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A cross-culturally valid conception of marriage must begin with a definition of husband-wife and with a distinction between spouses and lovers. From this perspective we find that marriage is an institution by which men are provided (socially supported) rights to women. Typically, this institution is embedded within a domestic group wherein a multiplicity of other rights and responsibilities are assigned. Hence, the definition of marriage attributable to E. R. Leach confounds domestic rights (which may exist in the absence of marriage) with marital rights.

Notes and Queries and Kathleen Gough define marriage by reference to the legitimacy of children. However, legitimacy is a construct oriented toward restricting access to resources on the basis of parentage. In particular, characteristics of parentage are used strategically as a basis for delimiting the set of offspring admissible into the corporate groups to which their fathers or in matrilineal systems their mothers belong. The extent to which legitimacy is tied to marriage is a strategic variable in the control of dominants within a social system. It is often associated with marriage but sometimes not.

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One of the most frequently mentioned characterizations of marriage was established in 1951 in *Notes and Queries* and continues to be presented to undergraduates in a number of texts (e.g., Mair 1972, Kottak 1974): "Marriage is a union between a man and a woman such that children born to the woman are recognized legitimate offspring of both parents" (quoted in Gough 1959: 49). This definition is consistent with vernacular usage in that a child is said to be illegitimate if its mother is not married. However, we are provided with no independent definition of legitimacy, and in the absence of such a definition the statement that marriage is required to produce legitimate children is a tautology; as Rivière (1971:62) has indicated, "the argument is purely circular."

It is generally accepted that the illegitimacy of a child is indicated by some form of damage to its social position because of improprieties of its parentage, and an individual's social position is determined by rights to membership within relevant households, lineages, tribes, nation-states, and similar collectivities. The consequence of illegitimacy, then, must always be a loss of access to the resources that rightful membership in one or more of these collectivities would confer. Moreover, the illegitimacy of a child should be identifiable as a characteristic of the child itself, so that the social basis of that characteristic may be determined empirically. We might find that the improprieties that disturb an individual's social placement and produce illegitimacy within a given culture do not relate to the marital status of its mother. Some other aspect of the mother's (or father's) social position may be the source of the problem.

The data demonstrate conclusively that marriage is neither necessary nor sufficient to define the social position of children in many cultures. In the United States the children of never-married mothers are "illegitimate" in customary speech, but the citizenship rights of children, their rights to the support of their father (and to his legacy if he dies intestate), and other rights do not require marriage to the mother. Legal fatherhood, with its attendant rights and responsibilities, exists without modification in the absence of a relationship between the father and the mother. While it is clear that a child may suffer a disadvantage when the father is unknown or unreachable, the marriage of the father with the mother has no consequence for the formal social position of a child in American society, notwithstanding conventional terminology. It is vital, then, that the confusions and imprecisions of contemporary Western usage not be allowed to control and distort our understandings of a concept whose significance goes far beyond contemporary Western cultures.

Many societies provide a sharp differentiation between marriage and socially recognized parenthood. The Nuer, for example, distinguish legal fatherhood and marriage by the levirate and by ghost marriage (Evans-Pritchard 1990 [1951]). In these cases legal fatherhood and the social placement of children are determined by the person in whose name bridewealth has been paid, even if that person is no longer alive and the mother

of the children is married to someone else. And there is the common African solution to the absence of an heir, the filiation of the sons of an unmarried daughter, and there are the legitimate offspring of the *epikleroi* of ancient Athens, who delayed marriage in order to produce a child for her heirless father with the seed of a patrilateral kinsman (Lacey 1968). There is hardly any culture area of the world that has not violated the *Notes and Queries* definition of marriage.

Many anthropologists consider it essential for the definition of marriage to impute a marital construct to all societies, in line with Goodenough's (1970) declaration that the definition of marriage must accommodate a presupposition of its ethnographic universality. It is in deference to this objective that Gough (1959) revises the *Notes and Queries* definition, suggesting that "marriage is a relationship established between a woman and one or more other persons, which provides that a child born to the woman under circumstances not prohibited by the rules of the relationship, is accorded full birth-status common to normal members of his society or social stratum." Once again, the marital relation is defined by reference to the social position of children born to a woman—their "legitimacy"—but it is a definition that tells us nothing about the relationship that defines husband-wife. What kind of "relationship established *between a woman and one or more other persons*" constitutes marriage? Defining this relationship should be quite separate from identifying the functions that this relationship, once defined, may serve for other relationships, such as the relationship of a woman's children to the social structure. We simply cannot say that marriage is necessary to the legitimacy of children unless we can define marriage independently of legitimacy.

Marriage

Among the Nuer, a woman's children are legally assigned to the man for whom bridewealth has been paid (usually her first husband). Indeed, with "ghost marriage," the Nuer allow bridewealth to be paid in the name of a dead man, allowing one of his brothers (or sisters!) to produce children in his name.[1] In this way, a woman may never be married to the person who provides her children their social position. If the husband is a sister of the legal father, a low-status man is employed to act as genitor (a role that may be sought for an impotent male husband as well). In this event, genitor, father, and (female) husband turn out to be three different persons. Of these three it is husband that is relevant to the definition of marriage. The Nuer case is clarifying. We know the husband uniquely as the individual who can demand restitution in the event of unauthorized sexual access. The husband is the only person with the right to control the sexuality of a given woman, and this role need not be held by the person who defines the social position of the children born to that woman. Other men may have access to a woman by stealth or by permission, but only a husband has an institutionalized, socially supported *right* to control her sexuality.

