. 20, 2008, RL 34756.

210. *Reducing Nonmarital Births supra* note 21, at 106-35.

211. Brown & Eisenberg, *supra* note 25.

212. MORAN, *supra* note 158.

213. *See About the Kaiser Family Foundation*, KFF.ORG, <http://www.kff.org/about/index2.cfm>.

children.²¹⁴ Political Science professors Alesha E. Doan and Jean Calterone Williams' *The Politics of Virginity*²¹⁵ offers a critical summary of the leading abstinence programs in the United States in the 1990s and the early 2000s. The National Abstinence Education Association²¹⁶ has issued a variety of reports about both programs and outcomes. Finally, there are two interest groups—the Sexuality Information and Education Council of the United States (SIECUS), and the Planned Parenthood Federation of America (PPFA)—which publish a prolific amount of sex education materials, both for schools, and in the case of PPFA, for their own community programs.²¹⁷ Each also offers training to teachers and other leadership in connection with sex education. SIECUS is one of the oldest, most prolific and most widely known sources for sex education materials in the United States. They are an important supplier of materials for public schools, and of information and training for a variety of leaders in this area. SIECUS also cooperates closely with the Centers for Disease Control's Adolescent and School Health Division, and assists state governments, health professionals, and local government entities writing plans for sex education or training teachers.²¹⁸ SIECUS' 2008 report asserts that its online Sex EdLibrary—containing lesson plans and other teaching tools—attracted more than 70,000 educators,²¹⁹ while its website garnered 1.5 million visits.²²⁰ The Planned Parenthood Federation of America is another important source of sex education materials. Their 2007-2008 report indicates that they received nearly 350 million dollars from government grants and contracts, representing more than one-third of their total revenues.²²¹

Given that sex education, whether via schools or community programs, is the primary place where the government speaks to young women about sex and pregnancy, this section will devote considerable attention to sex education. But the government also “speaks” about

214. Whitehead, *supra* note 85, at 55.

215. ALESHA E. DOAN & JEAN CALTERONE WILLIAMS, *THE POLITICS OF VIRGINITY: ABSTINENCE IN SEX EDUCATION* (2008).

216. NATIONAL ABSTINENCE EDUCATION ASSOCIATION, <http://www.abstinenceassociation.org>.

217. *Human Sexuality: What Children Need to Know and When*, PLANNEDPARENTHOOD.ORG, (2008), <http://www.plannedparenthood.org/parents/human-sexuality-what-children-need-know-when-they-need-know-it-4421>.

218. *SIECUS Annual Report*, *supra* note 20, at 8-11.

219. *Id.* at 7.

220. *Id.* at 8.

221. PLANNED PARENTHOOD FEDERATION OF AM. ANNUAL REP. 18 (2007-2008), available at http://www.plannedparenthood.org/files/AR08_vFinal.pdf.

sexual and reproductive decisions in child support and welfare reform contexts as well. These will be referenced in this section when relevant.

To begin regarding sex education, according to the Kaiser Family Foundation, 84% of U.S. schools teach pregnancy prevention to students between sixth and twelfth grade.²²² Sixty-nine percent of school districts have policies mandating the teaching of some form of sex education; these tend to be the districts in which a “disproportionate number of students reside.”²²³ Programs can be characterized as falling into two broad categories: first, “abstinence” programs stress avoiding sexual intimacy, practicing self-control, and the future payoff of these behaviors toward peace of mind/lack of guilt, freedom from disease and pregnancy, and (sometimes) better marital sexual intimacy. Such programs might also include information about good decision making, refusal skills, and self-esteem in addition to biological data about reproduction.²²⁴ Sometimes, abstinence programs talk about birth control, often to warn of its shortcomings.²²⁵ Abstinence programs eligible for federal money since 1996 have been governed by further detailed legal requirements.²²⁶ Most importantly for our purposes, these mandated that federally funded programs have as their “exclusive purpose” the teaching about the “social, psychological, and health gains of abstaining from sexual activity.”²²⁷ They further had to teach “how to reject sexual advances,” “abstinence as the only certain way to avoid” pregnancy and disease, and the likely harm of “sexual activity outside of marriage.”²²⁸ They were required to stress that “bearing children out-of-wedlock is likely to have harmful consequences for the child, the child’s parents, and society.”²²⁹ Sex educator Marline Pearson calls this approach the “health paradigm,” e.g., abstinence is the best possible way

222. *Sex Education in the U.S.: Policy and Politics*, ISSUE UPDATE (Oct.2002), <http://www.kff.org/youth/hivstds/upload/Sex-Education-in-the-U-S-Policy-and-Politics.pdf> [hereinafter *Kaiser Issue Update*] (citing Centers for Disease Control and Prevention, CDC Surveillance Summaries, Aug 18, 2000 MMWR 2000; 49 (No. SS-8)).

223. *Kaiser Issue Update*, *supra* note 222, at 3 (citing DJ Landry, L Kaeser & CL Richards, *School District Policies on Abstinence Promotion and the Provision of Information About Contraception in Public School District Sexuality Education Policies*, 31 FAM. PLANNING PERSP. 282 (1999)).

224. DOAN & WILLIAMS, *supra* note 215, at 103 (Table 4.3 Percent of Curriculum Discussion Sexuality Education).

225. Sarah Kliff, *The Future of Abstinence*, NEWSWEEK, Oct. 27, 2009, at 2, available at <http://www.newsweek.com/2009/10/26/the-future-of-abstinence.html>.

226. H.R. 3734, 104TH Cong. (1996); Section 510 of the Social Security Act, 42 U.S.C. § 710 (2010).

227. *Id.*

228. *Id.*

229. *Id.*

to avoid the outcomes of sexually transmitted diseases and pregnancy.²³⁰ Political scientists Alesha Doan and Jean Calterone Williams, after reviewing the four leading abstinence curricula used in the U.S., estimated that such curricula devoted respectively 16%, followed by 22%, 36% and 48%,²³¹ to the subject of the harms of nonmarital sexual intimacy.

