

# Marriage, Family Law, and the Temple

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I am honored to be here tonight with all of you. I understand that the J. Reuben Clark Law Society now has more than 10,000 members in more than 100 chapters—plus 135 student chapters—and that a third of the chapters are located outside the United States.

That international dimension reminds me of a young man I met recently in the St. George Temple. He was about to leave on a mission to Argentina.

I asked him, “Do you speak any Spanish yet?”

With utmost sincerity he replied, “I only know one word in Spanish: *aloha!*”

Well, even though *aloha* isn’t a Spanish word, it works tonight, because it somehow says “hello” and “welcome” in most any tongue.

I have two related purposes tonight. First, I’d like to tell you how I got into the once-boring but now almost too-dramatic field of family law and what I found there. In this first part I’ll be talking as one lawyer to another, but I hope my footnotes will also suggest some more-general perspectives.<sup>1</sup>

Second, against that background I’d like to talk about marriage—including our own marriages

and marriage as taught in the temple. I realize that many devoted people do not now live in the kind of family situation they either desire or deserve. Of course Church doctrine encourages marriage and discourages divorce, but marrying is not always under our control, and there are times when divorce is the better choice.<sup>2</sup> Our Church leaders have long taught that despite divorce or being single, no eternal blessing, even celestial glory, will be denied to those who are true and faithful.

## Family Law

Let me take you back to the Law School’s early years and to the conversation that launched me into family law. Rex E. Lee and I were meeting to discuss something he was writing. Rex was then the founding dean of BYU Law School and would

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later become solicitor general of the United States. He would also later become president of BYU, but for Rex, university administration would never be as interesting as constitutional law.

As we talked about recent constitutional developments, we both cheered that the powerful idea of individual rights had energized the civil rights movement, which was helping the United States overcome its embarrassing history of racial discrimination. We also applauded how those same ideas had begun to help the country eradicate discrimination against women.

At one point I said to Rex, “The liberation and equality movements are gaining such a head of steam. Do you think the very idea of individual rights will ever develop so much momentum that it could overpower the principles that should be balanced against it?”

His brow furrowed. “What do you mean? Give me an example.”

I shrugged spontaneously. “What about children? The law ‘discriminates’ against children on the basis of age—they can’t vote, drive a car, or sign a binding contract. But is that discrimination bad for children or is it good for them?” Then I wondered aloud if a children’s rights movement might follow the civil rights and women’s movements. Spurred by that question, I did some research and found that a sometimes-reckless children’s rights movement was indeed underway—illustrated then by a state court decision that, in effect, let a teenager divorce her parents.<sup>3</sup>

I soon found other examples of excessive individualism. For instance, one law professor argued for a constitutional “right of intimate association,” urging that the law give the same legal rights to people in *any* intimate relationship that it then gave to those in relationships based on marriage and kinship.<sup>4</sup> Some scholars also attacked marriage as a source of oppression against women. Advocates of sexual privacy argued that unmarried cohabitation should be constitutionally equated with marriage. Allowing me to respond to such issues, in 1983 the *Michigan Law Review* published my article “The Constitutional Status of Marriage, Kinship, and Sexual Privacy—Balancing the Individual and Social Interests.”<sup>5</sup>

Note two terms in that title: *social interests* and *individual interests*. I ran across these terms in what has been called “the best known essay in the history of family law,”<sup>6</sup> written by Harvard Law School dean Roscoe Pound.<sup>7</sup> Pound defined the “social interests” in family law as society’s interest in maintaining marriage as a stable social institution in which parents protect, nurture, and teach their children the qualities of character that maintain a stable society. He distinguished this social interest from what he called “the individual interests in domestic relations,” noting that “when the legal system recognizes certain individual rights, it does so because . . . society as a whole will benefit” thereby. In a key insight, Pound warned that lawyers and judges must compare individual and social interests on what he called “the same [analytical] plane,” lest the very decision to categorize one claim as “individual” and the other as “social” cause us to “decide the question in advance in our very way of putting it.”<sup>8</sup>

During the last half century, U.S. courts and legislatures have increasingly neglected what was obvious to Roscoe Pound about the social interests in marriage and parenting. Primarily through the use of constitutional law categories, many courts and legal scholars have come to assume that individual interests are somehow more “fundamental” or “compelling” than social interests. As a result, just as Pound feared, our system has decided many difficult issues of family policy in advance, simply by the way we put the question. Individual interests have thus been carried on such a tidal wave of constitutional law that the contemporary mind now sees hardly any social interests in our legal and cultural understanding of marriage and parenting.

For example, one researcher found that the Supreme Court’s cases about marriage prior to about 1970 “turned on the importance of marriage to society,” but its later cases began to “turn on the importance of the relationship to the individual.”<sup>9</sup> And we may never know how much of this change was the result of truly serious policy analysis and how much of it was because constitutional law simply began to preempt family law. It’s often hard to tell when the law *causes* social

change and when the law simply *reflects* social change.

