

COMPLEX KINSHIP NETWORKS IN FRAGILE FAMILIES

Tonya L. Brito*

INTRODUCTION

Family relationships have become increasingly complex in the United States, particularly in fragile families. Kinship networks are especially complicated in families that experience multiple-partner fertility, which is defined as one or both parents having children with one or more partners. Stephen Dallas and his family provide an excellent case study of how such complex kinship networks develop.¹ When I interviewed Stephen, he talked about his family, including his wife, his former partners, and the relationships he had with his seven children.² We discussed his economic situation, how he provides for his family, and the financial stress he is under, despite his “good” job with union wages and occasional overtime.³ He also shared his experiences in family court litigating custody, placement, and child support issues.⁴

Stephen and his wife, Daisha, both have children with multiple partners. They have one child in common, nine-year-old Aseelah.⁵ Stephen also has four biological children from his other serial relationships.⁶ When Stephen was nineteen years old, he and his girlfriend, Anika, gave birth to twin daughters, Alanna and Amy, who are now sixteen years old.⁷ Stephen later married (and subsequently divorced) Tremia.⁸ During this marriage, Stephen fathered Billy, now eleven years old.⁹ Stephen also has a toddler,

* Jefferson Burrus-Bascom Professor of Law, University of Wisconsin Law School. Thank you to the participants in the *Fordham Law Review* Family Law Symposium entitled *Moore Kinship* held at Fordham University School of Law and to Gina Longo for her research assistance. For an overview of the symposium, see R.A. Lenhardt & Clare Huntington, *Foreword: Moore Kinship*, 85 *FORDHAM L. REV.* 2551 (2017). I am especially grateful to Stephen Dallas and other study participants who have been willing to share their stories and perspectives as unrepresented litigants in family court. This work examining access to justice is supported by the National Science Foundation (NSF) under Grant No. SES-1421098. All individual and location names are pseudonyms.

1. Interview with Stephen Dallas, City A, State B (Aug. 3, 2016) (on file with author).
2. *Id.*
3. *Id.*
4. *Id.*
5. *Id.*
6. *Id.*
7. *Id.*
8. *Id.*
9. *Id.*

Arnett, currently two years old.¹⁰ Arnett was the product of a brief relationship between Stephen and Wykisha, which took place during a period of marital separation from his current wife, Daisha.¹¹ In addition to his five biological children, Stephen also has two stepchildren, Ashley and William, Daisha's teenagers from two prior nonmarital partnerships.¹² In sum, Stephen has five children with three mothers and Daisha has three children with three fathers.¹³

The living, social, and economic relations in their interconnected families are varied.¹⁴ Stephen, Daisha, Aseelah, Ashley, and William live together in one household.¹⁵ Each of Stephen's other four children—Alanna, Amy, Billy, and Arnett—lives with his or her mother.¹⁶ Although Stephen maintains an engaged and nurturing parental relationship with each of them, he has varying degrees of access to them and is sometimes challenged by their mothers' gatekeeping practices.¹⁷ Stephen is current on his three child support orders and regularly spends additional money on his children.¹⁸ Sometimes he does so at the request of their mothers for diapers, new shoes for the children, or some other expense the mothers need help with, and, like any other parent, he also spends money on his children when they spend time together.¹⁹

Daisha, for her part, has primary physical custody of her three children.²⁰ Although her daughter, Ashley, receives child support from her biological father, Tyrone Travis, and has a relationship with him, that is not the case for her son, William.²¹ Stephen described his stepson William's father, Vince Shahid, as a "baby-making machine."²² According to Stephen, Vince has at least ten children with several different women, makes no effort to maintain a relationship with his children, and works cash jobs to avoid paying child support.²³ The kinship network in Stephen and Daisha's family would grow even more complex if consideration was given to their relationships with their prior partners' other children.²⁴ And examining

10. *Id.*

11. *Id.*

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.*

16. *Id.*

17. *Id.*

18. *Id.*

19. *Id.* See generally Steven Garasky et al., *Toward a Fuller Understanding of Nonresident Father Involvement: An Examination of Child Support, In-Kind Support, and Visitation*, 29 POPULATION RES. POL'Y REV. 363 (2009).