More frequently, sex education programs offered through schools or communities assume that it is “realistically likely” that adolescents will be sexually active before marriage, and respond by offering prolific instructions and exhortations about birth control.²³² Speaking of comprehensive sexuality programs, Douglas Kirby’s *Emerging Answers* opined that: “most programs focus primarily on abstinence and condoms and to a lesser extent on testing for STDs.”²³³ The Kaiser Family Foundation’s comprehensive review concluded that these programs teach that: “while young people should be taught to remain abstinent until they are emotionally and physically ready for sex, information about birth control and disease prevention is essential for those who are sexually active.”²³⁴ Sex education historian Moran adds that comprehensive sex education also regularly presents descriptions of the biology of human reproduction, as well as of a wide variety of sexual practices.²³⁵ Comprehensive programs and programs that Kirby calls “youth development” programs focusing not only on sexuality and risk-avoidance, but also identifying and working toward realizing life goals²³⁶ – also warn participants about the likelihood that pregnancy will disrupt their future plans for, and success respecting, education and/or employment.

No matter what type of program the state sponsors in a particular area—abstinence or comprehensive—there are some overarching themes that tend to characterize state speech in this area generally. Sometimes a particular theme will appear in both abstinence and comprehensive

230. Pearson, *supra* note 48, at 3.

231. DOAN & WILLIAMS, *supra* note 215, at 101 (looking at Sex Respect; Sexuality, Commitment & Family, Choosing the Best Life, and Sex Can Wait) (Table 4.2 Percent of Curriculum Discussing Consequences of Premarital Sexual Activity).

232. MORAN, *supra* note 158, at 200.

233. Kirby, *supra* note 24, at 38.

234. *Kaiser Issue Update*, *supra* note 222, at 1 (citing *Fact Sheet: Sexuality Education in the Schools: Issues and Answers*, SEXUAL INFO. AND ED. COUNCIL OF THE U.S. (1998)).

235. MORAN, *supra* note 158, at 194-216; Whitehead, *supra* note 85, at 55; MIRIAM GROSSMAN, YOU’RE TEACHING MY CHILD WHAT? A PHYSICIAN EXPOSES THE LIES OF SEX EDUCATION AND HOW THEY HARM YOUR CHILD (2009).

236. Kirby, *supra* note 24, at 19-20.

programs, sometimes in one but not the other, and sometimes with a greater emphasis in one. The themes are set forth to facilitate their engaging my inquiry regarding whether government speech includes what I have described above as single women's community strategy in connection with decisions about sex and pregnancy. The major themes are as follows.

A. Sex Is About Choosing To Do Or Not To Do Individual Actions Involving Particular Body Parts; It Is Not Mostly About Relationships

In the droll commentary of one long-time sex educator (Dr. Hanna Klaus) on prevailing U.S. sex education methods: in a great deal of U.S. sex education, “the fact that a sexual relationship is interpersonal seldom surfaces.”²³⁷ Rather, many programs stress, either explicitly, or by their overall content, information about sexual body parts, the variety of acts that could be called sexual acts, how to think about the pros and cons of participating in this or that sexual act, and how to talk with a potential sexual partner about a decision to participate in or not to participate in a particular act. SIECUS' flagship manual, “Talk About Sex,” for example, emphasizes the individual choice theme, and the theme about sex as a series of discrete acts involving sexual body parts. It reads: “Sexuality is a part of who you as an individual.”²³⁸ You have the right to decide how to express your sexuality. “At every point in your life, you can choose if and how to express your sexuality.”²³⁹ This manual for adolescents also states that “you have a right to decide exactly what behaviors, if any, you are comfortable participating in and to expect that your friends and partners will respect your decision.”²⁴⁰ Another good example of this theme comes from the program called “F.L.A.S.H.,” Family Life and Sexual Health Curriculum,²⁴¹ used in several states including Washington, Idaho and Colorado. This is a comprehensive sex education curriculum offered from fourth through twelfth grades. A review of its copious lesson plans—while various as to topic—reveals

237. Hanna Klaus, M.D. The Unintended Consequences of the Separation of Sex from Procreation 2 (white paper) (on file with the author).

238. Martha Kempner & Monica Rodriguez, *Talk About Sex*, SEXUALITY INFO. AND ED. COUNCIL OF THE U.S., 9 (2005), http://www.siecus.org/_data/global/images/TalkAboutSex.pdf.

239. *Id.*

240. *Id.* at 12-13; *see also* SEXUAL BEHAVIOR, <http://www.sexedlibrary.org/index.cfm?pagelD=726> (Express one's sexuality in ways that are congruent with one's values).

241. *F.L.A.S.H. Lesson Plans: Comprehensive Sexuality Education Curriculum*, KING COUNTY, <http://www.kingcounty.gov/healthservices/health/personal/famplan/educators/FLASH.aspx>.

the importance ascribed to conveying a great deal of biological information; headings include “reproductive system,” “puberty,” “sexual health and hygiene,” “sexual response,” “sexual development,” “pregnancy,” “communication,” “decision-making,” and “sexual exploitation.”²⁴² Even the categories that might indicate attention to relational aspects of sex provide little exploration of the relationship between sex and either having or functioning in a community.