Having introduced the term "right," we must spend a bit of time clarifying its meaning. Regardless of the form of society, the existence of a right implies a socially supported claim on scarce resources for some category of person—such as the claim of a child for essential consumption goods from its parents or the claim of a young man for bridewealth cattle. An individual, standing alone, can never have a right to a thing. Even when an individual is strong enough and/or fierce enough to gain possession of a desired benefit, individual effort alone does not define a right. *Rights are conferred by the actions of others.* A right or demand-right exists only to the extent that there are other individuals who will cooperate in securing access for the individual to the thing or benefit in question.[2]

In most contemporary societies rights tend to be primarily state-originated and state-supported. However, the appropriate cross-cultural generalization of the rights concept would include less bureaucratic mechanisms, including particularly the claims upon resources that are ascribed to individuals by community-level associations and kin groups. Indeed, even in state societies many rights remain to be enforced only informally, although the loosening of kin ties and the increased size and anonymity of residential groupings have reduced the significance of these informal mechanisms.

Rights are more readily claimed than effectively conferred. Even when there is social consensus on the validity of a claim, seemingly elementary rights can be violated. Rights are not absolute, and we must recognize *effectiveness* as an essential dimension of any claim. A claim is effective to the degree that any individual incumbent of the relevant category of person, chosen at random, will be able to realize it during some time period.

The efforts of males to make claims against the services of females have roots that are ancestral to the evolution of *Homo sapiens.* However, in the absence of rightful claims individuals commonly must attempt to realize claims by means of their own personal abilities. It is this reliance on personal abilities that characterizes *lovers.* As a lover, a man or woman can retain sexual access to a desired partner only to the degree that he or she is able to remain more desirable than others who may seek access to that partner. The relationship between lovers is a form of friendship relation, because the continuation of a relationship depends on the attractiveness of an individual's attributes and resources relative to those offered to that partner by interested others. That is, it is a dyadic relation in which each in-

1. Evans-Pritchard (1990[1951]) should have used the term "ghost fatherhood," since the husband is not a ghost.

2. Efforts by the individual may often be important supplementary factors in ensuring the realization of rightful claims. It is only to the degree that social support is important that the claim can be said to be "rightful."

dividual earns resources from the other by giving resources more highly valued than those to be gained by similar efforts from alternative relationships. Instead of relying to some significant extent on pressures from others, each person must induce a supply of the resources of the other independently and noncoercively, and whenever a more appealing partner comes along the old one risks losing out.

Few contemporary human societies rely entirely on this competitive method for allocating female sexuality. Beyond a period of free adolescent experimentation, it is likely to be a most unsatisfactory arrangement. Given the importance of sex as a staple of human life, the independent efforts of men to secure access to women often lead to social disruption and social instability. One reads of the common incidence of homicide among the !Kung, the Inuit, and other groups in which competition for women is the singular cause. Therefore it is not surprising that in almost all societies access to women becomes institutionalized in some way so as to moderate the intensity of this competition.

However, the solution that is embodied in marriage is by no means oriented primarily toward regulating sexual access and moderating the violence of competition. Certainly, if those who tend to be winners of such conflict were to develop an institutionalized process, the attributes of "winners" would remain unchanged. They would find a way of making the competition more systematic and less prone to fatalities without significantly affecting its outcome. That, however, is not generally true of marriage. In most cases, the criteria by which men are evaluated for acceptance into the category "husband" are different from those that would be used independently by the woman whose services are sought. In the structurally simplest case, marriage involves the entry of a man into a woman's domestic unit. As a member of that unit he must obtain the support of her kin in claiming access to the domestic resources that accrue to members of that group, and as husband he requires their support in the disposition of a woman's sexual services. Moreover, these individuals may assist him in barring the entrance of others who might seek access to the same woman.

A man's qualifications for joining a domestic unit may differ markedly from those that qualify a lover. It is to be expected that the characteristics of husbands will differ from those of desired lovers to the degree to which members of the group other than the woman of choice are important to the decision. Indeed, the woman of choice may be entirely excluded from the choice process, and in the most complex case both parties to the relationship become tangential to its arrangement, the matter being taken over by two or more groups of individuals whose interests are unrelated to the provision of sexual services.

What we find, then, is that the social support that a man obtains for his claim upon a woman becomes contingent on demands from the groups that provide the support. In particular, socially powerful individuals other than the sexually linked pair exploit (youthful) sexual energies for their own purposes in constructing the rights and responsibilities that will apply to any cultural articulation of marriage, as when a man gains rights to a woman only if he is willing to become a member of her domestic unit and accept stipulated responsibilities therein. When these broader social groups are not heavily involved in placing demands upon husbands, the level of support for his claims tends to be weak.

In fact, a lover may have greater security of effective sexual access than a husband in the event that the attractiveness of the lover is great relative to the social sanctions embedded in the institution of marriage. The lover is distinguished from the husband not by the strength of the claim of access but by the source of it. The source of the lover's claim is personal influence and attractiveness; for the husband it is a socially recognized and supported demand-right within an institution. When this social support is strong and compelling, even physically weak, elderly, and incompetent men can control access to the sexuality of women in the face of physically more fearsome, more powerful, and more attractive adversaries, thereby reversing the natural order that gave rise to the evident dimorphism between the sexes.

