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Review: The Place of Marriage in Democracy's Formative Project

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Public Vows: A History of Marriage and the Nation by Nancy F. Cott

The Place of Marriage in Democracy's Formative Project*

Linda C. McClain

Shoring up the institution of marriage is a theme in the "marriage movement" and in recent legislative debates over welfare reform and family policy. One common premise is that strengthening marriage and renewing a "marriage culture" is vital to national health and that the best way for government, at all levels, to strengthen and support families and to foster the well-being of children is to promote and support marriage (Marriage Movement; Bush, 2002). Calls to renew civil society identify marital, two-parent families as foremost among the seedbeds of civic virtue upon which our Nation depends for the successful task of social reproduction (A Call to Civil Society, 1999; McClain and Fleming, 2000).

Why should government, particularly the federal government, take such a keen interest in the fate of the institution of marriage? What place does marriage occupy in our Nation's system of democratic self-government? Is marriage, as a system of personal self-government, a model for democratic self-government? Does marriage have a role to play in a governmental formative project of constituting persons as responsible, self-governing citizens? Or is marriage really a "private" choice with which government has no business interfering?

Despite the intense focus on marriage in contemporary public discourse, these fundamental questions receive scant attention. Nancy Cott's splendid book, *Public Vows: A History of Marriage and the Nation*, illuminates these, and other pressing matters concerning government's proper interest in marriage. Cott develops the perceived role of marriage in constituting its participants—men and women—as responsible citizens and as gendered citizens with distinctive roles to play in the family as well as the polity. As Cott elaborates, marriage, by imbuing husbands with the role of head of household and (until the Nineteenth Amendment) the political representative of the family, expanded men's capacity for citizenship, even as it constrained the scope of women's citizenship (Cott, 2000, 12).

Neither the marriage movement nor policy proposals to strengthen marriage reckon adequately with how a commitment to a public value of sex equality should inform their agenda of promoting "healthy marriage." The aim should be reconstruction of marriage in light of present day commitments to the equal citizenship of women and men.

In this essay, I will situate the contemporary calls to shore up marriage as a manifestation of this historical view that the fate of marriage is bound up with the fate of the Nation. I will elaborate the justifications offered today, suggesting the fundamental continuity as well as discontinuity with older themes about marriage and citizenship. Today, calls to promote marriage recognize the vital role of the institution of marriage in shaping responsible citizens in gendered ways. Strikingly, it is men who are perceived as most in need of such cultural regulation, and thus the target of the most urgent concern. I will conclude by calling for a closer examination of the gender ideology underlying these calls to save marriage. Neither the marriage movement nor policy proposals to strengthen marriage reckon adequately with how a commitment to a public value of sex equality should inform their agenda of promoting "healthy marriage." The aim should be reconstruction of marriage in light of present day commitments to the equal citizenship of women and men.

Linking Democratic and Personal Self-Government

Cott's thesis is that, from the Founding onward, American political theory and practice have harbored the assumption that the health of the Nation depended upon the successful establishment of marriage in a particular form: monogamous, Christian, heterosexual marriage (2000, 9–23). It is useful to situate Cott's book with some other recent histories of marriage that note the gender differential in how marriage constructed male and female citizenship. For example, Hendrik Hartog observes, in his book *Man and Wife in America*: "Being a householder, being someone who cared for and controlled a family, gave a man political significance. It was a foundation for republican political virtue. As the caretaker of a wife, children, and servants, a man became the sovereign of a domain, able to meet with other rulers and to participate with them in government." (Hartog 2000, 101) Linda Kerber has written that, in the political theory of the Founders,

married women fulfilled their civic obligations—and fostered civic virtue—by serving their husbands and children, even as they were denied personal self-government within marriage, and all women were excluded from full participation in democratic self-government and from conceptions of the virtuous citizen (Kerber 1998). A man's failure to establish himself as a successful husband was "a disaster, a source of overwhelming shame" (Hartog 2000, 101). Furthermore, some analyses of the legacy of slavery stress that while the mother-child relationship (albeit subject to rupture) became the anchor of the family, slavery thwarted African American men's ability to fulfill the traditional masculine role of provider and protector; their economic disempowerment, some argue, continues to be a source of pain and anger (Morehouse Statement 1999; Franklin 2000).