Thus the “families” lesson plan is about the varieties of family form, why good communication is important, and what services families provide their members.²⁴³ The “self-esteem” lesson plan, while it mentions how being appreciated by others is crucial to feeling happy and satisfied, does not link this material to parenthood or sexual intimacy.²⁴⁴ The more relationship-oriented categories of instruction are not repeated in the older grades, which tend more and more to stress individual sexual development, sex acts, and the prevention of pregnancy and disease. Reviews of other representative sex education programs from Massachusetts, North Carolina, Washington D.C., Chicago, San Francisco, and Virginia, show the same attention to learning about sexual acts and sexual body parts, often paired with advice about the importance of clearly communicating one’s individual sexual desires to a partner.²⁴⁵

An important facet of this theme is the idea that connections should be avoided – connections with the opposite sex (by means of abstinence) and with children (by means of contraception or abortion). Jeffrey Moran, in fact, describes the central theme of U.S. sex education in the twentieth century as “protect” yourself against something dangerous,²⁴⁶ and persuasively chronicles how this theme gained strength following the discovery of HIV and AIDS.²⁴⁷ The Kaiser Family Foundation likewise summarizes U.S. sex education’s main thrust as “protect

242. *Id.*

243. *See id.* at “Family,” Grades 4-6, lesson #2.

244. *See id.* at “Self-Esteem,” Grades 4-6, lesson #3.

245. Alison Lobron, *Let’s Talk About Sex*, BOSTON GLOBE MAG., Feb. 1, 2009, at 1, available at www.boston.com/bostonglobe/magazine/articles/2009/02/01/lets_talk_about_sex?m; Whitehead, *supra* note 85, at 55; Jan Hoffman, *When the Cellphone Teaches Sex Education*, N.Y. TIMES, May 3, 2009, available at www.nytimes.com/2009/05/03/fashion/03sexed.html?_r=1&hpw=&pagewanted=print; *Eighth Annual*, *supra* note 20; *Planned Parenthood of Delaware Annual Report*, PLANNEDPARENTHOOD.ORG (2010), <http://www.plannedparenthood.org/about-us/newsroom/local-press-releases>; *Issue Update*, *supra* note 222.

246. MORAN, *supra* note 158, at 216.

247. *Id.* at 205-11.

yourself and your partner.”²⁴⁸ Significantly, Kaiser reports that more states require their schools to offer HIV or STD education—a “protect yourself” course of study—than require their schools to offer general sex education. As of Kaiser’s 2002 survey, twenty two states required schools to provide both general sex education and HIV/STDs education. Seventeen more required *only* HIV/STDs education.²⁴⁹

Abstinence programs, as described above, and especially those designed to elicit federal government funding, generally speak about “abstaining from sexual activity,” “reject[ing] sexual advances,” “avoid[ing]” pregnancy and disease, and the other harmful consequences of sexual intimacy outside of marriage. Comprehensive sex education courses spend a great deal of time on contraception. They regularly, even almost inevitably, pair pregnancy with sexually transmitted diseases when discussing the “risks” of sex and the need for “protection.” SIECUS’ enormous lobbying and public educational efforts—which seem equally balanced between burying abstinence and promoting comprehensive programs—are focused largely on promoting information about, access to, and consistent usage of contraception. Its leading criteria for adolescent sex include the terms “consensual,” “pleasurable” and “protected.”²⁵⁰ Summaries and instructional materials from a wide variety of programs reveal how often the language of “safety,” and “protection” and “risk” are used in connection with copious instruction about the proper use of condoms and other contraceptives.²⁵¹ The F.L.A.S.H. sex-ed curricula, described above, provides dozens of lessons about sexual exploitation, saying “no,” and using various types of contraception.²⁵²

Even programs described above as “youth development” programs (focusing not only on sexuality and risk-avoidance, but also identifying and working toward realizing life goals)²⁵³—also regularly warn

248. *It’s Your (Sex) Life: Your Guide to Safe and Responsible Sex*, THE HENRY J. KAISER FAMILY FOUNDATION 5 (2005), http://www.kff.org/youth/hivstds/upload/MTV_Think_IYSL_Booklet.pdf (in cooperation with Think.MTV.com).

249. *Kaiser Issue Update*, *supra* note 222, at 3.

250. Kempner & Rodriguez, *supra* note 238, at 37–41.

251. See, e.g., Lobron, *supra* note 245 (reporting on sex education program “Our Whole Lives” and its teaching about risk reduction and contraception); *Eighth Annual*, *supra* note 20 (on the importance of government sex education teaching about ways to prevent . . . pregnancy and sexually transmitted infections); Whitehead, *supra* note 85 (reviewing the material produced by the Network for Family-Life Education).

252. *F.L.A.S.H Lesson Plans: Comprehensive Sexuality Education Curriculum*, *supra* note 241.

253. Kirby, *supra* note 24, at 19–20.

participants about the relationship between becoming an unmarried parent and the disruption of plans for success in school and at work.

Comprehensive programs employ a further technique which tends to classify sex as an individual versus a relational reality. They virtually always replace the concept that “sex makes babies,” with the concept that “unsafe sex” or “unprotected sex” makes babies. Douglas Kirby’s summary of comprehensive programs confirms this. He describes their main message as “sex without effective contraception” . . . leads to pregnan[cy].²⁵⁴ Students internalize this. In the words of one high-school-sex-educated woman:

In high school sex education class, we learned not that sex creates babies, but that unprotected creates babies All my life, the message I had heard loud and clear was that . . . [sex’s] potential for creating life was purely tangential Because I saw sex as being by default closed to the possibility of life, I thought of unplanned pregnancies as akin to being struck by lightning while walking down the street—something totally unpredictable and undeserved that happened to people living normal lives.²⁵⁵

Such a message indicates to listeners that there is no meaning in the connection between heterosexual attraction or sexual intimacy and “baby.” They are not encouraged to think that the “twoness” of heterosexual intimacy and the uniting of the two in the “oneness” of baby, are related, such that the “unity” and “love” themes characterizing this chain of events might indicate the need for continuing unity and love between the parents in service to the child. The testimonies of single women indicate that they intuit the relationship between loving their partner and wanting his baby, and enjoying a continuing relationship. Sex education, however, generally fails to address this intuition, and insists rather on characterizing sex as an individual-facing kind of choice, necessitating a great deal of separation between men and women, and parents and children. This theme, this type of education, is unlikely to capture the attention, let alone the allegiance, of many single women, particularly those seeking human communion in a needier fashion. Worse, it misses an opportunity to speak about the good of at least delaying children until there is a more realistic possibility that the couple’s bond might endure and the baby will receive the kind of care the mother hopes that she and the father will give.