One obvious but huge historical factor is that, since the 1960s, our culture has experienced colossal changes in the attitudes and values that affect family life. Indeed, Mary Ann Glendon of the Harvard Law School calls this development “the transformation of American family law”—the biggest cultural shift in 500 years in attitudes about family life.

### *The Transformation of American Family Law*

To illustrate this transformation, I will share a few headlines from an altitude of about 40,000 feet—without attempting to draw the fine distinctions we would identify closer to the ground. Also, I will speak mostly about U.S. law, although the laws of most developed countries have followed these same trends.

In a nutshell, advocates began using the constitutionally charged language of individual rights to challenge laws that were intended to support the interests of children and society in stable family structures. And courts began to accept these arguments, despite the fact that the individual rights protections in the U.S. Constitution were originally enacted to protect individuals from invasions by the state, not to protect them from people who are not state actors, such as those in their own families.

For instance, the courts expanded the parental rights of unwed fathers and began to give child custody and adoption rights to unmarried individuals. This uprooted the long-established preference that family law had given, whenever possible, to the formal two-parent biological family. Both experience and social science research clearly showed—and still show—that a home led by married, biological parents almost always provides the best child-rearing environment.<sup>10</sup> But over time the unwed parent cases both contributed to and were influenced by skyrocketing rates of illegitimacy and unmarried cohabitation. In fact, the word *illegitimate* essentially became illegitimate in legal discourse.

Further, in *Roe v. Wade* in 1973 the Supreme Court granted individual women the right to

choose an abortion, thereby rejecting long-held beliefs in our culture about not only the social interests held by unborn children but also the social purposes served by allowing elected legislators to decide collectively about a question as value laden and sensitive as when life begins.<sup>11</sup>

Also, no-fault divorce was first adopted in California in 1968, and then, with some variations, over the next 20 years it became the law in every state.<sup>12</sup> No-fault significantly changed the way people thought about marriage. Under the old divorce laws, married people couldn’t just choose to end their marriage; rather, they had to prove spousal misconduct—like adultery or mental cruelty. In those days people perceived the state as a party to the marriage—remember the social interests in family law. Therefore, only a judge representing society’s interests could determine when a divorce was justified.

As originally conceived, no-fault divorce had worthy goals. It added irretrievable marriage breakdown, regardless of personal fault, as an additional basis for divorce, which simplified divorce actions and reduced messy personal litigation. No-fault also improved how the law saw the economic interests of women. And in theory, only a judge, who represented society’s interests, could decide whether a marriage was indeed beyond repair. But in practice, family court judges began to defer to the personal preference of a couple, and eventually they deferred to whichever partner wanted to end the marriage.<sup>13</sup>

So, as one Canadian lawyer put it, no-fault divorce no longer “looked at marriage . . . as a [social] institution.” Rather, no-fault saw marriage as “an essentially private relationship between adults terminable at the will of either”<sup>14</sup> without regard to the consequences for children, let alone the effect of divorce on society. Before long, judges’ doubts about society’s right to enforce wedding vows gave married couples the false impression that their personal promises held no great social or moral value.

As these new legal assumptions have blended with larger cultural swings, most Americans no longer see marriage as a relatively permanent social institution; rather, they see it as a

temporary, private source of personal fulfillment. So when marriage commitments intrude on personal preferences, people are more likely to walk away. Thus today is the age of what has been called the “nonbinding commitment”—whatever that oxymoron means.

Talking about no-fault divorce actually leads us quite logically to a brief comment on gay marriage. Now isn’t the time for an extended discussion of this very difficult and poignant topic, but I do note that only fifteen years ago no country in the world had legally recognized same-gender marriage. So how could the very idea of gay marriage burst upon the international scene precisely when the historic concept of marriage had lost so much public value during the previous four decades?

Well, the “personal autonomy” theory of the first U.S. pro-gay marriage case in 2001<sup>15</sup> simply extended the same individualistic legal concept that had created no-fault divorce: When a court upholds an individual’s right to *end* a marriage, regardless of social consequences (as can happen with no-fault divorce), that principle may also seem to support an individual’s right to *start* a marriage, regardless of social consequences (as can happen with same-gender marriage).<sup>16</sup>

In other words, if man-woman marriage is no longer a big deal for society but just a matter of individual preference, it’s little wonder that many people would now say of gay marriage, “It’s no big deal—let people do whatever they want.” That’s what can happen when we lose track of society’s interest in marriage and children. We know that God loves all of His children and that we must treat one another with compassion and tolerance—regardless of private conduct that we may or may not understand. But it is a very different matter to *endorse* or *promote* that conduct by allowing the appropriation of a legal concept—marriage—whose primary and historic purpose is to further social interests.

### *The Consequences of Changing Marriage*

Consider briefly the stunning effect of these changes on marriage and children during the last fifty years.

In the United States the divorce rate has more than doubled, although it has dipped slightly in recent years.<sup>17</sup> Today about half of all first marriages end in divorce and about 60 percent of second marriages do.<sup>18</sup> The United States is the world’s most divorce-prone country.