20. Interview with Stephen Dallas, *supra* note 1.

21. *Id.*

22. *Id.*

23. *Id.*

24. This account may underreport, for example, the total number of children in Stephen's life. During our interview, he mentioned that Anika has four other children (by other partners), Tremia was expecting her second child (with a new partner), and Arnett is Wykisha's first and only child. *Id.* We did not discuss, however, whether Stephen has, has had, or is likely to have a father-like relationship with any of these children.

family complexity from their children's perspective would reveal an even more extensive network of kinfolk in light of their children's many full siblings, half siblings, and stepsiblings.

Stephen and Daisha's kinship network is a sharp contrast to the kinship network represented in *Moore v. City of East Cleveland*.²⁵ Inez Moore's household included her grandmother, also named Inez, her two adult sons, Dale Moore Sr. and John Moore Sr., and two of her grandsons, Dale Jr. and John Jr.²⁶ The U.S. Supreme Court characterized her three-generational household as a "traditional" family and held that it warranted constitutional recognition and protection from exclusionary zoning regulations.²⁷ The kinship network at play in Stephen and Daisha's family is more complex, more modern, and more challenging to society and the legal system. Complicated families like Stephen and Daisha's family prompt questions about how they will fare under existing regulatory schemes and, also, whether politicians and lawmakers will propose new laws that target them.

This Article examines the complex kinship networks in families that experience multiple-partner fertility. Part I begins with a broad examination of the dramatic changes to the American family that have occurred over the past half century. Part I then highlights the broad diversity of forms present in today's families, the evolving nature of American families, and how a two-tiered family system has emerged as patterns have diverged along class-based lines. Next, Part II turns to multiple-partner fertility, assessing what we know and do not know about this social phenomenon, including its prevalence, characteristics, and trends. Part III then addresses the implications of multiple-partner fertility for family law and policy. It also examines and critiques how the legal system treats family complexity in both the benefits and child support arenas. In concluding, Part III looks to the future; it presents ideas for ensuring that justice guides future policy developments in this area.

I. CHANGING AMERICAN FAMILY PATTERNS: DIVERSE, EVOLVING, AND DIVERGING

Complex kinship networks, such as the one observed in Stephen and Daisha's family, are due in large part to a phenomenon referred to by social scientists as the "Second Demographic Transition,"²⁸ a set of changes in family patterns that have taken place in the United States over the past fifty-plus years. During this time, the institution of marriage has weakened, with many people postponing marriage, fewer adults deciding to marry at all,²⁹

25. 431 U.S. 494 (1977).

26. *Id.* at 496–97.

27. *Id.* at 503–04.

28. See Frank F. Furstenberg, *Fifty Years of Family Change: From Consensus to Complexity*, ANNALS AM. ACAD. POL. & SOC. SCI., July 2014, at 12, 13.

29. In 1960, 72 percent of American adults were married. See Richard Fry, *No Reversal in Decline of Marriage*, PEW RES. CTR. (Nov. 20, 2012), <http://www.pewsocialtrends.org/2012/11/20/no-reversal-in-decline-of-marriage/> [<https://perma.cc/RP49-G27Q>]. By 2008, that share had fallen to 51 percent. *Id.* In 2012, one in five adults aged twenty-five and older had never been married. PEW RESEARCH CTR., RECORD SHARE OF AMERICANS HAVE NEVER

and more couples divorcing.³⁰ Cohabitation, whether as an alternative or prelude to marriage, has increased dramatically and is widely utilized and accepted in American society.³¹ The link between marriage and childbearing has broken down, leading to a marked increase in nonmarital births and single-parent families.³² Most contemporary families do not resemble the “traditional” family pattern of a heterosexual couple marrying (just once and only to each other), then having children (again, only with each other), and remaining in a lifelong marriage.³³ Although once dominant,³⁴ that family form has given way to a diverse and evolving array of family forms.³⁵

Marriages and cohabiting partnerships have become more unstable and likely to dissolve than in the past. Americans today are more likely to experience periods of couplehood with different partners interspersed with periods of singlehood.³⁶ Their serial relationships develop through marriage, remarriage, or cohabitation. Additionally, regardless of marital status, many of these recouplings produce additional children or create blended families.³⁷

Children’s lives have been impacted by these evolving family patterns. The percentage of children living with just their biological parents (and no