The Sharanahua (Siskind 1973) present an example of structurally weak marriage, in which the husband's claims may be openly challenged by lovers (he is expected to avoid jealousy). In this case the institutional advantage of the husband is small, forcing him into competition with lovers with little leverage. We find a stronger set of marital rights among the Comanche. Hoebel's (1967) discussion of rights enforcement among the Comanche depicts social mechanisms that combine the protocultural importance of fierce individualism with the systematic sanctions of the social group. The husband from whom a wife has been taken is presumed to be the weaker party, but he is allowed to augment his strength by involving his kin while the interloper must stand alone. In most cases this arrangement tilts the playing field in favor of the rights holder so that restitution can be forced from the rights violator while preserving the presumption of the latter's greater strength. In the Inuit case (Hoebel 1967) there is no presumption that brothers will stand together against wife stealing. Rather, the husband himself must stand alone to challenge his rival to a nonviolent song contest or to mortal combat with vengeance potentially devolving upon his son (when the latter comes of age). An example of institutionally strong marriage is the Rwala Bedouin, among whom the husband, whose wife is believed to be his property, has the right to slay, with full deliberation and without fear of vengeance, the "thief" who has trespassed upon that property (Musil 1978 [1928]). A husband's control becomes ostentatiously complete in those societies in which he is able to lend his wife to friends and age-mates while exacting severe economic sanctions in the event of unsolicited access (e.g., Maasai).

The securing of special advantage for a man generally

implies a disadvantage for a woman if, as is usually the case, her freedom of action is limited while his is not. While we may wish the facts to be otherwise, the distributions of rights in marriage are seldom symmetric. The social support that defines the rights of a husband overwhelms the resistance of his wife without necessarily producing a similar rightful claim for a wife that overwhelms the impulses of her husband. She is not allowed freely to choose lovers in preference to her husband, and he remains recognizably a husband to the extent that social forces modify her freedom to choose alternatives to him. "Wife," like several other categories such as "parent," is defined not by rights unique to it but by unique obligations to others.[3]

If women are to gain rights through marriage (or if parents are to gain rights through children), they must do so by reference to the idiosyncratic cultural articulations of the institution. Wives may have rights of sexual satisfaction, but their sex rights rarely include a right of access control. In some African (Evans-Pritchard 1990 [1951]) and Middle Eastern societies (Musil 1978 [1928]) in which women have well-defined sex rights, a man other than the husband may substitute for him in the event that he is unable or unwilling, whereas wives are directly obligated and do not have the option of offering a surrogate. This implies that husbands tend to possess the right to control access to their wives, together with socially supported sanctions against violation, whereas wives have, at most, the right to seek sexual fulfillment in a manner acceptable to their husbands.

A wife may also gain the security of economic support for herself and her children (Giesen 1994). This view of the matter is supported by observation of those (hierarchical) societies in which women are prevented from or severely limited in engaging in independent economic activity. However, we know that in many horticultural societies women are important direct producers and may have a primary role in subsistence production (Burton and White 1984). In many matrilocal systems the basic economic security of women is gained from the groups to which they belonged prior to marriage, in which case it is the husband who gains the security of economic support.

The possibility that women may gain nothing from marriage is a source of concern for Collier (1988) in her discussion of the Comanche. For the Comanche woman, marriage meant a loss of sexual freedom and the onset of domestic obligations with no apparent benefits. However, in the event of matrilocality, the domestic group to which she belonged gained a productive member, and the band hoped to end the violence among her lovers and the disquiet between those lovers and their wives, because an unattached nubile woman became increasingly troublesome as she matured. It was to these social benefits that a woman was sacrificed.

Whenever a system of marriage is stronger, it should be inferred that the sexual control rights of husbands are more effectively held. However, effectiveness is not the only dimension by which to consider marital institutions. Marriage systems may differ in their degrees of institutionalization—the extent to which rights and responsibilities have accumulated within the institution. The increased institutionalization of the husband-wife relation implies a reduction in the arbitrariness of the husband's behavior toward his wife. The husband's freedom of action is limited as a precondition for social support of his claims. Among Inuit hunters, for example, the marital relation is not only weak but also poorly institutionalized. According to Hoebel (1967) men have little social protection from the intrigues of other men, but they have nearly despotic powers over their wives. They may beat wives to death without social sanction, and a wife may be consumed as food in the event of famine. Similar powers were exploited by Comanche husbands. These powers were not based on social support. They were the powers of fiercely independent men for whom social restraints were inoperative. However, in both of these cases the social value of women is low relative to that of men. Among Inuit hunters, the fertility of women is of limited value, given the problematic food supply that forces widespread infanticide, and there is no food to be gathered by women. They work very hard in cooking, making clothing, and moving the camp, but their survival depends entirely on the fortunes of male hunters. And among the Comanche the value of female fertility was high but men were able to surpass that fertility by raiding other groups for children and women, and since their lives depended on violent interactions with other groups, women were marginalized. In other words, the Inuit and the Comanche offer us weak marital institutions in which women have subordinate social value.

