New World Courtships

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EPILOGUE: WHY MARRIAGE MATTERS NOW

In a recent post on her blog, Love, Inc., Laurie Essig argues that in the United States, “romance is the ruling ideology.” This wasn’t always the case, of course. In the late eighteenth and early nineteenth centuries, when an Anglophone Atlantic world practice of companionate marriage became the ideological ideal, some novelists used what I have called a comparative-marriage plot to compare an emerging ideology of companionate marriage with other Atlantic world practices. As I have argued throughout this book, novels proved effective creative spaces for working out problems, trying out alternatives, and rethinking British marital norms. From matrilineal Haudenosaunee (Iroquois) households and Haitian plaçage to New England bundling, modes of marriage in the early Americas have always been more diverse than commonly acknowledged. During the course of the nineteenth century, however, the US government increasingly sought to control, contain, and eradicate this diversity by promoting monogamous companionate marriage among nonconforming American Indians, some postemancipation freedpeople, and polygamous Mormons, to name only a few. In contrast to the exploration of alternatives found in fictional comparative-marriage plots, nineteenth-century marriage reformers attempted to legislate and adjudicate their way toward uniform, state-authorized marriage.

“In our culture, romance is the ruling ideology”

Prior to this, in many backcountry locales, local custom allowed for a much wider range of coupling behaviors because marriage officiates were scarce and even relatively low fees for marriage licenses might be cost prohibitive to many poorer couples. Thus, self-marriage, or informal
marriage such as common-law relationships, were permissible and frequent occurrences. Common-law marriage had the added advantage of easy self-divorce. Premarital sex and bigamy were also more frequent and more tolerated, especially in the less densely populated rural south. As Nancy Cott observes, local practices could differ significantly, but there was a sense that coupling depended on mutual consent rather than official state recognition.

This more casual approach to marriage was soon to change as state legislators and courts began to regulate marriage with greater force. These changes included new postrevolutionary divorce laws and a series of legislations revising coverture. After the revolution, many Americans applied the rhetoric of escaping tyranny to their unsatisfactory marriages. For instance, in her 1788 petition for divorce in Connecticut, Abigail Strong argued that her duty to obey her husband was ruptured by his insufferable abuse, as “even Kings may forfeit or discharge the allegiance of their subjects.” Many state legislators agreed and proceeded to outline the conditions under which divorce might be granted. Similarly, various states revised the legal assumptions of coverture inherited from British common law so that women could hold their own property as separate estates, make contracts that would enable them to buy and sell that property, and keep their own earnings.

As various states redefined the terms and meanings of legal marriage within their borders, the federal government similarly sought to reform and regulate family structures, sexual relations, and forms of coupling in a wide variety of American Indian nations. Although there are significant differences between American Indian communities in terms of kin structures, clan responsibilities, and communal economic policies, Mark Rifkin observes how, taken collectively, these differences registered to most Americans as nonnormative and threatening. Many policy makers argued that assimilating Native families into American-style monogamous, nuclear family households would best prepare Native peoples to accept US rule.

Among Cherokee peoples, for instance, Thomas Jefferson promoted major changes in traditional gender roles by encouraging Cherokee women to give up their customary agricultural work and adapt white women’s roles as domestic regulators by taking up the spinning wheel. This “spinning wheel revolution,” as Gregory Dowd terms it, had considerable and intentional ripple effects in this matrilineal community. Many households adapted patriarchal male heads, which shifted matrilineal property inheritances and led to a revaluing of women’s roles and work, eventually de-
creasing women’s traditional participation in public assemblies. US policy makers envisioned vast Cherokee hunting territories opened to white settlers once Cherokee families learned subsistence farming on smaller tracts of land. In conjunction with local missionary groups and boarding schools, these policies worked to effect culture change on multiple fronts.

Later policies such as the Dawes Act of 1887 (also known as the Allotment Act) intentionally broke up collective tribal-land ownership and nonnuclear households, forcing a redistribution of reservation properties to private households, typically reorganized with male heads of household and new patronymic surnames. These new domestic arrangements and property regulations introduced monogamous, patriarchal nuclear families as the basic requirement for “civilization.”