MARRIED 4 (2014), http://www.pewsocialtrends.org/files/2014/09/2014-09-24_Never-Married-Americans.pdf [<https://perma.cc/JFW2-ZMVA>]. By contrast, in 1960, only 9 percent in that age range had never been married. *Id.*

30. The percentage of adults recently divorced or separated nearly tripled between 1960 and 2008, going from 5 percent in 1960 to 14 percent in 2008. *Interactive: The Changing American Family*, PEW RES. CTR. (Nov. 18, 2010), <http://www.pewsocialtrends.org/2010/11/18/five-decades-of-marriage-trends/> [<https://perma.cc/JJJ2-HL5B>].

31. See PEW RESEARCH CTR., PARENTING IN AMERICA: OUTLOOK, WORRIES, ASPIRATIONS ARE STRONGLY LINKED TO FINANCIAL SITUATION 2 (2015), http://www.pewsocialtrends.org/files/2015/12/2015-12-17_parenting-in-america_FINAL.pdf [<https://perma.cc/8CC5-AE69>].

32. See PEW RESEARCH CTR., THE DECLINE OF MARRIAGE AND RISE OF NEW FAMILIES 2 (2010), <http://www.pewsocialtrends.org/files/2010/11/pew-social-trends-2010-families.pdf> [<https://perma.cc/DD83-6PHG>]. Over about a fifty-year period, the nonmarital birth rate rose dramatically, increasing from 5 percent in 1960 to 23 percent in 1986 to 32 percent in 1996 and to 41 percent in 2008. See SALLY C. CURTIN ET AL., CTRS. FOR DISEASE CONTROL & PREVENTION, U.S. DEP’T OF HEALTH & HUM. SERVS., RECENT DECLINES IN NONMARITAL CHILDBEARING IN THE UNITED STATES 1 (2014), <https://www.cdc.gov/nchs/data/databriefs/db162.pdf> [<https://perma.cc/66QC-M3WH>]. Since its peak in 2007–2008 (51.8 per 1,000 women aged fifteen to forty-four), it has declined sharply (to 44.8 in 2013, a 14 percent decline). *Id.*

33. See also STEPHANIE COONTZ, MARRIAGE, A HISTORY: FROM OBEDIENCE TO INTIMACY OR HOW LOVE CONQUERED MARRIAGE 229–44 (2005).

34. “[I]n 1960, . . . 73% of all children were living in a family with two married parents in their first marriage.” PEW RESEARCH CTR., *supra* note 31, at 15.

35. *Id.*

36. See ANDREW J. CHERLIN, THE MARRIAGE-GO-ROUND: THE STATE OF MARRIAGE AND THE FAMILY IN AMERICA TODAY 167–68 (2009); Tonya L. Brito, *What We Talk About When We Talk About Matriarchy*, 2013 MICH. ST. L. REV. 1263, 1276–80.

37. See CHERLIN, *supra* note 36, at 4–6. The Census Bureau defines “blended families” as a household with a stepparent, stepsibling, or half sibling. See ROSE M. KREIDER & RENEE ELLIS, U.S. CENSUS BUREAU, U.S. DEP’T OF COMMERCE, LIVING ARRANGEMENTS OF CHILDREN: 2009, at 1 (2011), <https://www.census.gov/prod/2011pubs/p70-126.pdf> [<https://perma.cc/9GEW-R53X>].

parental or sibling complexity) is declining.³⁸ The varied and cyclical nature of adult partnership formation and dissolution means that children's living arrangements are similarly varied and changing. The diverse living arrangements of children include, in addition to living in a nuclear family, living with a single parent (whether mom or dad), living with cohabiting biological parents, living with one parent and his or her cohabiting partner (who is not the child's biological parent), living with one parent and his or her "visiting" partner, or living with one parent and a stepparent.³⁹ Additionally, children with dual residences, in cases where their parents live separately and have a shared child placement schedule, simultaneously experience two separate and distinct living arrangements in each of their parents' homes. Moreover, children's experiences of family life change each time their parents form a new partnership or end an existing one, resulting, for some children, in what has been referred to as a "father-go-round."⁴⁰ In sum, children's living arrangements can be varied, complicated, and ever changing.