And yet, as Cott points out, the Founders viewed this hierarchical, asymmetrical marital relationship, in which the wife properly submitted to her husband's authority, as a consensual one, not one of bondage. Accordingly, the Founders used the metaphor of a good marriage, based on consent and deference to authority, properly exercised, to model the consent required for democratic self-government. Like marriage, the new Nation was a union based on consent (Cott 2000, 16).

Marriage, in this political theory, was also a generator of civic and social virtues. The virtue of sociability, gained through interaction in marriage, would teach citizens to care about others. This idea of marriage as a "school of affection" and a foundation for national morality had a gendered dimension, reflecting eighteenth-century assumptions about differences between the sexes: marriage, by associating men with women, would "gentle" men, subdue their selfishness and egotism, and develop those qualities of the "heart" and the good manners that undergird the social virtues (18–21).

As new groups of persons, such as freed slaves and immigrants, became citizens, federal law and policy sought to bring them within the embrace of the preferred model of marriage. Cott highlights the sex-specific focus of these efforts: marriage was to civilize and properly constitute male citizens as productive, responsible heads of households. Deeply rooted in American political thinking was "the presumed conjunction of marriage, property-owning, household headship, and male citizenship" (122). The national campaign against Mormonism and the "civilization" programs aimed at Native Americans both shared an imperative to establish men as proper and responsible providers and to free women from the despotism and degradation assumed to flow from alternative forms of family life. Discussing the

efforts of the Freedmen's Bureau to establish marriage among former slaves, Cott observes: "Policing and reforming freedmen, not freedwomen, was the bureau men's concern. . . . Marriage and work were the supportive bottom points of a triangle with citizenship at the top" (92–93). As Judith Resnik discusses in this symposium, notwithstanding the commonplace assumption that state law supplies the governing legal regime for family life, federal family law has also supplied such rules, and, more often than not, reinforced gender-conventional roles (Resnik 2002).

As Peggy Cooper Davis and Carol Gilligan point out in this symposium, this official insistence on reinforcing conventional gender roles and male headship was in tension not only with the economic conditions of African American life, which made

wives' market labor necessary for survival, but also with egalitarian human rights norms that undergirded both black and white opposition to slavery (Davis and Gilligan 2002). Indeed, Cott herself discusses the different ways in which opponents and proponents of slavery linked the institution of slavery with the institution of marriage (Cott 2000, 57–68). And yet, emancipation and the Reconstruction Amendments left in place male "headship" within marriage. Even as Married Women's

Property Acts eliminated aspects of a husband's legal right of control over his wife's property, the idea of marriage as a system of self-government in which the husband was head of household, economic provider and protector, to whom the wife owed her obedience and service, continued to shape governmental policy.

Turning to the twentieth century, Cott outlines the "modern architecture of marriage." The "public framework of marriage," she contends, would be "preeminently economic, preserving the husband's role as primary provider and wife as his dependent—despite the growing presence of women in the labor force" (157). After 1920, with the Nineteenth Amendment's recognition of women's right to vote, "the marital model in which the individuality and citizenship of the wife disappeared into her husband's legal persona, had to go, logically." And yet, "marital unity was rewritten economically in the provider/dependent model, a pairing in which the husband carried more weight" (157). Cott illustrates the "deep ambivalence about women's citizenship" and the force of the view that marriage and motherhood were women's chosen destiny by examining an array of laws and policies, including legal restrictions on women's jury service, employment and tax policies, and the structure of public benefit programs in the New Deal (156–79).

To be sure, even as the public framework of marriage became primarily economic, marriage's constitutive role in shaping the

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polity still featured in public discourse. Courts and legislatures still justified regulating marriage by referring to its normative role in marriage as the foundation of the social order (161). However, as the century progressed, the rhetoric of individual rights to constitutional privacy, liberty, and equality also served to put limits on governmental regulation of marital (heterosexual) choice.