At the opposite extreme we have the Maasai, with a strongly institutionalized marital system and considerable authority of men over their wives. However, this authority is limited to well-defined rules of behavior. Men who chronically overstep their prerogatives are subject to being beaten by an assembled mob of angry women. The rightful subordination of women is great but limited. Not only is marriage institutionalized but the importance of women in subsistence production tends to be high. This is a characteristic that seems to hold for a number of African societies; and one may argue that the importance of women as producers of goods and children is a factor in promoting a more complete institutionalization of marriage. A middle position applies to Bedouin wives. Here we find husbands with considerable arbitrary power, even though there is great support from kin for their sexual access rights. The critical factor in this case is the subordinate economic position of women in a culture oriented around the camel. Hence, it is possible for social support to apply only to a rather narrow spectrum of issues in the marital relation, allowing marriage to be "strong" and husbands to be arbitrary simultaneously.

Clearly, this is an issue deserving of additional cross-

3. Every parent has a set of rights—survival would otherwise be difficult or impossible—but those rights originate in some other category or "role" that applies to that individual.

cultural analysis. We are addressing a dimension of marriage other than "strength." A marital institution may be not only *strong* in protecting the access rights of husbands but also complete or incomplete in terms of the *breadth* of its institutionalization of the husband-wife relation. A broader institutionalization usually confers additional rights on husbands in relation to other aspects of married life, but the existence of rightful behaviors implies the reduction of arbitrary, idiosyncratic behaviors. Hence, some would-be victimized women may gain increased security as the rights of their husbands expand. This institutionalization may also provide special rights to women that further limit the discretion of men while expanding the benefits to women.

However, in order for "marriage" to be *marriage,* it is both necessary and sufficient that it contain the rights-obligation linkage that defines husband-wife. Marriage is a relationship between one or more men (male or female) in severalty to one or more women that provides those men with a demand-right of sexual access within a domestic group and identifies women who bear the obligation of yielding to the demands of those specific men.

Every culture provides an elaboration of rights and responsibilities that accrue to various categories of person within domestic and other groups. There are rights that accrue to children, to members of older generations, and perhaps to genetically unrelated individuals and, of course, rights that apply to wives (Leach 1955). Many of the rights that are conferred on particular categories of person within domestic groups exist independently of marriage. Furthermore, marriage is defined here as a relationship "in severalty." The technical issue here is that marriage is a relationship between individuals and not between categories of individuals. By contrast, consider the case of an Indian temple prostitute whose obligation is to provide services to Brahman priests. Hers is an occupation, not a marriage, because her responsibility is to a category of men rather than to any one of them. It is an *impersonal* relationship of individuals who belong to related categories. We require that in marriage there be a tie between individuals, no matter how many individuals are involved. Furthermore, rightful sexual access is a (consumption) resource, and almost invariably this right can be exercised within the context of the domestic unit to which the woman belongs, even in the special cases where men live in separate dwellings.

Marriage defines for both men and women a place within the social structure; it implies that they are members of some group or groups from which they may gain access to certain resources and to which they may bear socially recognized responsibilities. Hence, to say that a man is married or that a child is legitimate is to say that the individual has a particular placement in social space. The dimensions of this social space consist of the rights to various resources that apply to that position and the responsibilities that must be fulfilled in order to validate one's continued placement. In any society that maintains a marital institution, the location of the marital tie within the space of social relations is defined by a particular configuration of rights. It is this configuration that constitutes "marriage" in that society.

The sexual-access right that identifies the marital tie may not be culturally defined as the most important aspect of "marriage" in a given society, but we are not concerned with the salience of given rights within the institution. It is not surprising that as the breadth of the institution expands, those who construct the ideological presentation of the institution will tend to focus greater attention and concern on supplementary rights and responsibilities. There is, however, a more difficult problem: The characteristics of "marriage" that are evolving in contemporary Western societies not only are broad but also involve weak support of sexual-access rights. Hence, contemporary Western "marriage" is a poor vantage point from which to consider the ethnographic universe of marriage.

We have seen that marriage is commonly exploited by dominants within the social system for purposes other than the provision of sexual access and that the work effort of a man may be captured in this context by a woman's kin. However, in more complex tribal societies, marriage has been seized upon as an occasion to seek advantages in rights to wealth. In particular, men *who are linked by inheritance to wealth* have used portions of their wealth as a means of capturing the reproductivity of women. Agnatic groups, by offering rights in cattle (and other forms of wealth), have been able to use their wealth as a powerful tool for gaining access to women. However, their use of cattle has not been for the purpose of securing sexual services. Marriage is often feasible without a transfer of wealth, perhaps through a matrilocal option to which men from poor groups are relegated by necessity. Morever, since sexual access is a consumption good, it would be unwise for any wealth-holding group to expend its wealth routinely for this purpose. Rather, wealth is used to gain rights in female reproductivity[5]—it is an exchange of material wealth for the wealth that is inherent in female fertility.

When land is not a scarce resource, the power of a group tends to be a linear function of group size, and the fertility of women is the wealth resource with which a group may realize an advantage in demographic growth. By means of bridewealth, a wealth-holding group can secure a net transfer of fertility from groups that are relatively lacking in such wealth—taking more wives than they give to others (Bell and Song 1994). So, there

4. The stipulation that the rights of husbands be located within a broader domestic framework is not strictly necessary. Since sex is an essential consumption good, it is expected to be located within the same context as other essential resources. However, if there are exceptions to this rule, this proviso can be removed or made conditional.