Although these family patterns exist throughout American society, the advantaged and the disadvantaged have not experienced the changes in equal measure, and a two-tier family system has developed.⁴¹ There are significant class-based differences in these trends, with better-educated, higher-income couples having the most stable unions of all subgroups in the United States.⁴² These individuals tend to marry each other (thus creating even more affluent households), marry later, postpone childbearing, and remain married longer.⁴³ Their marriages have become *more* stable in recent years, thus widening the existing "divorce divide."⁴⁴ A successful, lifelong marriage has become less attainable for economically

38. See Wendy D. Manning et al., *Family Complexity Among Children in the United States*, ANNALS AM. ACAD. POL. & SOC. SCI., July 2014, at 48, 56–57.

39. Certainly, some children experience other living arrangements, including living with a grandparent or some other relative, living with a foster parent, or living in a three-generation household, like John Jr. in *Moore v. City of East Cleveland*, 431 U.S. 494 (1977). The focus here, however, is complex kinship networks that result from a succession of adult partnerships.

40. See Laura Tach et al., *The Family-Go-Round: Family Complexity and Father Involvement from a Father's Perspective*, ANNALS AM. ACAD. POL. & SOC. SCI., July 2014, at 169, 180.

41. Furstenberg, *supra* note 28, at 17–18.

42. See JUNE CARBONE & NAOMI CAHN, MARRIAGE MARKETS: HOW INEQUALITY IS REMAKING THE AMERICAN FAMILY 15–16 (2014).

43. See *id.*

44. "Of college-educated people who married in the early 2000s, only about 11 percent divorced by their seventh anniversary, the last year for which data is available. Among people without college degrees, 17 percent were divorced," which is closer to peak divorce rate years. Claire Cain Miller, *The Divorce Surge Is over, but the Myth Lives On*, N.Y. TIMES (Dec. 2, 2014), https://www.nytimes.com/2014/12/02/upshot/the-divorce-surge-is-over-but-the-myth-lives-on.html?_r=0 [<https://perma.cc/MG3M-6K5S>]; see also Tonya L. Brito, *The Welfarization of Family Law*, 48 U. KAN. L. REV. 229 (2000) (characterizing and critiquing a family law system that applies a different set of legal rules to families based on economic status); Dan Hurley, *Divorce Rate: It's Not as High as You Think*, N.Y. TIMES (Apr. 19, 2005), <http://www.nytimes.com/2005/04/19/health/19divo.html> [<https://perma.cc/S6JC-JSBN>].

disadvantaged couples, those without a college degree, and those who have lower socioeconomic status, and their relationships overall are less stable. Poor, near-poor, and working-class couples are more likely than their more advantaged counterparts to end their relationships before ever getting married, and, even when they do go on to marry, their marriages are more likely to end in divorce.⁴⁵ These relationships are made even more unstable when they result in an unplanned pregnancy and childbearing, which is fairly common.⁴⁶ Lower-income men and women are also more likely to form multiple unions over their lifetime and to have children with more of their partners.⁴⁷

II. MORE PARTNERS, MORE CHILDREN, MORE FAMILY COMPLEXITY

The distinctive family structure present in Stephen and Daisha Dallas's family is what researchers refer to as multiple-partner fertility.⁴⁸ An emerging body of research shows that multiple-partner fertility is fairly common and has been rising in recent decades,⁴⁹ especially for unmarried parents.⁵⁰ Karen Guzzo and Frank Furstenberg, using the National Survey of Family Growth (NSFG), found that 17 percent of all fathers between the ages of fifteen and forty-four have had children with more than one partner.⁵¹ More recent figures indicate that about 13 percent of men aged forty to forty-four and almost one in five women aged forty-one to forty-nine have children with more than one partner.⁵² NSFG data demonstrate an increasing prevalence of multiple-partner fertility as younger cohorts in the study transition to a new-partner birth more quickly and at a higher rate than their older cohorts.⁵³ Finally, as the number of children a woman has

45. See CARBONE & CAHN, *supra* note 42, at 14–20.

46. See Furstenberg, *supra* note 28, at 19–20.

47. See *infra* note 70.

48. See Marcia J. Carlson & Frank F. Furstenberg Jr., *The Prevalence and Correlates of Multipartnered Fertility Among Urban U.S. Parents*, 68 J. MARRIAGE & FAM. 718, 718 (2006).