Decrying the destructive effects of slavery on African American marriage was one of the most effective rhetorical strategies deployed by US abolitionists. In this case, white slaveholders were responsible for enslaved peoples’ supposed nonconformity with monogamous state-sanctioned marriage. Because enslaved persons were legally the property of their masters, they were denied the right to consent to marriage. Slave law proclaimed that enslaved people could have no will separate from a master’s. When enslaved couples married informally, these marriages were often dismissed as nonbinding or contingent on the wishes of either partner’s master. No enslaved couple could be sure that they would not be sold or redistributed as part of the splitting of an estate. Although many enslaved persons were denied the right to marry, the reproduction of an enslaved labor force was crucial to the economic success of slavery, especially after 1808 when the United States banned the further importation of enslaved peoples. Formerly enslaved women spoke of forced “breeding” policies, concubinage, and the capitalist culture that quite literally thrived on their sexual assault. Still, many enslaved couples felt themselves deeply committed to one another. As Frances Smith Foster argues, the so-called legacy of broken African American families resulting from slavery ignores the testimony of runaway, freed, and emancipated enslaved persons who continually attest to deep marital bonds maintained in the face of slavery’s traumas. As the constitutional amendment to eliminate slavery moved forward, many legislators praised it precisely on marital grounds. Freedom would guarantee formerly enslaved peoples the legal right to consent to marry. Postemancipation reform efforts included policies to encourage freedpeople to adopt state-recognized forms of monogamous marriage; however, this task was complicated by many disrupted relationships and remarriages, an inevitable result of the vagaries of slav-
These concerns were only exacerbated by attempts to legitimate the children of former slaves with multiple marriages. No standardized solution would easily resolve or erase the diversity of family structures that African Americans had necessarily and resourcefully developed during slavery.

The early Mormon Church’s practice of polygamy proves yet another instance of US marital diversity contained by federal and state intervention. While only a small proportion of Latter-day Saints practiced polygamy, many antipolygamy reformers vehemently called for federal intervention to enforce a national standard of monogamy. The Morrill Bill of 1862 made bigamy a federal crime, but it proved difficult to enforce as polygamists could deny additional marriages and Mormon jurists were unlikely to convict fellow believers. In protests against the practice, many reform groups and politicians connected the Mormon system of plural wives with racially marginalized groups: “concubines voluntarily,” “bound slaves,” or “Indian squaws.” Such language polarized the practice of monogamy and polygamy along “civilized” and “barbaric” lines that drew directly from Enlightenment stadial theories linking the status of women to “progress” and “civilization” discussed in chapter 1. During the course of the nineteenth century, this metric of progress was itself racialized so that many white Christians equated civilization with whiteness itself. The view of polygamy as a right guaranteed through religious freedom was officially overruled in 1878 when the United States Supreme Court determined in Reynolds v. United States that constitutional guarantees of religious freedom were restricted to beliefs only and did not protect actions in violation of the law. Nine years later, the Church of Jesus Christ of Latter-day Saints overturned its public support of polygamy when legal suits against the Edmunds-Tucker Act, which repealed the church’s act of incorporation and threatened to seize the church’s property, failed. In September 1890, the church publicly advised its members to avoid marriages “forbidden by the law of the land.”