254. *Id.* at 39.

255. Jennifer Fulwiler, *A Sexual Revolution*, AMERICA MAGAZINE, July 7, 2008, at 2, available at http://www.americamagazine.org/content/article.cfm?article_id=10904&comments=1.

Some sex education programs and government-sponsored entities (such as Planned Parenthood) also offer information about avoiding parenting via abortion. Beginning as early as the late 1960s at the state level, and nationwide after the 1973 *Roe v. Wade* decision,²⁵⁶ abortion was adopted as a tool to fight nonmarital births.²⁵⁷ Rickie Solinger's history of U.S. abortion law claims that even by the late 1960s, "many experts acknowledged that contraception alone was not functioning well enough as a deterrent . . . to illegitimate pregnancy"²⁵⁸ which began to increase sharply during this time. The majority opinion in *Roe v. Wade* explicitly affirmed women's right to employ abortion as a means of avoiding the stigma of a nonmarital child.²⁵⁹ Even today, Supreme Court Justice Ruth Bader Ginsburg—a noted feminist litigator at time of *Roe*—indicated in a 2009 *New York Times* profile that she understood *Roe* as a reaction in part to "population growth and particularly growth in populations that we don't want to have too many of. So that *Roe* was going to be then set up for Medicaid funding for abortion [for the poor]."²⁶⁰ Single mothers' testimonies above, however, and the data on abortion rates among disadvantaged and minority populations, indicate that an abortion strategy is not likely to make sense to them. It contradicts their views about the value of children and about the value of mothering even in an impoverished environment.

B. *Sex Is About Self-Maximization*

A second feature of prevailing state sponsored speech about sex, in both abstinence and comprehensive programs, as well as in welfare laws, is that sexual choices should be made in light of the goal of maximizing mostly material, individual well-being. Sometimes, sex-ed programs also highlight the relationship between sexual discipline in the present, and better heterosexual relationships in the future. Yet they devote much more attention to the relationship between avoiding nonmarital pregnancy, avoiding bad outcomes and opportunity costs, and achieving

256. *Roe v. Wade*, 410 U.S. 113, 164-66 (1973).

257. See RICKIE SOLINGER, WAKE UP LITTLE SUSIE: SINGLE PREGNANCY AND RACE BEFORE ROE V. WADE 231 (1992) ("In the mid and late 1960s, however, many experts acknowledged that contraception alone was not functioning well enough as a deterrent either to illegitimate pregnancy or to abortion. [footnote omitted]. Consequently, many policy makers again made a choice....Abortion became an acceptable way to meet an old goal, that is, containing the social consequences of illicit female sexuality and fertility.").

258. *Id.* at 231.

259. *Roe*, 410 U. S. at 153 ("in other cases, as in this one, the additional difficulties and stigma of unwed motherhood may be involved").

260. Emily Bazelon, *The Place of Women on the Court*, N.Y. TIMES MAG., July 12, 2009, at 22.

good educational and economic outcomes. Often the young woman comes to understand that she will likely have to leave the community she presently occupies, in order to be a success according to the terms of her sex education. This can be a lonely and consequently scary path. In a *New York Times* interview with a woman who overcame her neighborhood and her own history with drugs, theft, and nonmarital childbearing (six children), to become a nurse, the author wrote: “At first, nursing was like hitting the lottery. She was making enough for the family to move into a four-bedroom apartment But she has found herself alone. She is making more money than anybody she knows.”²⁶¹

The message that motherhood has steep opportunity costs was an integral part of the 1996 welfare reform law (the Personal Responsibility and Work Opportunity Reconciliation Act²⁶²) which capped welfare payments by time, and allowed states to institute work or school obligations and even baby caps (denying welfare payments for children born to mothers already receiving welfare) for single mothers.²⁶³ It also required minor single mothers to live with their parent(s) or another “responsible adult.”²⁶⁴ In the words of Isabel Sawhill, former head of the National Campaign, and presently a scholar at the Brookings Institute, welfare reforms made “unwed motherhood as a life choice much more difficult . . . [via] system-wide changes that are accompanied by time limits and strong moral messages”²⁶⁵

More stringent child support enforcement regimes in every state were also intended in part, to incentivize a choice to avoid the economic costs of children.²⁶⁶ Supporters certainly continue to hope they will. Professor John Witte, for example, has written that “a single impulsive act of conceiving a child should trigger a lifetime of responsibilities to care for that child [in part, as a means of] deter[ring] irresponsible sex and to promote responsible childbearing within marriage.”²⁶⁷ Given, however, that women tend to lone-parent so much more often than men,

261. Isabel Wilkerson, *Angela Whitiker's Climb*, N.Y. TIMES, June 12, 2005, available at http://www.nytimes.com/2005/06/12/national/class/ANGELA-FINAL.html?_r=1#.

262. H.R. 3734, 104TH Cong. (1996).

263. *Id.*

264. *Id.*

265. *Reducing Nonmarital Births*, supra note 21, at 72 (Testimony of Isabel Sawhill, Senior Fellow, Brookings Institute, and President, National Campaign to Prevent Teen Pregnancy).