Today more than 40 percent of U.S. births are to unmarried parents.<sup>19</sup> In 1960 that number was about 5 percent. And as Elder Dallin H. Oaks recently noted, 50 percent of today’s teens consider out-of-wedlock childbearing a “worthwhile lifestyle.”<sup>20</sup> The percentage of children in single-parent families has increased threefold, from 9 percent to 26 percent. The number of unmarried couples has increased by about fifteen times. As Elder Oaks also noted, more than half of today’s U.S. marriages are preceded by unmarried cohabitation. What was abnormal fifty years ago is the new normal.

In Europe 80 percent of the population now approve of unmarried cohabitation. In Scandinavia 82 percent of firstborn children are born outside of marriage.<sup>21</sup> When we lived in Germany recently, we sensed among Europeans that in many ways, it seems, marriage is no more. Marriage has gone away. As a French writer put it, marriage has “lost its magic for young people,” who increasingly feel that “love is essentially a private matter which leaves no room” for the larger society to say anything about their marriage or their children.<sup>22</sup>

Nonetheless, the children of divorced or unwed parents have about *three times* as many serious behavioral, emotional, and developmental problems as children in two-parent families.<sup>23</sup> By every measure of child well-being, these children are far worse off. And when children are dysfunctional, society will become dysfunctional. Here are some examples of that dysfunction, shared in only headline form, acknowledging that some elements in such general trends may have multiple causes.

Since about 1960 in the United States,<sup>24</sup>

- juvenile crime has increased sixfold.
- child neglect and all forms of child abuse have quintupled.

- psychological disorders among children have all worsened, from drug abuse to eating disorders; depression among children has increased 1,000 percent.
- domestic violence against women has increased.
- poverty has shifted increasingly to children.

These trends are still very current. The *New York Times* recently reported a major study showing that the children of single parents have less upward economic mobility than the children in two-parent families. In this day of heightened concern with economic equality, it turns out that the marital status of a child's parents is the single biggest predictor of that child's economic mobility.<sup>25</sup>

How serious are these problems? A few years ago President Gordon B. Hinckley said, "In my judgment, the greatest challenge facing this nation is the problem of the family, brought on by misguided parents and resulting in misguided children." He also said, "The family is falling apart. Not only in America, but now across the world. This is a matter of serious concern. *I think it is my most serious concern.*"<sup>26</sup> Shortly after President Hinckley said these words, the First Presidency and the Quorum of the Twelve Apostles gave us "The Family: A Proclamation to the World."

For a nonreligious viewpoint, consider this indictment from a recent *Time* magazine article about infidelity among political leaders:

*There is no other single force causing as much measurable hardship and human misery in this country as the collapse of marriage. It hurts children, it reduces mothers' financial security, and it has landed with particular devastation on those who can bear it least: the nation's underclass. . . . The poor [have uncoupled] parenthood from marriage, and the financially secure [blast] apart their [own] unions if [they] aren't having fun any more.*<sup>27</sup>

These complex problems did not result solely from changes in the law. In many ways legal changes simply reflect a larger cultural upheaval. However, *the inability of our legal and political system to contain the force of individual rights ideas injected*

*into family law has allowed many cultural dikes to break that in better days might have held.*

And these developments have international implications. A Japanese family law scholar told me that the influence of American legal ideas about individual rights—along with American movies and TV—is a major cause of the recent destabilization of Japanese attitudes about kinship and family. Then he said, "You won the Second World War. Did you have to do this to us as well?"<sup>28</sup>

Can anything be done to reverse this tide? I don't know. But if anyone can answer that question, it might be those who understand the prophecies that unless the hearts of the parents and the hearts of the children turn toward one another, the earth will be smitten with a curse.<sup>29</sup> Are we already living in the time of that curse? On some days I think we could be. But even if we are, the gospel's principles provide the long-term remedy.

Years ago when I was on a family law panel at a big eastern law school, someone said to me, "Aren't you from BYU—the Mormons? You're the people who still believe in marriage! Will you please help the rest of us?"

To be clear, I am not asking to return to the family laws of yesteryear. Many of those laws needed reforms, but we could have done that without resorting to the individualistic extremes that have inflicted so much damage on both children and society. The self-celebrating hedonism of today's paradigm can also distort the assumptions and attitudes of young Latter-day Saints ere they are aware—especially about sex and marriage. And how *do* we explain to our children and grandchildren why traditional marriage must be preserved and even revered as we feel the earth move under our feet and as even the mainstream threatens to leave the banks of its riverbed?<sup>30</sup>

Well, I hope this brief look at legal history might whet your appetite to think more deeply about such family-related questions. And for the sake of our families, our friends, and our own marriages, I also hope this historical context will help explain why today's culture no longer understands marriage in the way God intended

it. Building a good marriage isn't easy. It isn't supposed to be easy. But when a confused culture confuses us about what marriage means, we may give up on ourselves and on each other much too soon. Yet the gospel's eternal perspective, as taught in the scriptures and in the temple, can help us transcend the modern chaos until our marriages become the most satisfying and sanctifying—even if also the most demanding—experiences of our lives.