Where do matters stand now, at the beginning of a new century? Cott suggests that the last few decades may be heralding a “disestablishment” of the relationship between traditional marriage and the polity, by analogy to the separation of church and state. She notes the disaggregation of marriage into a union of *individuals* in Supreme Court privacy jurisprudence, and the increased willingness of states, in light of feminist critiques of the use of marital privacy to shield domestic violence and abuse, to put “their public force behind the denial of marital unity” and in favor of a norm of wives’ right of self-possession (210–11). In addition, she notes the “no fault” divorce revolution and points to the willingness of courts and legislatures to treat nonmarital families like marital families for various purposes, and increasing public acceptance of such nonmarital families (212). Yet she suggests that the “disestablishment” story is too simple. First, in “defending” marriage against gay men’s and lesbian’s quest for the right to marry, state and federal lawmakers appealed to marriage’s role as a bedrock of civilization (218–19). Second, the legislative debates surrounding the welfare reform of the mid-1990s, as well as the resulting law itself (the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), targeted nonmarital childbearing and paternal absence and emphasized marriage’s role as a “foundation” of a successful society (221–22). As Herbie DiFonzo suggests in this symposium, these federal efforts to reinvigorate the public dimension of marriage suggest that domestic relations law will continue to embrace both moral and economic concerns (DiFonzo 2002).

In concluding, Cott notes the continuing hold of marriage upon most Americans. Even as consent in marriage holds less sway today as an analogy for government in the United States, she suggests it has “greater resonance in the private domain,” in which marriage “signifies freedom in a chosen space” (226). And yet marriage continues to have both a public and private dimension. Cott raises the possibility of a “replenished” institution of marriage, in which “private intimacy would also nurture generous attention to the public interest.” (227). She gestures toward the renewed power of marriage as a link between democratic and personal self-government, but leaves the story of such reconstruction for another day.

Gender Construction and Sex Equality in Contemporary Calls to Promote Marriage

Viewing current calls to promote marriage in light of the history of marriage so engagingly presented by Cott leaves a startling sense of having heard it all before. Shoring up men in their roles as providers, yoking men to women and children as responsible husbands and fathers, vouchsafing men’s responsible citizenship through establishing the proper family form: current policy proposals share these goals with earlier programs aimed at civilizing freedmen, immigrants, Mormons, and Native Americans, not to mention GI’s returning from World War II. Has anything changed? In contemporary discussions there are striking

continuities with as well as differences from Cott’s historical account. I will focus on the extent to which policy discussions emphasize the link between marriage and men’s capacity for responsible citizenship.

The most common contemporary justification offered for government promoting marriage is the appeal to the well-being of children: on average, children living in a family with their two, biological, continuously married parents fare better economically and in other ways than children in other family forms (Marriage Movement, Bush 2002; Horn 2001). As references to marriage as anti-poverty policy suggest, marriage serves as a proxy for ensuring adequate income for families. Proponents of “responsible fatherhood” argue that fathers, in addition to providing financial support, make important noneconomic contributions to children (Blankenhorn 1995; Horn 2001). The negative formulation of the same argument is that single-parent families generate extensive negative externalities: undesirable social costs borne by society (Marriage Movement; H.R. 4700).

Marriage proponents also appeal to its benefits for adults: married adults, women as well as men, are happier, healthier, and wealthier than their unmarried counterparts (Horn 2001; Marriage Movement). Most Americans desire a happy and long-lasting marriage, marriage promoters argue, and yet this goal eludes them (National Marriage Project 1999). Why shouldn’t government help adults achieve these valuable benefits? This argument does not appeal to marriage as a generator of good citizenship, so much as a kind of wonder drug for self-improvement and happiness (Anderson 2002). Although this argument is offered in gender-neutral form, some marriage promoters acknowledge that marriage, overall, benefits men more than women (Wilson 2002).