The legal showdown over polygamy demonstrates how marriage is far from a private or natural relation; as Nancy Cott argues, marriage is primarily a “political creation” subject to change and interpretation. The histories of marital diversity contained in this study matter in our own moment because they demonstrate that marriages can be quite flexible arrangements with multiple legal, familial, and economic meanings. Recalling the historical flexibility and multiplicity of styles and meanings that marriage has been able to encompass proves not only a valuable but also a timely project. In November 2013, my home state of Illinois passed
the Religious Freedom and Marriage Fairness Bill formally licensing and recognizing same-sex marriages. For many same-sex couples, the marital relation conveys significant, tangible benefits: rights to attend a sick or dying spouse in the hospital, tax benefits, spousal inheritance rights, and so on. Marriage also offers many same-sex couples equal access to the powerful mythology of the marriage plot, with all its promises of personal happiness, relationship stability, and respectability. This mythology is what Rachel Brownstein describes as the opportunity for a “finished identity” or for what Joseph Allen Boone understands as the relationship goal that defines a “fully experienced life.” Arguably, access to this shared ideal of marriage, with its rhetoric of stability and completeness, is just as important for many same-sex couples as hospital visitation rights. As one same-sex-marriage activist group argues, “Marriage says ‘we are family’ in a way that no other word does.” Although new legislation and court decisions are quickly changing available data, at the time of this writing, thirty-five states as well as the District of Columbia and some counties in Missouri allow same-sex marriage, although those promarriage rulings are now under appeal. In April 2015, the United States Supreme Court is slated to take up several same-sex marriage cases. A favorable ruling could ensure access to marriage for same-sex couples nationwide. In Illinois, the rapid transformation in public opinion on this matter suggests that in recent years more Illinoisans agree that marriage—a relation that conveys specific legal benefits as well as an archetype of the “finished” self—should be equally available to all.

I support same-sex marriage as a civil right and I believe that anyone who wants to marry should have the right to do so. Still, I wonder if we might also be missing a historic opportunity to rethink marriage and our cultural privileging of the couple, straight or gay. As more Americans take up the work of extending marriage rights to same-sex couples, we should understand that marriage is fundamentally a discriminating category. It offers privileges to those who agree to its terms while denying those same benefits to all those who do not live in a state-sanctioned, ostensibly permanent coupling. As queer and feminist critics of the same-sex marriage movement, such as Michael Warner, Nicola Barker, Nancy Polikoff, and the Beyond Marriage movement, have argued, same-sex marriage continues to exclude many nontraditional households and family structures from the benefits that same-sex married couples seek. One solution, recommended in a report titled Beyond Conjugality by the Law Commission of Canada, is to distribute the legal benefits of marriage such as inheritance rights, health insurance, and lower rates for a host of services
across a diversity of adult relationships, including nonconjugal house-
holds of both relatives and nonrelatives. In practice, all households rais-
ing children should receive the same benefits that married couples with
children now receive. Moreover, households comprised of nonrelatives
such as a collective of senior citizens living together might also benefit
by extending certain privileges now conferred only to the married, such
as designating other persons in their collective household as responsible
and duly able to make health-care decisions for them as necessary. As the
Law Commission of Canada’s report suggests, the state should “remain
neutral with regard to the form or status of relationships and not accord
one form of relationship more benefits or legal support than others.” As
Suzanna Danutta Walters urges, “Let’s not imagine that this [same-sex
marriage] is all we can imagine.”

Rather than insisting that same-sex couples share the “same love,” as
Grammy award–winning hip-hop rapper Macklemore asserts in his crit-
ically acclaimed 2013 hit, we might focus instead on making it easier for
all persons, single or married, to live the lives they choose—whether that
love looks the “same” or not. In short, we ought not to lose sight of
what is gained when we compare structures for coupling and domestic
arrangements with the aim of recognizing all families. We are not limited
to conferring privilege on the married, gay or straight. Focusing on the
rights of households, rather than marriage, accommodates a range of
couples, singles, and blood-related and nonfamilial household dynamics
and economic structures.

Anglophone novelists in the late eighteenth and early nineteenth cen-
turies used a comparative strategy of recognizing and evaluating marital
diversity in order to achieve critical insights on the new trend toward
companionate marriage. Recognizing the value of assessing cultural dif-
fferences, these novelists created fictional worlds that plumbed, rather
than effaced, significant alternatives to companionate marriage. We, too,
should explore what individuals from all walks of life stand to gain from
“New Worlds” of domestic arrangements. I hope this book contributes
some historical contexts for long-standing comparative analyses of alter-
native forms of courtship, marriage, and family making.