### The Temple and the Natural Order of Marriage

What does all of this have to do with the temple? Every time we go to the temple, the ordinances reorient us to the natural order of the universe, including the natural order of marriage. Like the ancient mariner, we look to the heavens to get our bearings—and we do that through the temple. Hugh Nibley wrote:

*The temple is built so as to represent the organizing principles of the universe. It is the school where mortals learn about these things. . . . [T]he earth temple [is] in the middle of everything, . . . around which all heavenly motions revolve, the knot that ties heaven and earth together.<sup>31</sup>*

Thus the temple has the power to write God's natural laws of marriage and family life into our hearts.

### The Marriage of Adam and Eve

We first learn the temple's teachings about marriage in the story of Adam and Eve—the primal story of the temple. A friend once asked me, "If Christ is at the center of the gospel and the temple, why doesn't the temple endowment teach the story of Christ's life? What's all this about Adam and Eve?"

As I have thought about his question, I have come to believe that the life of Christ is the story of *giving* the Atonement. The story of Adam and Eve is the story of *receiving* the Atonement—because they were the first people to receive it—amid the sometimes formidable oppositions of mortality. I'd like to invite my wife, Marie, to share

some thoughts about Eve's perspective on that opposition.

[Marie:] Adam and Eve were the first people to receive the Atonement. They were also the first parents to know the love a new child brings, the soul-stretching sacrifices of raising a child, and the agony of watching children unwisely use their agency.

What I have to share with you will feel like an abrupt change in tone, but this poem by Arta Romney Ballif (a sister, by the way, of President Marion G. Romney, one of the founding fathers of BYU Law School) takes us into the heart of marriage and family life as they began on this earth. Take a deep breath and come with me into Eve's world as she probably saw it. The poem is called "Lamentation."

*And God said, "BE FRUITFUL, AND MULTIPLY—"  
Multiply, multiply—echoes multiply*

*God said, "I WILL GREATLY MULTIPLY THY  
SORROW—"  
Thy sorrow, sorrow, sorrow—*

*I have gotten a man from the Lord  
I have traded the fruit of the garden for the fruit of  
my body  
For a laughing bundle of humanity.*

*And now another one who looks like Adam.  
We shall call this one "Abel."  
It is a lovely name, "Abel."*

*Cain, Abel, the world is yours.  
God set the sun in the heavens to light your days,  
To warm the flocks, to kernel the grain.  
He illuminated your nights with stars.  
He made the trees and the fruit thereof yielding seed.  
He made every living thing, the wheat, the sheep,  
the cattle,  
For your enjoyment.  
And, behold, it is very good.*

*Adam? Adam  
Where art thou?*

Where are the boys?  
 The sky darkens with clouds.  
 Adam, is that you?  
 Where is Abel?  
 He is long caring for his flocks.  
 The sky is black and the rain hammers.  
 Are the ewes lambing  
 In this storm?

Why your troubled face, Adam  
 Are you ill?  
 Why so pale, so agitated?  
 The wind will pass  
 The lambs will birth  
 With Abel's help.

Dead?  
 What is dead?

Merciful God!

Hurry, bring warm water  
 I'll bathe his wounds  
 Bring clean clothes  
 Bring herbs.  
 I'll heal him.

I am trying to understand.  
 You said, "Abel is dead."  
 But I am skilled with herbs  
 Remember when he was seven  
 The fever? Remember how—

Herbs will not heal?  
 Dead?

And Cain? Where is Cain?  
 Listen to that thunder.

Cain cursed?  
 What has happened to him?  
 God said, "A FUGITIVE AND A VAGABOND"?

But God can't do that.  
 They are my sons, too.  
 I gave them birth  
 In the valley of pain.

Adam, try to understand  
 In the valley of pain  
 I bore them  
 fugitive?  
 vagabond?

This is his home  
 This the soil he loved  
 Where he toiled for golden wheat  
 For tasseled corn.

To the hill country?  
 There are rocks in the hill country  
 Cain can't work in the hill country  
 The nights are cold  
 Cold and lonely, and the wind gales.

Quick, we must find him  
 A basket of bread and his coat  
 I worry, thinking of him wandering  
 With no place to lay his head.  
 Cain cursed?  
 A wanderer, a roamer?  
 Who will bake his bread and mend his coat?

Abel, my son, dead?  
 And Cain, my son, a fugitive?  
 Two sons  
 Adam, we had two sons  
 Both—Oh, Adam—  
 multiply  
 sorrow

Dear God, Why?  
 Tell me again about the fruit  
 Why?  
 Please, tell me again  
 Why?

[Bruce:] Eve. Mother Eve. Your sorrow and your faithful questions bring a hush across my heart.