266. CARMEN SOLOMON-FEARS, NONMARITAL CHILDBEARING: TRENDS, REASONS, AND PUBLIC POLICY INTERVENTIONS, S. Rep. No. 110-34756, at 24, n.72 (2008) (citing Chien-Chung Huang, *The Impact of Child Support Enforcement on Nonmarital and Marital Births: Does It Differ by Racial and Age Groups?*, 76 SOC. SERV. REV. 275, 280-81 (2002)).

267. Witte Jr., supra note 5, at 2-3.

child support laws are not likely to scare them; it seems possible, in fact, that child support enforcement may “reduce the cost of children for women (making them more willing to have children outside of marriage).”²⁶⁸

Some state-sponsored programs directed to single women take up the “self-development” theme by including alongside sex education more narrowly conceived (conveying information, e.g., about the reproductive system, birth control, and refusal or delay skills), information and skills directed specifically to helping participants complete high school, possibly enter college, and obtain a good job.²⁶⁹ The list of services they offer is impressive; it includes everything from employment guidance, life skills training, mentoring, arts enrichment, sports, and particularized advice on birth control and substance abuse. But while a few programs have demonstrated some success particularly respecting high school or GED completion, overall such programs do not have an impressive track record. Several fairly recent studies in the U.S. and the UK, in fact, have shown that a few of the most comprehensive and time-intensive programs have had either disappointing results²⁷⁰ or were correlated with *worse* nonmarital pregnancy rates and earlier sexual debut among participants than among students who did not participate.²⁷¹

To conclude this section, sociologist Barbara Dafoe Whitehead has summarized the prevailing government model for sex education as: “[W]hy not invest teenagers with the power to make wise choices on their own?” via “knowledge, skills” and “contraceptive technology.”²⁷² Jeffrey Moran called this an “instrumentalist model,” which provides information and hopes for rational responses in the form of changed behavior.²⁷³ I would add that extant approaches do not genuinely engage disadvantaged single women’s relational or community aspirations.

268. CARMEN SOLOMON-FEARS, *NONMARITAL CHILDBEARING: TRENDS, REASONS, AND PUBLIC POLICY INTERVENTIONS*, S. Rep. No. 110-34756, at 24, n.72 (2008) (citing Chien-Chung Huang, *The Impact of Child Support Enforcement on Nonmarital and Marital Births: Does It Differ by Racial and Age Groups?*, 76 *THE SOC. SERV. REV.* 275, 280-81 (2002)).

269. Janet C. Quint, Johannes M. Os & Denise F. Polit, *New Chance: Final Report on a Comprehensive Program for Young Mothers in Poverty and Their Children*, MDRC, PROGRAMS THAT WORK, 25 (Jan. 1997), <http://www.mdrc.org/publications/145>.

270. *Id.*

271. Meg Wiggins et al., *Health Outcomes of Youth Development Programme in England: Prospective Matched Comparison Study*, *BRIT. MED. J.* 4 (2009), available at <http://www.bmj.com/content/339/bmj.b2534.full.pdf+html>.

272. Whitehead, *supra* note 85, at 67.

273. MORAN, *supra* note 158 at 217-18 and 222; *SIECUS 2008 Annual Report*, *supra* note 20, at 29; *It’s Your (Sex) Life: Your Guide to Safe and Responsible Sex*, *supra* note 248, at 5.

They do emphasize, quite rationally, that sexual intimacy and parenting should be postponed in order to attend both to present physical, emotional, academic and other developmental needs, and to prepare realistically for a stable and economically secure future. But they do not make the necessary connection with young women's desires to be in meaningful personal relationships. They do not *provide* community, nor do they help her envision how she will achieve a role or status in her community that appears realistically attainable. Sometimes current programs talk past her, or even contradict her sense of the utter importance of relationships and community status, and of the role that self-donation and mothering can play in attaining such status. So what is to be done? Part IV offers a variety of proposals.

IV. CONCLUSION: ACKNOWLEDGING SINGLE WOMEN'S COMMUNITY-FACING ORIENTATION

It should be reiterated here that this paper does not propose silencing the state on matters concerning sex and pregnancy. It assumes, in fact, that various state actors will continue speaking to single women about sex and pregnancy. The state has the apparatus, the scope of operations, and the resources to do so. To its credit, it acknowledges the serious externalities of individual choices about sex and pregnancy. As distinguished from other players who speak about sex—such as the media, the entertainment industry, and other commercial enterprises—the state speaks more consistently against the exploitation of woman. The state has shown a greater disposition recently, too, to acknowledge the relationship between responsible and stable adult intimate relationships and children's long-term welfare. Its voice is far from perfect, as this paper has amply indicated, but the state remains an indispensable player, especially for supporting the work of various private persons (parents) and institutions (churches, schools) in their mutual aim to bolster a responsible sexual culture. This final part will therefore suggest ways the state can take into account single women's community-facing approach to sex and pregnancy, particularly their desires: to have a community that cares for the woman over the longer run, not just the short run; to enable a stable, heterosexual relationship; to bear and raise children in the not-too-distant future; and to attain a recognized and respected role within the community as a person capable of self-donation. These aims might be pursued in programs intended specifically to affect sexual and reproductive choices, or in other types of programs.

