

The Purpose of Family Law in an Era of Inequality  
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The classic answer to the question what is the purpose of family law is Carl Schneider's "channelling function," which argued that family law institutionalized behavior by coordinating normative expectations and linking the creation of families to the institutions of marriage and parenthood. This presentation asks what is left of the channeling function in an era of inequality.

Focusing on the specific example of the marital presumption, the presentation will argue that the law today could still play a vital role in the redefinition of marriage, as the law has in fact played such a role in the context of marriage equality. It does not, however, first, because ideological division leads to disagreement about the way in which family norms are expressed even when there is elite agreement on the desired outcomes. And, second, with the exacerbation of class-based inequality, the understood meanings of behavior diverge, with the top, middle and bottom groups in American society moving in different directions.

The result could be a reinstitutionalization of shared expectations through a bright line demarcation between marital (and putatively equal) and non-marital (and putatively unequal) parental roles, but the presentation will explain why such a resolution is unlikely to occur. Without it, American family law becomes a system of rules and dispute resolution, but it loses what had been its distinctive role in forging the links between economic change and shared institutional meanings.