One additional justification, which bears the closest affinity to the history Cott recounts, is that marriage is a cultural con-

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struction designed to give men a productive social role (Blankenhorn 1995; Wilson 2002). Marriage is necessary because “[b]eing a father is universally problematic for men in a way [motherhood] is not for women. Put simply, as marriage weakens, fathers stray” (Popenoe 2001). Marriage is necessary to produce responsible fatherhood, because “left culturally unregulated, men’s sexual behavior can be promiscuous, their paternity casual, their commitment to families weak” (Popenoe 2001). Often, these arguments appeal to evolutionary biology and to assumed differences in women’s and men’s natures and reproductive strategies (Wilson 2002; Blankenhorn 1995).

This argument does not seem to appeal directly to marriage as a generator of good citizenship. Yet there is a continuity with Cott’s historical theme of marriage as a form of personal self-government that anchors men’s good citizenship by directing men toward family and work. Thus, current policy proposals aim to teach men household management skills and improve their earning power to prevent their family’s dependence upon government benefits (H.R. 4700)

Do men need marriage more than women? Sociologist Steven Nock describes marriage as a central site in which men “perform” their gender and establish their masculinity, indeed, marriage, for men as well as for women, is a “gender factory.” (Nock 1998, 3; Nock 2002).¹ Nock finds: “Men reap greater gains than women for virtually every outcome affected by marriage.” Men seem to benefit “by simply being married,” while “[w]hen women benefit from marriage, it is because they are in a satisfying relationship.” (Nock 1998, 3). Why so? While some authors suggest that it is the solicitude of wives for husbands’ well-being that makes the difference (Wilson 2002), Nock stresses marriage’s role in conferring masculinity.

Is marriage, today, more central to the successful establishment of men’s gender identity than women’s? Given the long history of how marriage shaped and constrained women’s identity and citizenship, this is certainly an intriguing idea. Part of the crisis identified in the marriage movement is that people are separating sex, reproduction, and childrearing from marriage: what used to be viewed as a bundle has been broken down into separable components. In the 1990s debates over “ending welfare as we have known it,” for example, critics of welfare policy and legislators identified women’s nonmarital childbearing and mothering—and the reliance upon welfare to support that mothering—as a source of social pathology and deviance (Fineman 1995) to be remedied through work and/or through marriage. And “father absence” continues to feature in public discourse and the legislative arena as a crisis warranting efforts to reconnect absent fathers with families (Blankenhorn 1995; H.R. 4700).

Part of renewing a marriage culture is putting the bundle back together so that marriage is the exclusive institution within which children are born and reared (Marriage Movement). As Gwendolyn Mink points out in her contribution to this Symposium, if marriage-promoting welfare policies “instantiate[] marriage as the *sine qua non* of worthy citizenship,” they directly inhibit some women’s construction of motherhood as “independent” from marriage (Mink 2002).

Does the successful establishment of masculinity within marriage depend upon male “headship”? The marriage movement contends that men need marriage to be productive, responsible fathers and citizens, and it echoes Nock on the difficult task—across cultures—of establishing masculinity (Blankenhorn 1995). Does renewing a marriage culture rely upon a particular understanding of gender roles and identity? Nock offers a “normative definition of marriage” (that is, about which there is strong consensus in our society). On this understanding: “The husband is the head, and principal earner, in a marriage.” (Nock 1998, 6). If policies aim at getting fathers to take responsibility

for the traditional breadwinner role, will accepting this responsibility carry with it an expected entitlement to the accompanying, traditional masculine role, “head of household”—the perk of being in control within the family (Blumstein and Schwartz 1983; Anderson 1999)?