I will first recommend what might be called long-range or foundational efforts. These involve, not surprisingly, two foundational institutions: marriage and fatherhood, both of which pay intergenerational dividends. If a young woman's father is present in the home and her parents have a stable relationship, she already has the kind of community that can begin to protect her against unwise sexual liaisons and early motherhood.²⁷⁴ Married parents provide the most protection, but absent this, it is still helpful for the young woman to have father-involvement in her life. Three presidential administrations in a row, continuing with our current president, have promised to support and are supporting fatherhood programs.²⁷⁵ Fatherhood programs ought not, however, be disconnected from, or judged superior to, ongoing efforts to support marriage. Marriage is the surest route for securing a more involved father. It is also the institution which most likely secures for the young woman, as she matures, a more faithful, more sexually satisfying, longer term liaison with a male partner, who is, even in the event of divorce, far more likely to remain involved with his children.²⁷⁶

There is an enormous amount of literature about how to promote stable marriage among populations seeking it. There are many concrete tasks which might assist the effort. These include bolstering the economic and educational capital particularly of men in disadvantaged populations. Those in possession of this capital are simply more likely to get married. In Kathryn Edin and Paula England's study *Unmarried Couples with Children*, 78% of unmarried couples who surpassed what the author determined was the minimal economic bar to marriage did marry; only 19% married among couples who fell short of this financial milestone.²⁷⁷ There is also work to be done to reform some currently problematic ideas about the nature of marriage. Andrew Cherlin writes in his *Marriage-Go Round: The State of Marriage and Family in America Today*²⁷⁸ that an individualistic understanding of marriage bears significant blame for our nation's high divorce rates. A more

274. See *supra* Part II.B.

275. See, e.g., PRESIDENT'S ADVISORY COUNCIL ON FAITH-BASED AND NEIGHBORHOOD PARTNERSHIPS: A NEW ERA OF PARTNERSHIPS: REPORT OF RECOMMENDATIONS TO THE PRESIDENT 27-52 (2010), available at <http://www.whitehouse.gov/sites/default/files/microsites/obnnp-council-final-report.pdf>.

276. See generally W. Bradford Wilcox, *SEEKING A SOULMATE: A Social Scientific View of the Relationship between Commitment and Authentic Intimacy*, in "Promoting and Sustaining Marriage as a Community of Life and Love," A COLLOQUIUM OF SOCIAL SCIENTISTS AND THEOLOGIANS, (2005), available at <http://www.usccb.org/laity/marriage/Wilcox.pdf>.

277. ENGLAND & EDIN, *supra* note 40, at 96-97.

278. CHERLIN, *supra* note 70.

community-focused, and more realistic conception of marriage could help inoculate more couples against the inevitable disappointments and disagreements they will encounter during an ongoing marriage. There is no reason why such a message could not be incorporated effectively into life-skills education or sex education beginning at least as early as high school.

Further, regarding marriage, public policy must also grapple with some populations' taste for earlier partnering and parenting, within reason. Many of the disadvantaged women whose testimonies are recounted above, prefer to begin serious sexual relationships and become mothers earlier versus later in their lives. They even regard putting these off until one's later twenties or even one's thirties as a selfish strategy designed only to maximize material self-interest.²⁷⁹ According to economist, Robert Michael, their age-calculations are not as aberrant as they first seem in light of the commonly accepted wisdom that couples today are pairing off into marriage at historically high ages. Michael points out, in fact, that if we define romantic unions to "include both formal marriages and informal cohabitations, there is practically no difference in the proportions [of men and women] that have paired off by age twenty-five" in the cohorts of women born during the 1930s and those born in the 1960s and early 1970s.²⁸⁰ But it is precisely during one's twenties that increasingly popular ideas about the contents of "freedom" for men and women in their twenties clash with what we saw above in many single women's testimonies: their preference for a stable heterosexual relationship and even children during this period of their life.

Policymakers also worry about the correlation between divorce and marrying at young ages. Perhaps, however, they should take a more nuanced look at this correlation. According to sociologist Mark Regnerus, the "age-divorce link is most prominent among teenagers (those who marry before age twenty). Marriages that begin at age 20, 21, or 22 are not nearly so likely to end in divorce as many presume."²⁸¹ Perhaps, therefore, programs and policy should actively discourage marriage among teens generally, but with respect to couples in their

279. EDIN & KEFALAS, *supra* note 27, at 164-65, 208-9.

280. Robert T. Michael, *An Economic Perspective on Sex, Marriage and the Family in the United States*, in FAMILY TRANSFORMED: RELIGION, VALUES, AND SOCIETY IN AMERICAN LIFE 94, 112 (Steven M. Tipton & John Witte eds., 2005).

281. Mark Regnerus, Editorial, *Say Yes. What Are You Waiting For?*, WASH. POST, Apr. 26, 2009, available at <http://www.washingtonpost.com/wp-dyn/content/article/2009/04/24/AR2009042402122.html>.

early twenties, they should respond with more ideas about how to make marriage more possible and less economically punishing if couples are otherwise mature. This would require retooling some policies about college costs, about housing for young married couples, and about the tax code as it applies especially to the poorest married couples. Of course, it also involves finding ways to enable young men and women to earn a living wage, sometimes on the basis of a high school education alone, or on the basis of less than a full college degree. This is a large, but important and meritorious project which should occupy experts in education, particularly in the current economic environment. Poor, minority, and immigrant Americans currently experiencing high rates of unemployment and single parenting require sustained thinking about the relationship between their education and their future employment.

A second type of approach to the issues raised in this paper is to assist young women in the course of their childhood and adolescence to find satisfactory communities, beginning within her family, but extending beyond them when the family falls short. This does not engage the “foundational” types of problems addressed immediately above, but takes up interventions more limited according to scope and duration.

