

FAMILY

What Is a Family?

[For the month of
April-2022]

A thorny question for many policymakers is, “What is a family?” Definitions abound, but consensus does not. How we define the family is often hotly-debated because the definition has significant consequences in people’s lives. Government agencies often have to define what a family is in order to determine who benefits from their program and who does not. Towns or cities often have to define families in developing zoning and housing regulations. Family definitions can have a bearing on access to such resources as health and life insurance, educational, recreational, and mental health services. Furthermore, definitions sometimes convey societal beliefs about what is “normal” and “acceptable” and thus, by implication, what is “deviant” or socially sanctioned.

In this section of the briefing report, we will begin by summarizing the diversity of American families. Then we will review three definitions proposed in the scholarly literature and the consequences of each. Finally, we will take a historical look at how the family is defined in Wisconsin law.

Do We Know a Family When We See One?

The family is said to be universal because it is found in more societies than any other social institution, including the economy, the state, religious communities, and educational organizations. Yet this universal term conveys a variety of images. For some, it may bring to mind the work of American painter Norman Rockwell white picket fences, and freckled boys and girls playing under the watchful eye of doting parents and community elders. The word family may mean something quite different to an African-American, an American Indian, or a southeast Asian refugee, a stepparent, a foster parent, a landlord, or a zoning board member. One's image of family may reflect one's position in the family life cycle ranging from a childless couple to the "sandwich generation" with both young and old dependents to the "empty nest" stage.

In Figure A, Ooms and Preister (1988) categorize the variety of families that dot the landscape according to socioeconomic characteristics, structures, family life cycle stage, and different family contexts including racial, ethnic, and cultural settings. In a country like ours that prides itself on being a melting pot, coming up with a universal definition of the family is no easy task.

How Is the Family Defined?

The definitions of family are as diverse as families themselves and the situations they are found in. Viewed simply, the definitions can be categorized in two ways:

Figure A

FAMILY TYPES

Socioeconomic Characteristics

- ❖ Education level
- ❖ Income level

Structure

- ❖ Couple without dependent children
 - ◆ married
 - ◆ unmarried (cohabiting)
- ❖ Single-parent family household
 - ◆ never-married
 - ◆ separated
 - ◆ divorced
 - ◆ widowed
- ❖ Two-parent family household
 - ◆ not married
 - ◆ first marriage
 - ◆ second/third marriage
- ❖ Foster family
- ❖ Adoptive family
- ❖ “Estranged” family
- ❖ Nuclear/extended/multigenerational household
- ❖ None/one/two/multiple wage earners

Family Life Cycle Stage

- ❖ No children
- ❖ Early formation infants and pre-schoolers
- ❖ With school-age children
- ❖ With children in transition to adulthood
- ❖ With no dependent children
- ❖ With elderly dependents
- ❖ Elderly with adult children/grandchildren
- ❖ “Sandwich generation” mid-life adults with both young and old dependents
- ❖ Families with a member with disabilities

Family Contexts

- ❖ Ethnic/racial/cultural
- ❖ Religious
- ❖ Informal social network (friends & neighbors)
- ❖ Relationships to community
- ❖ Rural/suburban/urban

(1) structural definitions that specify who's in the family and who's out according to certain characteristics of family members, and (2) functional definitions that specify the functions family members perform. We will review two structural definitions before turning to a functional definition.

Structural Definitions of the Family

Structural definitions of the family characteristically define the characteristics of family members such as those who share a place of residence, or who are related through blood ties or legal contracts. A commonly used definition is that of the Census Bureau, "a householder and one or more other persons living in the same household who are related to the householder by birth, marriage, or adoption" (Census 1990). This definition includes many family types commonly regarded as families including traditional families (breadwinner husband, homemaker wife and their children), remarried families, dual-earner families, and single parent families. Yet it also omits some relationships that are commonly regarded as an integral part of families:

- ❖ A grandparent who does not reside in the household
- ❖ A noncustodial parent
- ❖ An unmarried parent who does not reside with his/her child
- ❖ A child in a divorced family who spends half of the week with one parent and stepparent, and the other half with another parent and stepparent
- ❖ A man and woman who are legally married but maintain separate apartments and see each other on weekends.

Another frequently used structural definition is “two or more persons related by birth, marriage, or adoption” (Ooms and Preister, 1988). This definition broadens the scope by counting as “family” people who do not live together, but are related biologically or through legal contracts. Yet, though this definition is more inclusive, some would contend it still excludes some arrangements that many might recognize as legitimate families. For example, long-term foster families are not related by birth, marriage, or adoption, yet carry out many family functions over a significant period of time. Both these structural definitions exclude communal living arrangements and gay and lesbian couples.