Father Lehi gives us the doctrinal context for understanding Eve's experience. He tells us that if Adam and Eve had not eaten from the tree of knowledge they "would have remained in the garden of Eden" and "they would have had no children; wherefore they would have remained in

a state of innocence, having no joy, for they knew no misery”—experienced parents will see a little connection here: no children, no misery!—and further, “doing no good, for they knew no sin. . . . Adam fell that men might be [mortal]; and men are [mortal] that they might have joy.”<sup>32</sup> So, paradoxically, sin, misery, and children create the context for learning what joy means—a process made possible by the Atonement of Jesus Christ.

Because of that Atonement we can learn from our experiences without being condemned by them. And receiving the Atonement, as Adam and Eve did, is not just a doctrine about erasing black marks; it is the core doctrine that allows human development. That is why Adam and Eve didn’t return to the Garden of Eden after they were forgiven. Rather, they held onto each other and moved forward, together, into the world in which we now live. And there they kept growing, together, as a couple. The temple’s primal story is quite consciously the story of a married couple who help one another face continuous mortal opposition. For only in that sometimes-miserable opposition could they learn to comprehend true joy.

Now consider two implications from the Adam and Eve story about our understanding of marriage. First is the Restoration’s positive view about the Fall. We know that Adam and Eve chose wisely in the garden, because only mortality could provide the experience needed to fulfill God’s plan for them—and for us. In contrast, traditional Christianity teaches that Eve’s choice was a tragic—some would say stupid—mistake, bringing down the wrath of God on all mankind. Some Christian churches still teach that because women are the daughters of foolish Eve, wives should be *dependent* on their husbands.

Reacting strongly against this idea, most people today would say that a wife should be *independent* of her husband. And, in fairness, they would add, a husband should also be independent of his wife. When both spouses are independent of each other, we get today’s “nonbinding commitment,” and people leave when the fun stops.

So which is correct: dependence or independence? Neither one. The restored gospel—unlike the rest of Christianity—teaches that Eve and

Adam’s choice in the garden was not a mistake at all. It was actually a heroic choice. Thus the Restoration sees Eve—and all women—as noble beings who are complete equals of men. So Eve is not dependent on Adam, nor is she independent from him. Rather, Eve and Adam are *interdependent* with each other. And, as “A Proclamation to the World” teaches, they are “equal partners” who “help one another” in everything they do.<sup>33</sup>

### *Bringing a Broken Heart to the Altar*

We find a second significant implication for marriage in a later scene from the Adam and Eve story. When they left the garden, the Lord directed them to build an altar and offer animal sacrifices. After many days an angel asked Adam why he offered sacrifices.

He said, “I know not, save the Lord commanded me.”

So the angel told him, “This thing is a similitude of the sacrifice of the Only Begotten.”<sup>34</sup> The lambs they sacrificed symbolized and pointed them toward the Father’s future redemptive sacrifice of His Son. The angel then taught Adam and Eve that Christ’s sacrifice and the plan of redemption gave meaning and purpose to all of their opposition—from leaving Eden to Eve’s lamentation over her sons.

Many of us go to the temple today the way Adam and Eve did at first—simply because we are commanded, without knowing why. And simple obedience is certainly better than not performing the ordinances at all. But the Lord, who sent that angel, must have wanted them to know why—and I believe He wants *us* to know why.

Are today’s temple ordinances also “a similitude . . . of the Only Begotten”? Think of how the temple’s altars are, like the altar of Adam and Eve, altars of prayer, sacrifice, and covenants. Think of the dimensions of sacrifice in all the covenants of the endowment. Since Christ completed His atoning mission, we no longer offer animal sacrifices, but we do covenant to sacrifice. In what way? Christ taught the Nephites, “Ye shall offer for a sacrifice unto me a broken heart and a contrite spirit.”<sup>35</sup>

Animal sacrifices symbolized the Father’s sacrifice of the Son, but the sacrifice of a broken

heart and a contrite spirit symbolizes the Son's sacrifice of Himself. James E. Talmage wrote that Jesus "died of a broken heart."<sup>36</sup> In similitude, we now offer ourselves—our own broken hearts—as a personal sacrifice.<sup>37</sup> As Elder Neal A. Maxwell said, "Real, personal sacrifice never was placing an animal on the altar. Instead, it is a willingness to put the animal *in us* upon the altar and letting it be consumed!"<sup>38</sup>

With these ideas on my mind, some months ago I was about to seal a young couple in the St. George Temple. As I invited them to the altar, he took her by the hand, and I realized that they were about to place upon that altar of sacrifice their own broken hearts and contrite spirits—a selfless offering of themselves to each other and to God in emulation of Christ's sacrifice for them. And for what purpose? So that through a lifetime of sacrificing for each other—that is, living as He did—they might become ever more as He is. By trying to live that way every day, they would each come closer to God, which would also bring them closer to each other. Thus, living the covenants of the sealing ordinance would sanctify not only their marriage but also their hearts and their very lives.