The first, most effective connection a young woman can make is with her parent or parents. There is widespread agreement about both the importance of parents, and parents’ regular failure fully to grasp their potential respecting adolescent sexual and reproductive decisions. Studies indicate a strong correlation between good sexual and reproductive decision-making by a young woman, and her belief that her parent(s) is “on her side,” available for meaningful conversation, and ready to hold her accountable if she misbehaves.²⁸² The barriers to gaining parents’ involvement are surprisingly significant. Among disadvantaged populations, there are many single parents with little free time outside of work or domestic responsibilities. Further, when it comes to conversations and advice about sex, parents have proved themselves quite reluctant. Strenuous efforts to secure parental attention to their children’s sexual questions have failed. It is continually reported that parents are not particularly willing to engage in sustained, helpful

282. See, e.g., Ian Hay & Adrian F. Ashman, *The Development of Adolescents’ Emotional Stability and General Self-Concept: The Interplay of Parents, Peers, and Gender*, 50 INT’L J. OF DISABILITY, DEV. AND EDUC. 77 (2003); *The Talk: It’s More than Just Sex*, NAT’L CAMPAIGN TO PREVENT TEEN AND UNPLANNED PREGNANCY, <http://www.thenationalcampaign.org/parents/relationships.aspx>.

conversation with their children on matters relating to sex.²⁸³ Even programs that have made intensive efforts, shaped around parents' schedules, to encourage parents to get involved in their children's lives around sexual and reproductive decisions, have not met with success.²⁸⁴ Importantly, neither have efforts succeeded to encourage significant numbers of unrelated adults in the community to act as sources of guidance about sex.²⁸⁵ Given parents' importance in this, however, we cannot abandon efforts to gain their attention.

In this regard, programs directors might want to consider that past efforts concerning parents might have been modeled on the "information and self-maximization" model which also dominates state-sponsored sex education. The research seems to indicate, generally speaking, that a close relationship with a parent—not the quantity of human sexuality information conveyed by a parent—is linked with a lowered tendency toward nonmarital sexual involvement and pregnancy. Perhaps focusing on improving parent-child relations is the more promising route. It is easy to imagine a role for public education and community programs in this work. It is even easier to imagine that churches could vocally promote improved parent-child relationships. There are myriad theological and social justice themes within various religions which embrace robust notions of the rights and responsibilities obtaining between parents and children.²⁸⁶

Whichever institutions move forward with this work, they might take inspiration from a program now pursued by foster care authorities in six states. Foster care workers pound the pavement in search of family members to adopt related foster children, in lieu of endless foster care arrangements, or adoption by strangers.²⁸⁷ Detective-grade searches and personal appeals to kin to love one of their own, are resulting in welcome numbers of placements with blood relatives. A similarly personal outreach to parents themselves seems warranted.

283. See Clay Warren & Michael Neer, *Family Sex Communication Orientation*, 14 J. OF APPLIED COMM. RES. 86 (1986); Karen E. Walker & Lauren J. Kotloff, *Plain Talk Initiative* ANNIE E. CASEY FOUNDATION ix, 2 (Sept. 1999), <http://www.aecf.org/upload/publicationfiles/ar3622h374.pdf>.

284. *Id.* ("Plain Talk is a neighborhood-based initiative aimed at helping adults, parents, and community leaders develop the skills they need to communicate effectively with young people about the consequences of early sexual activity.")

285. *Id.* at 71, 99-100.

286. See, e.g., THE CATECHISM OF THE CATHOLIC CHURCH 221-29 (1995); MARTIN MARTY, THE MYSTERY OF THE CHILD (2007).

287. Erik Eckholm, *A Determined Quest to Bring Adoptive Ties to Foster Teenagers*, N.Y. TIMES, Jan. 31, 2010, available at <http://www.nytimes.com/2010/01/31/us/31adopt.html>.

Institutions outside the family can also work harder not only to provide a community to single young women, but to help her to find a role in which her gifts might be appreciated, while she, in turn, is capacitated to contribute to the well-being of the community. Churches are natural places for this dynamic. Ordinarily, their own theologies already embrace the notion that there are mutual rights and duties as between the individual and the community. The ethic of service which characterizes the large majority of religious communities, invites the young woman to serve the needy in her own congregation or in the community—to become a “servant-leader.” This recalls the noted success of secular “service-learning” projects addressed in Part II above. Research indicates that the more a particular religion becomes part of the framework or context of a young woman’s life, the more likely she is to order her life according to it, including her sexual and reproductive choices.²⁸⁸ Encouraging youth groups under church auspices is also a winning strategy. Margaret Brinig’s research indicates that having religious friends is correlated with healthier choices by adolescents across a variety of areas.²⁸⁹ Helpfully, there is a great deal of consensus about the positive roles churches might play in this arena. The secular National Campaign has published several resources to assist religions to take up their role in addressing nonmarital pregnancies.²⁹⁰ Further, a public survey sponsored by the Campaign found that 39% of Americans thought that religious groups could do the best job of any institution, while 42% said nonreligious community groups, and 12% said government.²⁹¹

Finally, it ought not to be overlooked that churches have privileged access to groups of Americans, particular African- and Hispanic-Americans, who are presently the most at-risk populations for nonmarital births, by comparison with many other private institutions. According to a 2009 Pew Research Report, about 80% of African Americans state that religion is very important in their life, while 87%

288. *See supra* Part II.C.4.

289. Brinig, *supra* note 200, at 7.

290. Barbara Dafoe Whitehead, Brian L. Wilcox & Sharon Scales Rostosky, *Keeping the Faith: The Role of Religion and Faith Communities in Preventing Teen Pregnancy*, NAT’L CAMPAIGN TO PREVENT TEEN PREGNANCY,4 (Sept. 2001), http://www.thenationalcampaign.org/resources/pdf/pubs/KeepingFaith_FINAL.pdf.

291. *Id.* at 2.

belong to some religious denomination.²⁹² Only 8% of Hispanic Americans call themselves “secular.”²⁹³

Secular programs and enterprises might also assist young women to find a community for themselves and a place there as a servant leader. These can include a wide variety of charitable enterprises and other neighborhood associations. Importantly, such groups can provide opportunities for service and leadership without requiring the young woman to leave the community.