49. See generally Maria Cancian et al., *The Evolution of Family Complexity from the Perspective of Nonmarital Children*, 48 DEMOGRAPHY 957 (2011); Karen Benjamin Guzzo, *New Partners, More Kids: Multiple-Partner Fertility in the United States*, ANNALS AM. ACAD. POL. & SOC. SCI., July 2014, at 66; Karen Benjamin Guzzo & Cassandra Dorius, *Challenges in Measuring and Studying Multipartnered Fertility in American Survey Data*, 35 POPULATION RES. & POL'Y REV. 553 (2016); Karen Benjamin Guzzo & Frank F. Furstenberg, Jr., *Multipartnered Fertility Among American Men*, 44 DEMOGRAPHY 538 (2007); Tonya Brito, *Child Support Guidelines and Complicated Families: An Analysis of Cross-State Variation in Legal Treatment of Multiple-Partner Fertility*, INST. RES. ON POVERTY UNIV. WIS.-MADISON (May 2005), http://www.irp.wisc.edu/research/childsup/csde/publications/brito_05.pdf [<https://perma.cc/2FHH-F77R>]. Of course, stepfamilies (formed through marriage, divorce, and remarriage) are a familiar form of family complexity, and they have been studied extensively. See Furstenberg, *supra* note 28, at 23.

50. See Marcia J. Carlson & Paula England, *Social Class and Family Patterns in the United States*, in SOCIAL CLASS AND CHANGING FAMILIES IN AN UNEQUAL AMERICA 1, 5–6 (Marcia J. Carlson & Paula England eds., 2011).

51. See Guzzo & Furstenberg, Jr., *supra* note 49, at 589.

52. See Guzzo, *supra* note 49, at 74.

53. *Id.* at 76–77.

increases, so does the likelihood that she will have a child with a new partner.⁵⁴

Findings from the Fragile Families and Child Wellbeing Study (commonly referred to as the “Fragile Families study”) indicate that multiple-partner fertility is more common among unmarried parents.⁵⁵ At least one partner in 59 percent of the unmarried couples in the study who conceived a child together had already parented a child with someone else.⁵⁶ By contrast, the study showed that in 79 percent of married relationships, neither parent had a child by another partner.⁵⁷ These differences are similarly striking when the data is further examined based on gender, with rates of multiple-partner fertility highest for men who were not involved in their child’s life.⁵⁸ While only 15 percent of married mothers have children with different fathers, 43 percent of unmarried women have children with at least two men.⁵⁹ About one-fifth of married men have children with more than one woman.⁶⁰ One-third of cohabiting fathers, more than two-fifths of visiting fathers, and more than three-fifths of noninvolved fathers exhibit multiple-partner fertility.⁶¹

In addition to marital status and number of children, early childbearing and sexual activity are other factors associated with increased family complexity.⁶² There is a greater prevalence of multiple-partner fertility among teen mothers, particularly young teens who have their first child between the ages of fourteen and sixteen.⁶³ These young mothers are six times more likely to have multiple children with multiple men than mothers who had their first child in their thirties.⁶⁴ Additionally, race, prior incarceration, and immigration status are correlated with family

54. Research has shown that 24 percent of women with two children, 48 percent of women with three children, 47 percent of women with four children, and 72 percent of women with five or more children had those children with more than one man. *See* Carlson & Furstenberg Jr., *supra* note 48, at 723.

55. *See id.* The Fragile Families study was a longitudinal study of a U.S. birth cohort of 4,898 children born between 1998 and 2000. *See* Marcia Carlson et al., *Union Formation in Fragile Families*, 41 *DEMOGRAPHY* 237, 243 (2004). The study’s sample is drawn entirely from large cities of 200,000 people or more. *Id.*

56. *See* Carlson & Furstenberg Jr., *supra* note 48, at 723. In 17 percent of the cases, the mother had a child from another relationship, in 22 percent of the cases the father had a child from another relationship, and in 20 percent of the cases, both parents had a child from another relationship. *Id.*

57. *See id.* (“Overall, in 21% of married couples, either one or both partners has children by another partner . . .”). In 5 percent of married couples, both parents had a child by another partner. *Id.* In 8 percent of married couples, the father but not the mother had children from another relationship. *Id.* In the remaining 8 percent of couples, the mother, but not the father, had children from a previous partner. *Id.*

58. *See Fragile Families Research Brief: Multiple Partner Fertility*, FRAGILE FAMILIES 1 (June 2002), http://fragilefamilies.princeton.edu/sites/fragilefamilies/files/research_brief8.pdf [<https://perma.cc/DGS9-E6QW>].