This understanding of marriage differs starkly and powerfully from the prevailing view of marriage in today's culture. In His parable of the Good Shepherd, Jesus described a hireling—someone who is paid to care for the sheep. When the wolf comes, He said, the hireling "leaveth the sheep, and fleeth." Why does the hireling run away? Because, Jesus said, his "own the sheep are not." By contrast, Jesus said of Himself, "I am the good shepherd. . . . I lay down my life for the sheep."<sup>39</sup> Most people in today's society think of marriage as an informal arrangement between two hirelings, and when a hireling feels threatened by some wolf of trouble, he will simply flee. If trouble is coming, why should he risk his comfort or convenience, let alone his life?

But when we offer in our marriage a broken heart and a contrite spirit in similitude of the Good Shepherd, we will give our lives for the sheep of our covenant, a day or even an hour at a time. That process invites us to take selflessly upon ourselves both the afflictions and the joys

of our companion, emulating in our own limited way how the Savior takes upon Himself our afflictions. "Be you afflicted in all his afflictions,"<sup>40</sup> said the Lord to Peter Whitmer about his missionary companion Oliver Cowdery. Isaiah echoed that phrase in describing Christ and those He redeems: "In all their affliction he was afflicted, . . . and he . . . carried them all the days of old."<sup>41</sup>

Not long ago I asked some temple workers what they thought it would mean to live the life of a broken heart and a contrite spirit in marriage, to treat one's spouse as Christ Himself would treat us.

One of them said, "It means choosing to be kind—all the time."

Another said, "It is placing our own broken hearts on the altar as we sacrifice enough so the Savior can heal us."

Another, "Trying to care more about someone else's needs than you do your own."

And another, "I will offer not only my heart but also my arms and my hands."

And, "It's the sacrifice of learning to give up the natural man within me."

And finally, "It takes a broken heart and a contrite spirit for me to overcome my pride and forgive enough to receive the Atonement."

Another temple worker lost his wife after she had suffered a debilitating illness for several years. After her funeral he told me, "I thought I knew what love was—we'd had over fifty blessed years together. But only in trying to care for her in these last few years did I discover what love is." By going where he had to go, in being afflicted in her afflictions, this man discovered wellsprings of compassion deep in his own heart that a hireling will never know exist. The accumulation of such discoveries produces the sanctifying process of becoming like the Good Shepherd—by living and giving as He does. Not incidentally, that kind of living breathes irreplaceable strength into the social interests of our culture.

### **Marriage and the Abundant Life of Authentic Joy**

Before we conclude, I'd like to respond to the question a friend asked recently: How close to perfection must we live to receive the exalted promises of a temple sealing? Husbands and

wives know each other so well, especially those who seek for eternal blessings, that on some days we can honestly wonder if we are living close enough to perfection—or if our spouse is. Whichever one of us we wonder about, the question can be a hard one.

I like the answer given in Moroni’s farewell words: “[I]f ye shall [1] deny yourselves of all ungodliness, and [2] love God with all your might, mind and strength, *then* is his grace sufficient for you, that . . . ye may be perfect[ed] in Christ.”<sup>42</sup> One way to rid ourselves of ungodliness is to stay close to the temple, because in its ordinances “the power of godliness is manifest.”<sup>43</sup> Further, Moroni invited us to “love God with all *your* might.” That means loving to the extent of our own unique personal capacity, not to the extent of some abstract and unreachable scale of perfection.

As we deny ourselves of ungodliness and honestly love God as fully as we are able to, Christ’s perfecting grace can complete the process of making us whole. I recently ran across a letter about marriage written in 1902 by the First Presidency that suggests what this combination of Christ’s total sacrifice and our own total sacrifice will look like:

*After reaching the perfected state of life, people will have no other desire than to live in harmony with [righteousness], including that which united them as husband and wife. . . . Those who attain to the first or celestial resurrection must necessarily be pure and holy, and they will be perfect in body as well. . . . Every man and woman that reaches this unspeakable condition of life will be as beautiful as the angels that surround the throne of God; . . . for the weakness of the flesh will then have been overcome and forgotten; and both [husband and wife] will be in harmony with the laws that united them.*<sup>44</sup>

A woman I know was married about fifty years ago in the temple. After she and her husband had had several children, his turbulent life led both to their divorce and to his excommunication from the Church. Then she gave up her own Church membership and chose some thorny paths. Later on he passed away. I met her when

her forty-five-year-old daughter brought her to my office in the temple to explore if the mother could ever return to the temple—something the mother was convinced could never happen. After a mel-low, peaceful conversation about learning from experience without being condemned by it, we discussed the processes of repentance, rebaptism, and the restoration of temple blessings. Then I said that the restoration ordinance would also restore her temple sealing. Was she ready for that?

After a pause, the daughter spoke first. She said, “I have bipolar disorder. My son is bipolar. We know far more about that disorder than we used to, and we take medications that help. Looking back, I believe my father was bipolar, and that probably influenced many of the hard things in our family’s life. I don’t judge him now.”