5. I include in "reproductivity" the subsistence production that may be required of a woman in raising offspring to maturity.

are two very separate operations, one providing a man with rights to control the sexuality of a woman within a domestic group (which is marriage) and the other transferring rights to the reproductivity of that woman to a wealth-holding agnatic group.[6]

However, under contemporary conditions, we no longer have men who are linked by inheritance to wealth. In response to pressures from the church in its bold construction of a feudal system and to the subsequent irrepressible imperatives of capital, systems of inheritance were abandoned in Europe in favor of systems of bequests, so that each individual became an independent corporate entity with the freedom to transfer wealth to another corporate entity of his or her own choice. Consequently, a man who seeks the sexuality of a woman in the role of husband is additionally, by himself, a wealth-holding corporation, and his marriage initiates a merger with the wealth-holding corporation controlled by his wife. Indeed, "marriage" is identified in industrial societies largely by reference to wealth and property arrangements that define the allocation of resources from the marital estate in the event of divorce.

Rights in corporate wealth issues that are ancillary to marriage have become central to "marriage," while the rights that define marriage have diminished in force. A woman's control over her husband's sexuality has always lacked effective social support, but now a man faces the same limitations in relation to his wife. In the United States women continue to experience greater stigma in the event of publicly exposed adultery and may face a disadvantage in the financial and custodial settlement of a divorce if burdened by the scarlet letter. Moreover, a man retains to some degree a plausible claim that the killing of his wife and her lover is a "crime of passion." However, divorce and homicide are both rather primitive mechanisms in relation to the rightful control of a wife's sexuality, and the continual weakening of those controls tends to level the playing field of husbands relative to the actual or potential lovers of their wives—threatening to reduce husbands to the status of lovers.

This weakening of marriage under capitalism is consistent with the weakening and abandonment of other aspects of the institutional legacy of the earlier ("feudal" or "tribal") social formations. The principal goal of institutional development in preindustrial societies had been the construction of *technologies of social relation,* and there has been a radical abandonment of those technologies in favor of the exigencies of the technologies of production. For this reason, we should not be surprised that marriage has become a casualty of capitalist development. Marriage, as defined herein, is an aspect of the traditional social technologies, all of which now appear to sit uncomfortably with the technologies of capitalist production. Under postindustrial capitalism social relationships of individuals to each other—in marriage and otherwise—are subject to challenge, and they are being replaced systematically by property relations and relations of individuals to capital.

If "marriage" is reduced to an issue of property arrangements and subsistence support, then it becomes functionally indistinguishable from a cohabitation in which individuals are legally tied to common resources rather than to each other. Recent "palimony" cases have brought attention to this form of association, and many people have been concerned that the rights that are allocated with "marriage" are little different from those that are attached to these informal associations. This concern is appropriate, because as contemporary marriage rights converge toward those of other communal associations, the institution of marriage is increasingly at risk as a feature of social structure. Like the Nayar, we may be abandoning marriage—they for the sake of prestige via hypergamic ritual[7] and we for the sake of accommodating the individuation of economic process demanded by the forces of capital. And, like the Nayar, we still have a need to legitimate sexual relations and family formation by reference to something called "marriage," even as the substantive character of the relation becomes progressively deficient in ethnographic generality.

In 30–40 years we will have accumulated cross-cultural ethnographic data on the postindustrial present. We should have before us a considerable variety of social structures and should be able to construct a definition of marriage that applies to societies of a new and very different kind. In the most extreme manifestation, the system of (traditional) social relations would be entirely vanquished by the forces of capital, to be replaced by the atomistic automaton of neoclassical economic theory. Marriage in such a society might be defined as a relationship of individuals to corporate assets, not a relationship of one person to another. Certainly, there could be considerable cross-cultural variation in the set of property rights that define this institution, and we would be faced with the task of deriving the necessary and sufficient conditions for marriage to exist in this context. We would, then, have two definitions of marriage: the one posited herein for systems of interpersonal relations and another in relation to a system of property relations. However, it is much too early to consider this latter form. Indeed, we cannot be certain that "marriage" by any connotation will retain its salience.

Legitimacy

The archetype of the contemporary Western ideas of legitimacy is derived from ancient Athens. In 451 the gov-

6. It is possible for the wealth transactions that are normally associated with marriage to take place without marriage. For example, members of patrilineages could agree on a price for a woman's fertility without regard to the identity of the genitor and without any monopolization of sexual access. Indeed, something close to this occurs among the Nuer, where a woman who has left her husband must give her children (sired by lovers) to the payers of bridewealth.

7. It is typical of marriage rules that they are structured by the ambitions of dominant classes. Among the Nayar it was those of higher rank who induced the abandonment of their traditional

erning body of Athens passed a law specifying that only the offspring of Athenians could be citizens of Athens. Simultaneously, marriage between Athenians and *xenoi* (noncitizens) became illegal (Lacey 1968), and the offspring of Athenians and *xenoi* became ineligible to inherit from their fathers. Consequently, persons of mixed blood were excluded from three kinds of wealth-holding corporate groups: that of the father, that of the father's clan (*phrateres*), and that of the Athenian state. These exclusions constituted the substantive meaning of illegitimacy; they are exclusions from membership in centrally important corporate groups to which their fathers belonged. It had not always been so, but for reasons not yet established by scholars the leaders of Athens had developed a strongly aristocratic and "racialist" posture relative to noncitizens, many of whom lived in an unfree status as a servile caste. The effect of those rules was to increase the size of the *xenoi* and restrict access to wealth to smaller group. Marriage was fundamentally irrelevant to the fact of illegitimacy in Athens. It is only because marriage between Athenians and *xenoi* was illegal that legitimacy became related to marriage. Even if the parents had been allowed to marry, the offspring would have been illegitimate. Legitimacy required that the father be Athenian and that he be able and willing to go before his *phrateres* and claim that his was the child of an Athenian mother.