Certainly some contemporary discourse bears out the thesis that men’s role in “normative marriage” continues to be viewed as that of “provider and protector,” and that a failure to live up to that role plays a part in men’s flight from marriage, separation of sex from marriage, and father’s absence from their children (Anderson 2002, 269–79). This appears to be especially salient for young African American men, whose economic prospects have deteriorated in recent decades. For example, one recent report on Black fathers (the Morehouse Statement) points both to the legacy of slavery and to current economic conditions as robbing many African American men of a chance to fill the role of provider and breadwinner, leaving men with debilitating bitterness and anger from living at the margins of family life and society (Morehouse Statement 1999). Elijah Anderson’s ethnographic studies of inner city African American men’s values suggests the salience of the inability to fulfill the provider and head of household roles in explaining why young men separate fathering children from marrying and do not marry (Anderson 1999). Women’s growing workforce participation and economic independence play a familiar role here in making the male breadwinner role seem less necessary (Morehouse Statement 1999; Wilson 1996).

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If traditional marriage is necessary for men to develop and sustain masculinity, should a proper policy goal be promoting such marriages? If society needs marriage to tame or domesticate men, what incentive do women have to enter into such a role? What if this form of traditional marriage directly conflicts with many women's aspirations for equality, economic independence, and fairness within marriage? (Bartlett 1998). Indeed, what if these aspirations are a factor in the "decline" of marriage?

Largely unaddressed is the question of whether marriage requires not simply "shoring up" or promotion, but reconstruction and transformation. There is a puzzle here: diagnoses of why there is a "marriage crisis" and the need for a renewal of a marriage culture often recognize the contributing role of feminism, of women's increasing economic independence, and their increasing expectations of sex equality and gender equity within marriage (National Marriage Project). Indeed, some diagnose a crisis in gender relations and speak of the need for healing and reconciliation between men and women (Morehouse Statement).² However, solutions usually fall short of grappling seriously with women's views of the importance of equality and economic independence and how this shapes their attitudes and behavior with respect to marriage and motherhood.

The marriage movement and governmental actors seeking to promote marriage have paid insufficient attention to the relationship between marriage *quality* and sex *equality*. Proposals to promote marriage and a "marriage culture" fail, for the most part, to reckon with whether a commitment to sex equality is in tension with that end or, by contrast, is a vital component of any program aimed at that end (McClain 2002). Marriage promoters make frequent disclaimers about "not wanting to turn back the clock" to a marital regime based on male dominance and female subordination and economic vulnerability; they even assert that healthy marriage, today, must be premised on "equal regard." (The Marriage Movement; Anderson, 2002; Morehouse Statement, 1999). Some voices in, or sympathetic to, the marriage movement, notably William Galston and Isabel Sawhill, have argued that strong marriages, today, must rest on the twin pillars of equality and economic interdependency (Anderson 2002; Sawhill 2001). More commonly, the movement is either silent or ambivalent about how sex equality features in an affirmative vision. Thus, some in the movement dismiss gender equality, if understood as equal access of women and men to public and domestic roles, to market and caregiving labor, as "non-sense" and a hapless quest for "androgyny." (Wilson 2002, 98–99;

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Pear 2001). The fear of "androgyny" within marriage and the insistence on unique, gender-differentiated roles in marriage may also explain the omission in key marriage movement documents of any support for—indeed, any mention of—same-sex marriage. Left unanswered are such questions as why, today, in a polity committed to women's equal citizenship, women and men should enter into marriage and what marriage is *for*.

I have argued elsewhere that sex equality is a public value that should inform family life, and that government should promote, consistent with principles of toleration and respect for autonomy (McClain 2001a). The evolution of marriage toward a system in which men *and women* participate in personal self-government is evident both in lawmakers' withdrawal of support from "gender hierarchy in marriage" in favor of an ideal of "marriage as an equal partnership of autonomous individuals" (Scott 2000), and in emerging social norms of marriage as such a partnership (Carbone 2002). In this symposium, Nock counters that although "most" Americans accept gender equality in public life, they resist it as a norm of marital life—and any governmental attempt to promote it—precisely because marriage remains an important site for establishing gender identity (Nock 2002).

Resolving the question of the place of sex equality within marriage is important if, as current policy proposals urge, government, working through nongovernmental actors, is to promote the "skills and knowledge" necessary to have and sustain (as HHS official Wade Horn puts it) "healthy, equal-regard" marriages (Anderson 2002, 333; Toner 2002). Is this to be simply a tool box of skills readily applied to any form of marriage, as some suggest (Anderson 2002, 380–81), or will government's agenda include a normative commitment to sex equality and economic interdependence as elements of healthy marriage?