Functional Definitions of the Family

Other definitions move away from blood relationships or a legal definition and focus instead on the functions families perform. According to most functional definitions, a family is any unit in which there exists:

- ❖ Sharing of resources and economic property
- ❖ A caring and supportive relationship
- ❖ Commitment to or identification with other family members
- ❖ Preparation of children born to or raised by the members to become adult members of the society

While this definition is intended to be more inclusive never married couples and homosexual couples would meet these criteria it would exclude family types who do not fulfill these functions. For example, a noncustodial parent who fails to pay child support would be excluded from this definition. A legally-sanctioned marriage where the couple no longer has a meaningful relationship but stays together for economic reasons or for fear of social sanctions would not qualify as a family. Even a biological parent who fails to provide care and support would probably not be considered “family” under such a definition.

Trying to identify only one definition of the family is like trying to cheat death: it doesn't work and you end up feeling foolish for trying. Rather than settling for a universal definition, it seems more appropriate to define families according to the particular issue involved. For example, policies concerned with the socialization of children might use a definition of family that includes minor or dependent children (Moen and Schorr, 1987). A structural definition would contend that the children be related by blood or adoption, while a functional definition might define family as whoever is there to care for the child. If the issue is care for frail elderly members, structuralists would be concerned with who has legal responsibility for the dependent; functionalists, on the other hand, would stress who is providing the care whether it be an adult sibling, a life-long adult friend or close companion. One guideline may be to write the definition in a way that reinforces rather than defeats the intent of the specific program or policy (Eshleman, 1991).

Legal Definition of the Family

Although there are many references in law and public policy to the family, there is no clear legal definition of the term. You cannot, for example, turn to a definition of “family” in the Wisconsin statutes. There is no such entry. However, the fact that there is no explicit definition of the family in the law does not mean that courts and other legal policymakers do not base decisions on a particular view of what is a family. That view is, more likely than not, a traditional one. Someone has remarked that American family law is middle-class, mid-western and middle-aged. Nowhere is this more evident than in the response of the law to changing family forms. A reference to “family” is usually to a traditional model of a mother and father, married to each other and their biological or legally adopted children.

When the family form is less traditional, difficulties of definition arise. Informal families in which the parents are not married or same gender relationships for which formal marriage is not available create problems, even in cases where these changing societal attitudes come in the ranks of the middle class that segment of our society whose values are most likely to be expressed in our public policy in terms of statutes and case law.

When the courts are faced with the necessity of determining whether these units constitute a family, they respond in the manner described earlier in this briefing paper the definition often depends on the circumstances of the case. An excellent example of this approach to the definition of “family” is found in the landmark United States Supreme Court case of *Moore v. the City of East Cleveland*. In that case a grandmother lived with her son, his son and another grandson who was a cousin. The local zoning ordinance limited dwellings in the area to single families and the grandmother had been notified that she had to move because she was in violation of the ordinance: her grandchildren were not of a single family. When she failed to move, she was convicted of violating the ordinance. The case eventually made its way to the United States Supreme Court. That court held the municipal ordinance to be unconstitutional as a denial of substantive due process because it interfered with freedom of personal choice in matters of family life. At least for the purposes of zoning regulation, the family that the constitution protects from governmental intrusion includes some extended families.

The difficulty with this approach to defining the family is that the analysis may reflect value judgements about nontraditional lifestyles that are unrelated to the psychological, supportive and dependence relationships involved. On the other hand, it may be that a pragmatic approach, considering a closely-involved unit as a family for some purposes, but not for others, is the best solution.

The lack of a definition of the family in the law stems partly from the fact that the family has no legal status separate from its members. The role of the law is usually one of defining and enforcing rights and obligations of the individuals who are members of the family husbands and wives, domestic partners, parents and children. This is why the field of law, now called family law, was historically described as the law of domestic relations; it deals with the relations of individuals in a certain type of relationship, known as the family. The substance of family law is not the rights of the family, but of its members.

This emphasis on the rights and responsibilities of the members of family units has the advantage of allowing persons in nontraditional relationships to assert

rights and seek remedies without relaying on family law doctrines or a family relationship. A case recently decided in Wisconsin Court of Appeals illustrates this approach. The case involved an unmarried couple who lived together for seven years, sharing expenses equally. Each partner had children of a previous relationship. When the relationship broke up, family law would have afforded the woman no economic relief. Therefore, she sought payment for her services for cleaning and cooking and a share of the increase in value in the home he owned, resulting from work he had done while they were living together relying on theories of contract and unjust enrichment. The man sued for the child support he had provided the woman's children. The court of appeals found sufficient evidence to sustain a jury finding that the woman was entitled to most of the money she sought, but that the man was not entitled to child support.

The law has different ways of responding to societal changes and changing family forms will continue to result in changing legal responses.