In contemporary Western societies there is no direct analog of the Athenian case, but there is a close parallel with "racial" structures in the United States (and other places). In the United States the offspring of a white-nonwhite union is illegitimate. That is, such offspring is nonwhite and cannot inherit the rights associated with white skin. These special rights have been considerable, including until recently the right to vote in many states, to compete for occupational opportunities in a caste-structured labor force, to enjoy access to housing, and so forth. Much of this structure remains to this day. Thus, just as the offspring of Athenians and *xenoi* were *xenoi,* the offspring of Anglos and non-Anglos are non-Anglo. Anglo fathers are thereby prevented from fully claiming their own children for the corporate groups to which they belong.

A salient alternative to the Athenian or American rules is for children to belong to the "race" (*phrateres,* clan, tribe) of the father regardless of the origin of the mother. This is the rule that has traditionally governed filiation among Arabs and many other patrilineal cultures. The rule of the Arabs arises from an eagerness to capture the fertility not only of their own daughters but also of other women, including that of female slaves (of any ethnicity). Larger group size was advantageous to Bedouins in their efforts to claim privileged access to scarce desert resources. We see a parallel process in patrilineal African societies under conditions where the strength of a group tends to be linearly related to its size. A more inclusive case is offered by the Catholic church, which insists that children be raised as Catholic if either the father or the mother is Catholic. And the most inclusive criterion of legitimacy is suggested by contemporary rules of citizenship, whereby a child may choose the citizenship of either parent or of the nation-state on whose soil s/he was born.

Jewish law contains a matrilineal rule that defines the tribal membership of offspring by reference only to the mother. However, in the ancient patriarchal setting this rule effectively required both parties to be Jewish, not unlike the Athenian rule for which this result was explicit. Caste-based requirements that *both* parents be members of a dominant group, as in the case of "races" in the United States, place greater stress on the monopolization of privilege for a small group than on the desirability of filiation and greater group size.

Since the purpose of legitimacy is to determine the eligibility of individuals to enjoy certain benefits and advantages, only a dominant or higher-ranking group can declare the illegitimacy of a child, since only the dominant group can effectively restrict that child's access to valued resources. Hence, it would have been absurd for the *xenoi* to declare the offspring of a *xenoi* and an Athenian to be *xenoi.* This would have been no cause for celebration, since the child was *xenoi* by default. Similarly, the offspring of a Brahman and a Nayar woman is illegitimate, while the offspring of this Nayar woman and a man of lower caste is also illegitimate. The suggestion that the Nayar can announce the legitimacy of the offspring of a Brahman and Nayar is absurd, at least when the genitor is known. Yet, Gough (1959: 72) attempts to have it both ways:

> There seems to me no reason why we should not regard these latter unions [of Brahmans with Nayar women] as concubinage from the point of view of the Brahmans and (since they fulfilled the conditions of Nayar marriage) marriage from the point of view of the Nayar. . . . But the Nayar wife and her children traditionally had no rights of patrilineal descent or inheritance whatsoever, might not enter the kitchen of the Brahman house and might not touch its inhabitants.

These limitations on the rights of Nayar children with Brahman fathers are among the objective factors that define their illegitimacy. The point of view of the Nayar is irrelevant.

A similar problem of caste rank and legitimacy has been faced by the Devadasis (Marglin 1985). These Hindu temple dancers and prostitutes are available to Brahman temple servants (among others). They are not really supposed to have children. Rather, they are expected to adopt the children of their brothers or those of other people who can afford no better disposition for their daughters. If the Devadasis have children from their association with Brahman temple servants or others of high caste, they are (politely) to deny it, pre-

matrilocal marriage in order to have Nambiduri Brahman as the ritual husbands of their daughters.

tending that those children are adopted, whereas if they have children by certain lower-ranked individuals they are subject to a severe limitation of their duties. Since the offspring of Devadasis are not members of a recognized caste, those children would be illegitimate whenever the father is known to be Brahman. By contrast, the Basavi are women who have been appointed to produce heirs for their fathers' lines (Dumont 1983). The ritual given to Nayar and Devadasis (the tying of the *tali*) is performed also for the Basavi, who are then free to produce children with lovers of appropriate caste. These children are legitimate, given the purpose to which the Basavi has been appointed, even if the genitor is Brahman. This, however, is a special case where the genitor is acting as a surrogate for the woman's father in preserving a male line, somewhat parallel to ghost marriage among the Nuer.

Conclusion

The nature of marriage as an institution is of fundamental importance to the study of culture. However, in order to understand marriage at the level of generality required for ethnographic analysis, we must examine it as a construction in a social space whose dimensions are defined by an articulation of rights and responsibilities, and for the purposes of cross-cultural analysis it is essential that we define the minimal set of rights-responsibilities that may constitute a marital tie. We may then inquire into the factors that influence the structure of this institution, its "strength," and its "breadth" and the factors that may explain its absence.