This omission of the place of sex equality matters: President Bush proposes to use welfare policy to promote "healthy marriages," and proposes marriage as a cornerstone of families achieving "independence" from government support (Bush 2002). The final welfare reauthorization legislation is likely to have a similar component. Surely, it should be of relevance to policy makers to learn how low-income mothers' concerns over securing sex equality, economic independence, and power within marriage shape their decisions not to marry or to delay marriage and that such mothers believe "that marriage will probably make their lives more difficult than they are currently." (Edin 2000). If, as some research suggests, the "stalled sex role revolution at home" is one significant factor underlying women's discontent with marriage, and if women seek more power within marriage

than they believe men will share—leading them to seek their own economic independence *through work* rather than viewing marriage as a source of economic independence (Edin 2000; National Marriage Project 2001)—of what import is this for marriage promotion policies linking marriage to “independence”? What if the desire for self-government, rather than subservience within marriage, is a significant motivator for women’s disaggregation of childbearing and marriage? (Edin 2000; Edin 2001).

Furthermore, it is telling that, notwithstanding rhetoric about father’s unique and irreplaceable role in nurturing children (Horn 2001), when it comes to discussions of how to get low-income mothers to marry, it is precisely men’s role as economic providers that policy makers stress in exploring how to make marriage financially attractive to women. They worry that if low-income women are *too* successful in moving from welfare to work, marriage will become less necessary or attractive (Horn 1997).³ A sex-specific scheme that promotes “responsible fatherhood” through economic empowerment of low-income men risks advancing an otherwise commendable end in a way that may reinforce problematic gender roles and fail to attend to low-income women’s economic empowerment (Dowd 2000). The history recounted by Cott gives reason for caution that, without critical attention to how an underlying gender ideology of male provider/female dependent-homemaker shapes and constrains conceptions of fatherhood and motherhood, this sex-specific approach risks a zero-sum game that reinforces rather than challenges these conceptions.⁴

The new social contract underlying welfare policy deviates from traditional gender roles Cott’s history of marriage details by defining personal responsibility for fathers *and mothers* in terms of providing for their children “independent” of welfare (Bush 2002). Yet, ironically, in aiming at rescuing low-income mothers through marriage to male providers, welfare policy threatens to divert attention away from investing in mothers’ human capital and fostering their economic success and family well-being. (Coontz and Folbre 2002; Mink 2002). Similarly the inclusion, in the rhetoric of responsible fatherhood, of fathers’ noneconomic contributions to children, suggests evolving gender roles. Yet, as I elaborate elsewhere, this new social contract of personal responsibility fails to delineate public responsibility to support families’ important work of social reproduction. (McClain 2001b; Fineman 2000). The challenge today is to envision anew the place of families—and marriage—in fostering personal and democratic self-government and how government and institutions of civil society may support marriage as an intimate relationship premised on mutuality, equality, and the personal self-government of each adult in such union.

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Endnotes

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1. Nock takes this phrase from Sarah Fenstermaker, *The Gender Factory* (1985).

2. In the documentary, *Marriage: Just a Piece of Paper?*, aired on public television on February 14, 2002, narrator Cokie Roberts posed the question: "Can women and men be reconciled to each other? Is marriage part of that work of reconciliation?"

3. Wade Horn, in his nomination hearings as Assistant Secretary of DHHS, distanced himself from his 1997 co-authored article (Horn and Bush 1997), in which he advocated favoring married couples over unmarried families in order to address this dilemma (Toner 2002).

4. For example, the Freedmen's Bureau policies, during Reconstruction, of structuring sharecropping in such a way as to establish African American men as the "head" of the household and African American women as necessary, but lower-paid workers (Cott 92–95). Donna Franklin explores this policy as a root of contemporary gender conflict between African American men and women (Franklin 2000, 48–53).