59. *Id.*

60. *Id.* at 2.

61. *Id.*

62. *See* Carlson & Furstenberg Jr., *supra* note 48, at 719–20.

63. *See id.* at 724.

64. *See id.*

complexity.⁶⁵ Finally, family complexity varies with degree of education attainment.⁶⁶

Economic insecurity is also strongly associated with family complexity.⁶⁷ Regarding the question of causality, however, the research is limited and somewhat inconsistent. In one study examining Wisconsin state administrative data, researchers found that the relationship between low income and family complexity operates in both directions.⁶⁸ On the one hand, individuals with complex families are more likely to have low incomes later in life.⁶⁹ On the other hand, individuals with low incomes are more likely to have complex families later in life.⁷⁰ Although the study found strong correlations, it did not measure causality.⁷¹ Thus, it did not shed light on whether economic disadvantage causes family complexity or whether family complexity causes economic disadvantage. A later study using a different dataset had mixed results, finding that “worse economic well-being does not predict transitions into multiple-partner fertility, but multiple-partner fertility does predict subsequent lower economic well-being.”⁷² Although the research is not yet conclusive on this question, the articles are in agreement that family complexity is more prevalent among the economically disadvantaged.⁷³

III. COMPLEX KINSHIP NETWORKS AND THE LEGAL SYSTEM

Child support law is perhaps the one area in law and policy that directly governs multiple-partner fertility. It does so through a set of guidelines that apply in serial family cases.⁷⁴ Specifically, where a noncustodial parent is responsible for paying multiple child support orders because he has children with more than one partner, specialized serial family guidelines provide the mathematical formula used to calculate the amount due under each individual order.⁷⁵ Each child support order is awarded separately and sequentially.⁷⁶ Additionally, each order is set in an individual proceeding

65. *See id.* at 727–28.

66. *See* Furstenberg, *supra* note 28, at 17–18, 22.

67. The prevalence of multiple-partner fertility is nearly twice as high among poor than among nonpoor men, defining poor as 150 percent or below the poverty line. *See* Guzzo & Furstenberg, Jr., *supra* note 49, at 591.

68. *See* Cancian et al., *supra* note 49, at 972.

69. *Id.*

70. The study showed that mothers who had higher earnings before their first nonmarital birth were less likely to have complex families ten years later. *Id.* Of the mothers initially earning at least \$25,000, only 10 percent had a child with another father. *Id.* at 973. Of the mothers initially earning nothing, 45 percent had a child with another father. *Id.*

71. *See id.* at 977–80.

72. Lindsay M. Monte, *The Chicken and the Egg of Economic Disadvantage and Multiple Partner Fertility: Which Comes First in a Sample of Low-Income Women*, 35 W.J. BLACK STUD. 53, 65 (2011).

73. *See* Cancian et al., *supra* note 49, at 979; Monte, *supra* note 72, at 65.

74. *See* BRITO, *supra* note 49, at 5–6.

75. *See id.* at 4–6.

76. *See id.* at 5–6.

that pertains to the father, the mother, and their child (or children) in common.⁷⁷ The first child support order is calculated based on the father's full income, less any statutorily prescribed deductions.⁷⁸ The second order is calculated based on the father's income minus the previous child support requirement; thus, the second order is less than the first, and so on.⁷⁹ Therefore, in paternal multiple-partner fertility situations, where a father has more than one child support order, children receive unequal amounts of child support.⁸⁰ The rationale underlying this approach is that the prior awards should be privileged over later awards to protect the economic needs and reliance interests of the first family.⁸¹ Some commentators have criticized this approach, arguing instead for equal awards to children across households.⁸²