Even within a given society there may be various categories of husband and wife. For example, the position of concubine within the social technology of imperial China differed from that of the number-one wife. We know that she is a wife (for the purposes of cross-cultural analysis) even if she is not so labeled within that society. However, she is lacking in rightful claims relative to the number-one wife, suffering a disability that is homologous to that of an illegitimate child. In this case, the social status of her father's lineage is too low relative to that of the lineage to which she has been assigned, and no marital alliance can be formed between those lineages. Although the disadvantaged position of concubines is a function of the social position of their fathers, concubines are not to be called illegitimate. Their disadvantaged social placements are within domestic groups, not within wealth-holding groups.

We recognize legitimacy as a rule by which membership in *wealth-holding* corporate groups is screened on the basis of a person's parentage. We find it as a social feature of societies in which the wealth value of female fertility has been superseded by the value of wealth conferred upon men—allowing men in general to take a dominant position relative to women and men with privileged corporate memberships to dominate other men. Both marriage and legitimacy are institutions that relate to the appropriation of scarce resources. The essential goal of marriage is to produce social order through a specific method of allocating conjugal services, while legitimacy is constructed in order to facilitate the monopolization of wealth.

Since marriage is an institution for the production of a certain form of social order, it is to be expected that it would become connected with legitimacy in the construction of order. The inclination to support structures of legitimacy with marriage appears to be particularly strong in societies dominated by lineages, clans, and similar kin associations. These kin structures have been marginalized and/or destroyed by the forces of industrial capital in Western cultures, and it is for that reason that the continued caste character of American society is no longer buttressed by formal rules against intermarriage. Elements of strategy were evident in Athens as well (Lacey 1968:113):

> During the Peloponnesian Wars, after the Sicilian disaster in 413, we are told that the Athenians temporarily abandoned their rules about requiring a child's father and mother to be formally married because of the shortage of men, and citizens were allowed to marry one wife, and breed children (that is legitimate children) from another. . . . After the battle of Chaeroneia (338) foreigners also were enrolled, and those who had been deprived of citizenship were restored. . . .

So, even at the center of our archetypical connection of marriage with legitimacy, we find a strategic break. Legitimacy is revealed as a political strategy of dominant groups, and in relation to legitimacy marriage is sometimes useful and sometimes not.

Comments

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In a series of papers Bell has grappled with important questions concerning marriage systems, each time bringing new life to an old debate. In this latest one he argues effectively that marriage cannot be defined in terms of the children's legitimacy. He develops an important insight linking systems that limit children's legitimacy with systems of social inequality such as the U.S. system of racial classification. He makes a useful distinction between corporate groups with inclusive membership criteria, whose strength is based on numbers, and groups that limit resource access with exclusionist membership criteria. Finally, he proposes an alternative definition of marriage based on men's rights of sexual access to women.

The paper is clearly reasoned, and Bell has made an important contribution to the study of marriage. However, I do not accept his definition of marriage. Requiring a universal definition of marriage is, I think, a mistake. Whether there exists a universal construct called "marriage" should be left an empirical question. A cross-cultural study of the attributes that have been proposed to define marriage, including sexual access, affiliation of children, food sharing, residence, division of labor, and the role of marriage as a rite of passage, would allow us to determine which patterns, if any, were found in all societies.

A valid cross-cultural study should use a representative sample so as to ensure that all types of societies are included. Bell shows great insight into some well-known societies, such as the Nayar, but I think his 11 cases overrepresent societies whose men have great power over women while omitting some kinds of societies where women have a stronger position, including Native American matrilineal societies (e.g., Iroquois and Hopi) and Pacific Island societies (e.g., Palau and the Trobriands).

Bell's exclusive emphasis on men's rights is troubling. The degree to which marriage provides sexual rights to men and not to women should be an empirical question, and many marriage systems provide sexual rights to women as well as men, with both men's and women's rights varying across societies. Also variable is the degree to which wives "bear the obligation of yielding to the demands of those specific men." In formulating this in the plural I believe Bell is thinking of the Maasai marriage system, in which wives are allowed sexual relationships with the men of their husband's age-set. In the Maasai case women have no obligation to yield to the demands of the men, possibly not even to the demands of their husbands.[1]

Bell's concept of the husband's "demand-right" to sexual access could have several interpretations. The first and most extreme would be that husbands have the right to sex on demand. This is the way the right used to be formulated in U.S. law, but in the 1970s an Oregon man was successfully prosecuted for raping his wife. While I do not think this is what Bell intends, our own history may lead some U.S. readers to focus on this first meaning.

A second version would be that the husband has the right to control the access to his wife of other men. However, some systems, including the Maasai age-set system, allow sexual relationships between wives and other men, with those rights not being under the control of husbands.

A third version of "demand-right" would be that the husband can expect some kind of sexual relationship with his wife, possibly with its form being negotiated with her as an equal partner. While this might be a universal, it seems possible that the parallel right of wives to expect at least some minimal sexual relationship with their husbands is also a universal.

A fourth version, the weakest of all, would be that the husband's sexual access to his wife should not be less than that of other men, specifically that there would be no situation in which a husband may not have sex with his wife while other men may do so. I can offer an example of just this situation.

Legitimate sexuality in Maasai society is age-graded, as are many other rights. A man's progress through the age-grade system involves the continuous acquisition of new rights in domains including sex, eating, games, and the power of the curse. Women's rights are different but also age-graded.