Soon her mother said softly, “If I really can return to the temple someday, I will be ready for my sealing to be restored.”

As I watched them walk down the hall, I realized that the temple and Elijah’s sealing power are sources of reconciliation, turning not only the hearts of children to their fathers and mothers but turning the hearts of wives and husbands toward one another. I later received a message telling me that the mother was being rebaptized.

Brothers and sisters, I bear witness that the order of marriage that God gave to Adam and Eve is worth whatever it takes—to find it, to build it, and to keep it in our lives. I also testify that husbands and wives who try to live like the Good Shepherd will discover and will give to each other the abundant life of authentic joy. In the name of Jesus Christ, amen.

#### Notes

1. For a more generalized treatment of some themes in these remarks, see Bruce C. Hafen, *Covenant Hearts: Why Marriage Matters and How to Make It Last* (2005).

2. For some thoughtful counsel about divorce among Latter-day Saints, see the general conference talk by President James E. Faust, “Father Come Home,” *Ensign*, May 1993.

3. See Bruce C. Hafen, “Children’s Liberation and the New Egalitarianism: Some Reservations

about Abandoning Youth to Their ‘Rights,’” 1976 *BYU L. Rev.* 605 (cited by the U.S. Supreme Court in *Bellotti v. Baird*, 443 U.S. 622 [1979]).

4. Kenneth L. Karst, “The Freedom of Intimate Association,” 89 *Yale L. J.* 624 (1980).

5. Bruce C. Hafen, “The Constitutional Status of Marriage, Kinship, and Sexual Privacy—Balancing the Individual and Social Interests,” 81 *Michigan L. Rev.* 463 (1983) (cited by the U.S. Supreme Court in *Lehr v. Robertson*, 463 U.S. 248 [1983]).

6. Henry H. Foster Jr., “Relational Interests of the Family,” 1962 *U. Ill. L. F.* 493, 493.

7. Roscoe Pound, “Individual Interests in Domestic Relations,” 14 *Mich. L. Rev.* 177 (1916).

8. Roscoe Pound, “A Survey of Social Interests,” 57 *Harv. L. Rev.* 1, 2 (1943); emphasis added.

9. “Developments in the Law—The Constitution and the Family,” 93 *Harv. L. Rev.* 1156, 1248 (1980).

10. In 2001, for example, the *New York Times* reported a “powerful consensus” among social scientists that “from a child’s point of view . . . the most supportive household is one with two biological parents in a low-conflict marriage” (Hardin, “2-Parent Families Rise After Change in Welfare Laws,” *NY Times*, Aug. 12, 2001). More time and more research are needed to resolve clearly if children raised by gay or lesbian parents experience the same or worse outcomes than children raised by heterosexual parents, with or without gay marriage. The research to date has substantial methodological weaknesses and does not yield a strong answer on this question. See Loren Marks, “Same-Sex Parenting and Children’s Outcomes: A Closer Examination of the American Psychological Association’s Brief on Lesbian and Gay Parenting,” 41 *Social Science Research* 735–51 (2012). Experts on both sides of the gay-marriage debate often claim that the other side is biased in conducting and/or interpreting research about the effects of gay parenting on children. The available research on children in divorced and unwed families is “not exactly comparable” to children with same-sex parents. However, social scientists do know “that no other family structure produces quite the positive benefits for children as does the biological, stable, two-parent family. Even adopted children in stable two-parent families do

not fare as well as biological children. Even stable stepfamilies do not produce equivalent outcomes for children.” It would therefore be surprising “if research eventually shows that children raised in some other form, such as same-sex families, were equivalent to the married two-parent family.” (Email from Alan J. Hawkins, professor of family life at Brigham Young University, to Bruce C. Hafen, Mar. 10, 2014.)

11. 410 U.S. 113 (1973).

12. One source states that in 1987 Utah and Arkansas were the last two states to adopt no-fault (*Salt Lake Tribune* online edition, Dec. 12, 2013), although New York didn’t fully adopt no-fault until 2010. (See email from Alan J. Hawkins to Bruce C. Hafen, Jan. 3, 2014.)

13. For a brief discussion of no-fault divorce, see Hafen, *supra* note 1, at 37–39.

14. Donald S. Moir, “A New Class of Disadvantaged Children,” in *It Takes Two: The Family in Law and Finance* 63 (D. Allen and J. Richards eds., C. D. Howe Institute, 1999).

15. See paragraph 4 of majority opinion in *Goodridge et al. v. Department of Public Health et al.*, Supreme Court of Massachusetts (2003).

16. Supreme Court Justice Harry Blackmun wrote in 1986 that he would constitutionally protect homosexual behavior not because it furthers any social interests but precisely because it dissents from the established social order: “We protect these rights not because they contribute . . . to the general public welfare, but because they form so central a part of an individual’s life.” (*Bowers v. Hardwick*, 478 U.S. 186, 204, 211 [Blackmun, J., dissenting] [1986].)