This last caution should also be applied to those state-sponsored or private programs which help single mothers. To prevent “repeat” nonmarital pregnancies—which appear sometimes to be a bid to sustain connection with a caring group fostered by such programs—policymakers should redesign programs assisting single mothers with an eye to maintaining their sense of belonging to a supportive group. Perhaps the young mother can assume a mentor or leadership role there? Perhaps, if she is able to move on to college or trade school, nearby institutions should be preferred. British social commentator Phillip Blond’s ideas about rebuilding the “village college”²⁹⁴ would be of assistance here. There are some efforts in this direction already from the Obama Administration which has elevated awareness of the potential of community colleges for job training for the disadvantaged.²⁹⁵ Community colleges and trade schools, as well as other local institutions of higher education, should be part of the answer to the question of nonmarital births as well.

Fostering a sense of community with other young women is also likely a useful strategy. This might happen via a sports team, or a Best Friends®²⁹⁶ -type program (in which young women engage in a variety of inspirational, academic, athletic and other activities as a cohesive group, over several years), or another kind of pregnancy prevention program. Perhaps, such groups might even play a role in answering the

292. *New Analysis Finds African Americans are Markedly More Religious than Overall U.S. Population*, THE PEW FORUM ON RELIGION AND PUB. LIFE (Jan. 30, 2009), <http://pewforum.org/press/?ReleaseID=59> (a project of the Pew Research Center).

293. *Changing Faiths: Latinos and the Transformation of American Religion*, PEW HISP. PROJECT AND THE PEW FORUM ON RELIGION AND PUB. LIFE, (Apr. 25, 2007), <http://pewforum.org/surveys/hispanic/> (a project of the Pew Research Center).

294. David Brooks, Op-Ed., *The Broken Society*, N.Y. TIMES, Mar. 19, 2010, available at <http://www.nytimes.com/2010/03/19/opinion/19brooks.html>.

295. Michael D. Shear & Daniele de Vise, *Obama Announces Community College Plan*, THE WASH. POST, July 15, 2009, available at <http://www.washingtonpost.com/wp-dyn/content/article/2009/07/14/AR2009071400819.html>.

296. *What is Best Friends?*, BEST FRIENDS FOUNDATION, <http://www.bestfriendsfoundation.org/BFWhatIsBF.html>.

nagging question raised so brilliantly by the thesis of Ackerman, Keller and Katz—that a heterosexual marketplace with legal and accessible contraception and abortion tends to encourage all women to compete for men by making themselves sexually available, and will lead to more pregnancies and births especially among women unwilling readily to contracept or to seek an abortion.²⁹⁷ Given that contraception and abortion will continue to be readily accessible in the future, how does a society cope with the predicted fallout? Perhaps one of the paths is to encourage *groups* of like-minded, personally-bonded, young women to either delay nonmarital sex or refuse it altogether. “Girl groups” thus take on two problems at the same time.

A final set of proposals concerns the substance of state speech about nonmarital sex and pregnancy. If it is true that disadvantaged young women approach decisions about sex and pregnancy with a “community making” strategy in mind, then this ought to be acknowledged openly and addressed in the state’s speech on these subjects. Otherwise, state messages will appear tone deaf to adolescents’ thoughts about sex and reproduction. Overall, the state’s speech should be concerned to acknowledge this orientation, provide information about effectively realizing it, and use it as an important context for reformulating and promoting its more typical messages about maximizing individual well-being by avoiding sexual contact and pregnancy. Some suggestions about how to accomplish this follow.

First, rather than speaking first about sexual acts and body parts, the state might start with evidence about the human need for relationship and community. This should be followed up with the data about the characteristics of a successful family and neighborhood community, including the data about the benefits of having and rearing children with a secure relationship such as marriage. When “no’s” are introduced—no to this or that sexual partner, no to pregnancy at this time—it is always in the context primarily of the “yes” to building a community that lasts and in which the parents can have a rich relationship and take care of the vulnerable child. State programs should also help listeners to recognize and rely upon the good relationships in their life, while highlighting the dangers of having too few reliable relationships. This would initiate a discussion of healthy, age-appropriate ways of getting what every person needs in the way of a “tribe.”

Of course, the strength in particular of the adolescent drive to establish male-female relationships should be acknowledged. More

297. See *supra* Part I, notes 31-32.

controversially, young women's desires for children, and the link they feel between the romantic relationship and becoming pregnant, should also be forthrightly discussed. It should be acknowledged that even birth control drugs and devices can't obliterate this psychological (and maybe even evolutionary) impulse. This conversation can then be turned back toward an understanding about the intrinsic weight of choices about sexual intimacy, given the link between these choices and the creation of new life, and a thereby-permanent connection with the father of the child. A failure to speak about these matters is equivalent to willfully ignoring the mindset of the disadvantaged young woman.

At the very same time, however, and under the heading of "threats" to the community-facing goods she is seeking—the state should offer a science-based warning about how certain types of sexual behavior threaten the community aspirations of the young woman. These include, for example, the human body's inclination to encourage a sense of bondedness from sex (via oxytocin) even when no personal or emotional bond exists; the neurobiological immaturity of the adolescent brain, including respecting sexual decision-making; and the probability that nonmarital childbearing will not lead to a successful marriage. Listeners should also know the cold, hard fact that people don't generally marry until there is some basic economic readiness, and that such readiness is virtually never achievable during one's teens. Data on the instability of marriages among the young and the very poor, about the living situations of single mothers, and about gender mistrust of men, should also be shared.

In sum, the young woman's aspiration for community connection and status should be acknowledged and respected. Her intuitions about the goods of men, sex, and babies should likewise be affirmed. But *effective* respect for her dignity means that she is owed information and advice to the effect that she is unlikely to attain the community she wants, or any desirable status therein, unless she allows herself to gain the emotional, intellectual and financial margins that are required. Care must be taken here. There is evidence that if marriage and childbearing are presented in purely materialistic terms, the disadvantaged young woman might turn the message off.²⁹⁸ She needs rather to be helped to understand quite clearly that the state's proposal to delay sex and childbearing is intended to capacitate her to give—to her husband, children, community, etc.—and not just to take.

298. See *supra* Part II.A-C.