

The Arc of a Covenant

Richard B Gunderman

ILC February 16, 2021

Let me begin by sharing with you what this talk is not about. It is not about a 19th century German businessman and archeologist, a wheeler-dealer who made multiple fortunes through the California gold rush, the dye industry, military contracting, and the import-export business. He also claimed to have discovered and excavated the site of Homer's Troy, recovering the "mask of Agamemnon" and adorning his second wife in the ancient city's buried treasures. In the midst of a globe-trotting life that led him to learn no fewer than 13 languages, each of which he claimed to be able to learn in six weeks, he also lived in Indianapolis for a period of three months. His name was Heinrich Schliemann and he moved to the Hoosier state in 1869 to take advantage of its liberal divorce laws.

Schliemann

Schliemann married for the first time in 1852. His bride was the niece of one of his wealthy friends and business associates, Ekaterina Petrovna Lyschin. The course of their marriage was rocky, but it produced three children. Schliemann determined to move to Paris, where he could study the classics at the Sorbonne and continue his business dealings. Yet Ekaterina lacked her husband's passion for the Greeks and wished to raise her children in her home country and her native Orthodox Russian faith. In Russia, divorce was very difficult to obtain and usually provoked a scandal. Schliemann, however, had become a US citizen during his time in California and knew of Indianapolis' lax divorce laws.

Schliemann took up lodgings in an Indianapolis hotel, retained three lawyers, and purchased both an interest in a local starch company and a small house. He intended to convince a judge that he had relocated to Indianapolis to stay. He presented some of Ekaterina's letters, including one that stated that the "sole and only reason of all our disagreement is that you desire I should leave Russian. But this I most decidedly refuse to do, and I assure you with an oath that for nothing in the world shall I ever leave Russia, and I would sooner die than live together with you in a foreign country." The judge, convinced Schliemann had provided adequately for his wife and children, granted the divorce. Schliemann immediately skipped town.

Schliemann then relocated to Greece, where he placed an advertisement in a newspaper seeking a wife who shared his passion for archeology. Ironically, a local archbishop suggested the 17-year-old daughter of his cousin, Sophia Engastromenos, and she and the 47-year-old Schliemann were married the same year of his divorce from his first wife, 1869. The marriage produced two children, one named Andromache after the wife of the Trojan prince Hector, and the other named Agamemnon, after the leader of the Greek forces that had besieged Troy. Sophia edited and published her husband's autobiography in 1892, two years after his death, and in 1914, their son Agamemnon became the Greek ambassador to the US.

Schliemann's life is the stuff of legend, but as I indicated at the beginning, this talk is not about Schliemann. Instead, it is about marriage. Specifically, it is about the declining state of marriage in the US. Schliemann came to Indianapolis not to make his fortune, to study, or to dig, but to get a divorce,

and Indiana was then the nation's divorce capital. New York newspaper editor Horace Greeley called Indiana a "paradise of free-lovers." Legislator Robert Dale Owen had sought to promote the rights of women, arguing that no one should be bound to a "habitual drunkard," but the state soon developed a national reputation as the home of the "copper bottom divorce."

There is evidence to suggest that marriage and the family are ailing, with adverse consequences for children. Today about one-third of children born in the US today are born to unwed mothers. About half of all first marriages end in divorce. Such divorces take a great toll on children. Less than 10 percent of married couples with children are poor, while about 40 percent of single-parent households are poor. Children growing up in single-parent families are three times more likely to have learning and behavioral problems. Merely growing up with two parents does not guarantee a comfortable and nurturing childhood, but it does confer great advantages, even after correcting for income.

Contract

Many factors underlie the current state of marriage in the US. I believe that one of the most important stems from a change in our understanding of the nature of marriage. Put simply, do we regard marriage as a contract or a covenant? In my view, Heinrich Schliemann regarded marriage as a contract, one that, once his wife ceased to perform in the way he expected, he sought successfully to extricate himself from. Today most US states treat marriage as a contract – each party must consent, the marriage is recorded, property is exchanged, a new legal entity is created, and each enjoys the right to pursue legal action to enforce or terminate the contract.

To get married today, you need merely obtain a license and solemnize the union before a licensed official. No waiting period is prescribed, there is no requirement for a public declaration or celebration, and others, including the parents and family of the bride and groom, need not even be notified. Should either party wish to terminate the contract, they can take advantage of no-fault divorce laws, through which a court will ensure an appropriate division of the marital property. Why should states even be involved in marriage at all? Many contemporary commentators justify enforcement of marriage contracts based on economic benefit, or the need to provide limited enforcement of promise keeping.