17. Factors contributing to the recent and slight decline in the divorce rate include an increased age at first marriage and a significant increase in the number of cohabiting couples, whose break-ups aren’t included in the U.S. divorce rate. These couples terminate their relationships at an unusually high rate in the United States. See note 21.

18. Alan J. Hawkins, *The Forever Initiative: A Feasible Public Policy Agenda to Help Couples Form and Sustain Healthy Marriages and Relationships* 19 (CreateSpace Independent Publishing Platform, 2013).

19. See sources cited in Dallin H. Oaks, “No Other Gods,” *Ensign*, November 2013. About half the births to mothers under age 30 are nonmarital. See Hawkins, *supra* note 12.

20. *Id.*

21. Noelle Knox, “Nordic Family Ties Don’t Mean Tying the Knot,” *USA Today*, Dec. 16, 2004, at 15, [www.usatoday.com/news/world](http://www.usatoday.com/news/world). At the same time, unmarried couples in Scandinavia have somewhat more stable relationships than unmarried U.S. couples, whose cohabiting relationships are shorter than in any other country. Sociologist Andrew Cherlin has found that even a child born to married parents in the United States is statistically more likely to see his parents break up than is the child of an unmarried couple in Sweden. See Cherlin, *The Marriage Go Round* (Random House, 2009); this statement is from Cherlin’s “about the book” summary on RandomHouse.com.

22. “Report of the Mission of Inquiry on the Family and the Rights of Children,” a study commission appointed by the National Assembly of France, 25 January 2006, 32 (English translation of commission report).

23. See sources and data cited in Hafen, *supra* note 1, at 227–29. For example, “The most important causal factor of declining child well-being is the remarkable collapse of marriage, leading to growing family instability and decreasing parental investment in children” (“Marriage in America: A Report to the Nation, Institute for American Values” [1995], 8).

24. For sources and more specific information, see Hafen, *supra* note 1, at 226–27.

25. New research by a team of Harvard and Berkeley economists found that “a major predictor of poverty [in the United States] is family instability” (Douthat, “More Imperfect Unions,” *New York Times*, 25 January 2014). More specifically, the research found that children of single parents have less upward economic mobility than other children: “The strongest and most robust predictor” of economic mobility for U.S. children is “the fraction of children with single parents” (University of Virginia sociologist Bradford Wilcox, in a source cited by Douthat). Douthat also describes the negative effects of both abortion

and no-fault divorce in undermining “marriages across a social network” and reducing “the value of the institution [of marriage] and the sacrifices embraced on its behalf.” For further discussion of the tie between single-parent families and income equality, see Robert Maranto and Michael Crouch, “Ignoring an Inequality Culprit: Single Parent Families,” *Wall Street Journal*, 20 April 2014, online edition, opinion page.

26. Citations in Hafen, *supra* note 1, at x; emphasis added.

27. Caitlin Flanagan, “Why Marriage Matters,” *Time*, 13 July 2009, at 45.

28. Conversation with Akira Morita, professor of law at Toyo University, Japan, in Provo, Utah, 1995.

29. See Malachi 4:5–6; D&C 2.

30. For a discussion of how gay marriage weakens what marriage means, see Hafen, *supra* note 1, at chapter 24. Regarding hedonism, social interests, and river banks, Will and Ariel Durant wrote: “No man [or woman], however brilliant or well-informed, can . . . safely . . . dismiss . . . the wisdom of [lessons learned] in the laboratory of history. A youth boiling with hormones will wonder why he should not give full freedom to his sexual desires; [but] if he is unchecked by custom, morals, or laws, he may ruin his life before he . . . understand[s] that sex is a river of fire that must be banked and cooled by a hundred restraints if it is not to consume in chaos both the individual and the group” (*The Lessons of History* 35–36 [1968]).

31. “Meanings and Functions of Temples,” from Hugh Nibley’s *Encyclopedia of Mormonism* article on temples, in vol. 17 *Collected Works of Hugh Nibley* 312–13.

32. 2 Nephi 2:22–25.

33. “The Family: A Proclamation to the World,” *Ensign*, Nov. 1995, at 102.

34. Moses 5:6–7.

35. 3 Nephi 9:20.

36. James E. Talmage, *Jesus the Christ*, 669 (1915).

37. “And there were gathered together . . . an innumerable company of the spirits of the just, who had been faithful in the testimony of Jesus while they lived in mortality; And who had

offered sacrifice in the similitude of the great sacrifice of the Son of God, and had suffered tribulation in their Redeemer's name" (D&C 138:12–13).

38. Neal A. Maxwell, "Deny Yourselves of All Ungodliness," *Ensign*, May 1995; emphasis added.

39. John 10:11–15.

40. D&C 30:6.

41. Isaiah 63:9; see also D&C 133:53.

42. Moroni 10:32; emphasis added.

43. D&C 84:20.

44. Joseph F. Smith, John R. Winder, and Anthon H. Lund to Christine Eggleston, 28 January 1902, First Presidency letterpress copybooks, LDS Church History Library.