

WITH OR WITHOUT YOU: REGULATION OF DIVORCE AND INCENTIVES. ECONOMIC ANALYSIS OF NO-CAUSE DIVORCE

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During the past decades there has been a radical change in family structures and many questions have arisen posing many challenges to the legislator. These questions must be addressed and new laws must come into force. Indeed, many laws have been passed in this respect. However, one more question is still to answer: how do these laws affect individual choices?

In this paper we will address this question in regard to divorce laws. There is a tendency, which started in the United States during the 70s to remove fault divorce systems and replace them with no-fault ones. Much more recently, in 2005, Spanish Parliament passed a divorce reform act that basically had the same aim: to introduce a “free” divorce system that disregards the spouses’ behaviors to grant it.

Our purpose is to evaluate using economic analysis, the impact of the abolishment of cause in divorce proceedings and the simplification of the procedure to obtain a divorce. In other words, how does the loosening of requirements to divorce, and thus the easier exit of the marriage contract, influence individual incentives with respect to marriage?

We argue that the free exit from marriage lowers transaction costs, favors efficient breach of the marriage contract and avoids opportunistic behaviors from the spouses. However, the willingness to marry has lost its signaling function.

Summary:

1. Introduction
2. Classical analysis of traditional marriage with cause divorce: Becker’s model
 - 2.1 Basic assumptions
 - 2.2 The model
 - 2.3 Implications and criticism
3. Policing the marriage contract
 - 3.1 To marry or not to marry: asymmetric information and opportunistic behaviour
 - a. Signaling: pooling and separating equilibria
 - b. Opportunistic behavior
 - 3.2. Filing for divorce
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