Once marriage comes to be regarded primarily as a contract, its fate as a purely legal institution may be sealed. Contract law is grounded in such principles as offer and acceptance, consideration in the form of goods and services, and mutual intent. On this account, marriage can be regarded largely as a piece of paper that the parties enter into only so long as each party derives sufficient benefit from the other. As a potential contractor thinking about whether to get married, I would weigh some highly practical considerations, such as: would my would-be spouse enrich my purse, my career, my reputation, my health, and my bed sufficiently to warrant the sacrifice of freedom it would necessarily entail?

In one of the greatest short stories ever composed, Leo Tolstoy's "The Death of Ivan Ilyich," the title character, a successful judge, weighs the decision whether to marry in just such terms:

Ivan Ilyich said to himself, "Really, why shouldn't I marry?" [She] came of a good family, was not bad looking, and had some little property. Ivan Ilyich might have aspired to a more brilliant match, but even this was good. He had his salary, and she, he hoped, would have an equal income. She was well connected, and was a sweet, pretty, and thoroughly correct young woman.

To say that Ivan Ilyich married because he fell in love with [her] and found that she sympathized with his views of life would be as incorrect as to say that he married because his social circle approved of the match. He was swayed by both these considerations: the marriage gave him personal satisfaction, and at the same time it was considered the right thing by the most highly placed of his associates. So Ivan Ilyich got married.

As one might expect based on such a prologue, Ivan Ilyich's marriage does not turn out well. He sees marriage as a matter of his own pleasure and convenience. He is focused not on what he would bring to the union or how he and his spouse might grow together, but how the marriage might advance his own objectives. He has no desire to see matters from his wife's perspective, to enter into her experience of their shared life, or to sacrifice any part of his life for her welfare. He expects her to function as an appendage of himself, and when this does not happen, trouble begins to brew. Before long, Ivan Ilyich and his wife spend most of their time avoiding and despising one another.

Of course, changing the laws and customs around marriage would not necessarily prevent or remedy such bad unions. Human beings are, after all, human, and just as people fall into love they can fall out of love. Some marriages undoubtedly do represent genuine mismatches, contributing nothing to anyone's happiness or flourishing. Yet the way we understand marriage, how we prepare for it, and how we conduct it once we are married have a powerful effect on to whom, where, when, how and above all why we get and stay married. Ignorance and misunderstanding can take a great toll. To reduce prospects for failure and promote better marriages, we need a better metaphor for marriage than contract.

Covenant

One such metaphor, similar in some respects but crucially different in others, is covenant. To get a sense of what a covenant means, consider some examples from the Bible. In the first chapter of Genesis, God covenants with humankind, calling on them to "be fruitful and multiply," and giving them dominion over the earth and its creatures. After the great flood in Genesis 9, there is a covenant between God and Noah and all living creatures, including humankind, that never again will God bring a flood that wipes out life. Later in Genesis God covenants with Abraham to make him and his many descendants a great nation, of which circumcision is the sign.

Covenant differs from contract in several important senses. For one, contract comes from Latin roots meaning to draw together with. To contract implies that two or more people are being bound by something without which they would not necessarily join. The contract itself could be seen as a rope or cord that binds them. By contrast, covenant comes from roots meaning to come together. Covenant, in other words, suggests that the two parties belong together, that it is somehow in their nature or appropriate in some larger context for them to join. A contract implies that both parties could get along without one another, but a covenant implies that they are made for one another.

Contract requires some consideration, some incentive to enter into the agreement. In addition to goods and services, such consideration might include actions, such as protecting and caring for another person. But a price must be paid for the promise of each of the parties. By contrast, a covenant does not imply any such price. There is no specified compensation, which renders a covenant fundamentally priceless. Moreover, a covenant is not about compensation drawn from wealth or property

accumulated in the past but the promise of a transformative good to come that could not be realized if the two parties remained separate from one another.

Contracts assume that the parties remain essentially static, abiding by their terms as they go forward. But a covenant assumes that the two parties will undergo growth and development. The covenant will provide the context for a transformation in their identity through relationship. For example, the covenant in the garden of Eden provides that humankind will be fruitful and multiply, which implies the responsibilities of marriage and parenthood into which each spouse and parent must grow. Likewise, to assume dominion over the earth implies taking of the responsibilities of a steward, not merely to exploit but to tend and care for creation.

A person can enter into and fulfill the terms of a contract without changing at all. But no one can enter into a covenant without experiencing a call to grow and develop into a different person. We might say that contracts are performative, while covenants are both formative and transformative. We become adults in part by assuming the responsibility of adults, and the same goes for marriage and parenthood. To get married or become a parent without experiencing any change in who one is or what one aspires to is to find oneself in the predicament of Ivan Ilyich, whose lack of growth and development as a human being amount to a kind of death.