Beyond child support law, state laws and policies generally do not directly focus on multiple-partner fertility. At most, they address issues surrounding family complexity, such as individuals' marriage formation and fertility decisions. They include laws governing divorce and child custody; means-tested government transfer programs, such as the Temporary Assistance to Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), and Earned Income Tax Credit (EITC); and programs that provide information and services related to family planning, healthy marriages, responsible fatherhood, and abstinence-only education.⁸³ In some cases, the laws directly target family formation decisions. For example, the federal government's 2005 Deficit Reduction Act funded marriage promotion programs directed at low-income, unwed mothers.⁸⁴ In other instances, a program's potential impact on family formation decision making is indirect rather than targeted. For example, the additional earnings generated by TANF's work requirements may increase the economic independence of women who participate in the welfare program so much so that they lack the incentive to marry and thus add a second wage earner to their household.⁸⁵ In their study investigating the effects of social policy on family complexity, Leonard Lopoo and Kerri Raissian reported that the majority of the existing studies of these programs (other than publicly funded family planning) found either no relationship or, at best, a weak relationship between social policy and family formation and fertility decisions.⁸⁶

77. *Id.* at 19.

78. *Id.* at 5–6.

79. *Id.*

80. *Id.* at 5–7.

81. *Id.*

82. See Adrienne J. Lockie, *Multiple Families, Multiple Goals, Multiple Failures: The Need for "Limited Equalization" as a Theory of Child Support*, 32 HARV. J.L. & GENDER 109, 139–44 (2009); see also Taylor Gay, Note, *All in the Family: Examining Louisiana's Faulty Birth Order-Based Discrimination*, 73 LA. L. REV. 295, 324 (2012).

83. Leonard M. Lopoo & Kerri M. Raissian, *U.S. Social Policy and Family Complexity*, ANNALS AM. ACAD. POL. & SOC. SCI., July 2014, at 213, 217–21.

84. *Id.* at 222–23.

85. See *id.* at 218.

86. See *id.* at 224–25.

Despite these lackluster findings, multiple-partner fertility will likely be the target of policymaking and law reform efforts.⁸⁷ What data will lawmakers draw from to inform policymaking and law reform? At this early stage, much of the research concerning multiple-partner fertility has been devoted to documenting its prevalence, features, and contributing factors.⁸⁸ We understand much less about either the functioning of families that experience multiple-partner fertility or its consequences, particularly how it impacts children's development and well-being. As Furstenberg points out, the speculations of developmental researchers and social critics "that the complexities of multiple-partner fertility contribute to poorer prospects for children's success in later life" are not yet borne out by the research.⁸⁹

It would be wise for policymakers to exercise restraint and avoid giving in to unsupported assumptions that family complexity is per se bad or that it is necessarily harmful to children. Not enough is known to form those judgments; indeed, in some contexts, family complexity provides advantages, such as making multiple caregivers available to children.⁹⁰ Further, as complicated families gain more attention in policymaking and political realms, policymakers should avoid subjecting them to harmful and unwarranted stigma. The United States has a long history of framing families (or family members) that deviate from accepted societal norms as undesirable.⁹¹ If an individual's behavior departed from taken-for-granted expectations concerning acceptable sexuality and gender roles, that individual was "othered" and often subjected to stigmatizing and punitive behavior-modification measures. Examples abound, including nonmarital children, unwed mothers, cohabiting couples, divorced women, single-parent mothers, same-sex couples, and plural marriages. State sanctioning of outlaw families aims not only to punish people for their perceived transgressions but to send a message of deterrence to the larger community.⁹²

87. Teresa Wiltz, *Blended Families Pose Challenges for States*, PEW CHARITABLE TR.: STATELINE (Oct. 22, 2014), <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2014/10/22/blended-families-pose-challenges-for-states> [https://perma.cc/V2JE-7C MV].

88. *See supra* Part II.

89. Furstenberg, *supra* note 28, at 24. That said, existing research on stepfamilies provides useful openings for areas of research inquiry. Stepfamilies, formed through marriage, divorce or death, then remarriage, are, after all, a well-established and common variant of complex families, though their complexity is dwarfed by the degree of complexity present in Stephen and Daisha Dallas's extensive kinship network. *See id.* Nonetheless, the distinctive challenges faced by stepfamilies, such as coordinating parenting responsibilities and competing for resources, are likely to be felt more acutely by even more complicated families.