A contract sets forth conditions for breach, which can lead to the assignment of damages or the cancellation of the contract. The party that fails to perform can be penalized, and the whole contract can be rendered null and void. In other words, the parties can walk away, perhaps to contract again with one another or other parties another day. By contrast, a covenant offers no such neat separation. The two parties are presumed to have entered into a symbiotic relationship with one another, each depending on the other not only to thrive but even to be what each is, making the termination of the covenant a different and far more serious kind of death.

Those who enter a covenant do so not merely for a specified period of time but for their whole lives, as well as the lives of their predecessors and offspring. This helps to explain why the Book of Genesis contains so many genealogies – what happens in the time of Adam and Eve, Noah, and Abraham and Sarah also involves their parents and grandparents, their children and grandchildren. A covenant, in other words, is bigger than any one person. It would be truer to say that each human life takes on meaning and significance through the covenants in which it is situated than to say that any one person chooses to enter into a covenant.

These features of covenants help to explain the qualitative difference between marriage viewed as a contract and marriage understood as a covenant. For one thing, men and women are naturally attracted to one another. We do not need an inducement to get human beings to take an interest in one another, an interest which runs the gamut from delight in looking at one another to imagining what it would be like to talk, embrace, and perhaps even share a life together. In the Biblical context, God created humankind as man and woman, implying that two different kinds of human beings are necessary to complete the picture. Our longings testify to this complementarity.

It is in fact through leaving their parents and “becoming one flesh” that human beings attain a new degree of wholeness, reminiscent of the account of love in Plato’s “Symposium.” There Aristophanes describes halved creatures who desperately long to reunite with their counterparts. Basic biological functions such as procreation and survival of the species are not possible if men and women do not join,

but neither are covenants such as marriage and parenthood. We need such covenants not just to survive but also to thrive, for it is not only in keeping but also in making promises that we become fully responsible and aware human beings.

And covenant is part of a still larger whole, for it implies membership in a community. Where contracts include stipulations for consideration and breach, covenant includes traditions and rituals, which in the religious context include prayers, oaths, and blessings. One does not just sign one's name. One takes an oath. One does just make a deposit that will be forfeited if contractual conditions are met. One swears an oath. And one does not just promise to perform. One both blesses another and seeks to be a blessing to others. A covenant carries a lot of baggage – one's family and friends, one's community and culture, and even one's faith.

Through a covenant, we place on the line not just what we have but who we are and who we can become. No one can know in advance what this means in full, but with hope and faith we make the pledge to fulfill the covenant, not so much abiding by its terms as growing fully into it. To make a whole human being, in other words, biology is not enough. To be sure, we need air and water and food. Yet we also need living relationships that draw us into the fullness of our being as human beings and persons. Our 46 chromosomes make us human and our fingerprints grant each of us an identity, but it is only in relationship that we become fully ourselves.

A covenantal understanding of marriage is more than a piece of paper. It is a permanent commitment, for a lifetime, and even beyond a single generation. It is public, binding not only the couple but their families, friends, and communities. It takes time – time for becoming acquainted to ensure a good match. Each of the partners must consent, but so too must their families and community. It involves both celebration and consecration – both joy and awe at the sacred. For its origins lie not in human wants and desires but in the very fabric of creation, expressing the will of God. In helping and nurturing one another and eventually their children, the bride and groom participate in the loving act of creation.

Heinrich Schliemann clearly saw marriage as a contract. To make his marriage to Ekaterina turn out as he wished, he needed to get thousands of miles away from her. His commitment to their children was a purely financial one, ensuring their support and providing for them in his will, but assuming no responsibility for their rearing. He came to Indianapolis looking for a way out, and his presence here was a purely transactional one, with no commitment to the institution of marriage or the community he was relying on to terminate his own. Buying a house and an interest in a business was just a legal strategy to extricate himself from the commitment into which he had entered.

Consider another tale of marriage badly misunderstood, Shakespeare's "Romeo and Juliet." Today it is common to regard the two star-crossed lovers as one of the highest expressions of romantic love. Romeo and Juliet are both teenagers who have known one another for a single night. They experience life in the immediacy of the moment, over hours and days, as opposed to the older generation, which thinks in terms of years and lifetimes. They think not of what would be good for their families, their community, or their faith, but strictly about their own passions and the storybook life they imagine for themselves. To commit to one another, they suppose, they must renounce everything.

"Romeo and Juliet" has long and rightly been known as a tragedy, but perhaps for the wrong reasons. The central problem is not that social conditions prevent the happy union of the two lovers. It

is instead that the two lovers seem to lack a serious understanding of the covenantal nature of marriage. They think marriage is all about them, supposing that the world itself revolves around them, or that they can somehow detach themselves from the world. In fact, however, their youthful understanding of love is both incomplete and immature. They fail to understand that marriage is less about the fulfillment of desire than its education, and in this they betray its fundamentally covenantal character.