90. *See id.* at 22 ("There are institutionalized patterns of authority, control, and caring in joint families and in households with plural marriages where these forms are common.")

91. *See, e.g.*, LINDA GORDON, *PITIED BUT NOT ENTITLED: SINGLE MOTHERS AND THE HISTORY OF WELFARE 1890–1935*, at 15–35 (1994) (recounting how single motherhood has been problematized throughout the twentieth century).

92. *See* Tonya L. Brito, *From Madonna to Proletariat: Constructing a New Ideology of Motherhood in Welfare Discourse*, 44 VILL. L. REV. 415, 425–32 (1999).

Complicated families, predominately economically disadvantaged men and women who have biological children with multiple partners, are easy targets for public opprobrium. They fall outside the privileged nuclear family model, and, for that reason, one anticipates that they will experience the type of vilification heaped on so-called “welfare mothers” and “deadbeat dads” in debates about welfare reform.⁹³ To justify implementing neoliberal policies that reduce public expenditures for poor people, politicians resorted to stale tropes that cast mothers on welfare as lazy cheaters and that portray men who owe child support as irresponsible and promiscuous.⁹⁴ This endorsement and reinforcement of negative stereotypes concerning poor people served to usher in ill-conceived and simplistic antipoverty policies aimed at family structure, such as family caps and “Bridefare.”⁹⁵ Family caps limited the amount of a family’s cash welfare payment to discourage additional childbearing.⁹⁶ Bridefare offered a small cash payment to welfare recipients who married.⁹⁷ Neither of these programs were ultimately successful.⁹⁸

Portraying complicated families as deviant will lead to the design of similar proposals that attribute a family’s disadvantaged status to poor personal choices and aim to “fix” them. Rather than follow the familiar path of pathologizing poor families, subjecting them to punitive behavior, and prodding them into conforming to prescribed societal norms, a better approach would be to focus on the factors that contribute to multiple-partner fertility, particularly poverty, and work to alleviate those factors. Antipoverty policies that mitigate the causes of poverty (rather than target the poor themselves) would not only be more effective in alleviating instability in complex families but would also go far in addressing economic inequality in American society.

CONCLUSION

Simple nuclear families no longer represent the typical American family. Instead, demographic studies show that family forms are varied and increasingly complex, largely due to rising union instability coupled with nonmarital births. While families overall are more complex and less stable, the data also show a contrasting trend in families who fall within a higher socioeconomic bracket. Better-educated and higher-income couples are experiencing a declining divorce rate, less repartnering, and fewer nonmarital births than their less-advantaged counterparts.

93. See generally MARTIN GILENS, *WHY AMERICANS HATE WELFARE: RACE, MEDIA, AND THE POLITICS OF ANTIPOVERTY POLICY* (1999).

94. See, e.g., Tonya L. Brito, *Fathers Behind Bars: Rethinking Child Support Policy Toward Low-Income Noncustodial Fathers and Their Families*, 15 J. GENDER RACE & JUST. 617, 628 (2012).

95. See Brito, *supra* note 92, at 427–30.

96. *Id.* at 429.

97. *Id.* at 429–30.

98. *Id.* at 436.

In recent years, researchers have turned their attention to multiple-partner fertility, a form of family complexity that is on the rise. In such families, as we see in Stephen Dallas's family, the parents have children with more than one partner. Researchers have made significant headway empirically documenting the prevalence, characteristics, and trends in this area. Importantly, as with family complexity more generally, multiple-partner fertility is strongly correlated with economic insecurity. Poorer families are more likely to experience multiple-partner fertility. However, existing research does not shed light on questions of causality.

Understanding multiple-partner fertility and other trends in American family life is important in gaining a better understanding of poverty and inequality. Policymakers must work, however, to avoid repeating our past practice of seeking to "fix" nonconventional families. Prior efforts to alleviate poverty by implementing measures that target family formation and composition, rather than addressing the problems of the low-wage job market, have been unsuccessful. These measures have also done poor families a serious injustice by subjecting them to stigmatizing and punitive government regulations. In short, meeting families where they are, and in the process treating them with dignity and respect, is not incompatible with the goal of designing effective antipoverty policy.