Maasai boys may not have sex with anybody. After puberty they are initiated as "warriors"—a stage that may last 15 years. Warriors are allowed to have sex with unmarried girls, but they are not allowed sexual access to married women (a rule that is sometimes broken). Warriors must always be in the company of other warriors and are not allowed to drink or eat alone or to eat meat that has been seen by a married woman. After the *eunoto* ceremony warriors become elders, who may now have sex with married women, but they may not eat meat with married women until after the next major initiation, up to 15 years later.

Success in Maasai society is based on accumulation of cattle, and this is one of Bell's inclusionist societies. Hence, Maasai men show little concern with biological paternity, since all children are a source of wealth, regardless of their biological origin. The main resource other than cattle, land, is governed by the age-set system, and the rules of age-set solidarity include the rights of sexual access to age-mates' wives described above.

A warrior's affair with a married woman is more than a transgression against her husband. It is a transgression against the age-set hierarchy, paid for with a fine. While warriors often have these affairs, they are not supposed to do so, and during the *eunoto* ceremony the warrior age-set itself recognizes those pure warriors who did not commit transgressions.

While Bell describes the lover relationship as fragile, in fact, Maasai love relationships may last a lifetime. They are not characterized by a market mentality; rather, they are long-term attachments based on romantic love. They are so important that a Maasai woman may help her son to find a wife by arranging for his marriage to the daughter of her lover, a fact that shows that Maasai women are actively involved in marriage transactions.

It might be thought that warriors are not allowed to marry. However, Lorraine Kirk and I were told that warriors are allowed to marry but rarely do so. Warriors are actively involved in the arrangements for their future marriages, and an early marriage could take place if a suitable wife were to reach marriage age long before the potential husband had completed his warrior term.

A warrior husband may not have sexual intercourse with his wife, since she is a married woman and war-

1. My discussion of the Maasai is based on my own fieldwork (Kirk and Burton 1977) and work by Llewelyn-Davies (1981) and Spencer (1988).

riors are not allowed to have sexual relationships with married women. The same rule should keep his warrior age-mates from having sex with his wife, but this rule conflicts with the more powerful rule that allows sexual relationships between Maasai women and their husbands' age-mates. No Maasai husband may interfere with that right.

Ordinarily the sexual relationship between a Maasai warrior and a married woman would be seen as an act of disrespect against the age hierarchy, with the fine being levied by an elder against a warrior. Not being an elder, a warrior husband does not have the right to levy the fine. Also, a warrior husband who did have sex with his wife would be beaten by his age-mates, suggesting that his act of sexual intercourse with his wife would be seen as a transgression against the age-set system. The warrior husband is in a paradoxical situation wherein he may not have sex with his wife but other young men are able to do so.

I think the message of this system is that a warrior's early marriage should be for political purposes, not for romantic love. The punishment of a warrior husband for sex with his wife is intended to discourage warriors from marrying for romantic love—a goal that individual warriors may wish to pursue. If warriors were frequently to succeed in marrying for love, the age-set system could break down. The political interest of the warrior age-mates would be to prevent other warriors from subverting the age-set system on which their future social power depends.

I think Bell is right to include sexual rights when defining marriage. However, the definition needs a more careful formulation of the ways in which marriage systems structure sexual access, one that includes the rights of women as well as men. The concept of demand-rights is unclear and open to many possible interpretations. Besides modifying the concept of sexual access, I think that marriage cannot be defined by a single attribute. Specifically, I think it is a mistake to omit affiliation of children. While Bell's analysis requires us to distinguish between legitimacy of children and social affiliation of children, his argument is against the former, not the latter. As his own example of U.S. racial classification demonstrates, affiliation of children may occur without social legitimacy. Just as we may find that most or all marriage systems regulate sexual access in some way, so I think we will find that most or all marriage systems assign parental roles in some way, and the most useful definition of marriage may prove to be that it is the one social institution that links rules of sexual access with rules for affiliation of children.

Including parent-child relationships would require us to highlight the role of marriage in structuring human development. Marriage is often seen as a rite of passage, often the most important rite in the transition to adulthood. The Maasai system, with its unusually complex delineation of age-based rights, shows how important the social development perspective is to understanding marriage.

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I agree with Bell that the term "marriage" should be reserved for designating a relationship between husbands and wives—a relationship that rests on the distinction between spouses and lovers (and, I would add, on that between spouses and siblings). Marriage should not be defined in terms of children's legitimacy. I am more doubtful than he, however, about the usefulness of trying to create a cross-culturally valid definition. I prefer to start from case studies to explore how people living in historically specific situations constitute and enforce different kinds of relationships. As a result, I would not argue that marriage everywhere is best imagined as an institution granting men socially recognized rights of sexual access to women. Rather, I would contrast marriage in "classless" societies, where social inequality is commonly organized on the basis of rights in people, with marriage in class-divided societies, where inequality rests on rights in things. In the former, marriage is best imagined as a relationship between "men" in respect to "women." In the latter, it is more appropriately conceived as a relationship between "spouses" in respect to property.

I also differ from Bell in seeking sociocultural rather than biological-evolutionary explanations for marriage. This is why I appear so concerned with the fact that women gain nothing from marriage in Comanche society. Instead of assuming that biology impels males to fight other males for access to females, Michelle Rosaldo and I have argued that men in what we call "bride-service" societies have good socially constructed reasons for imagining that "wives" (not women) are a scarce resource (Collier and Rosaldo 1981, Collier 1988).

Finally, I have argued that it is important to distinguish between a man's "rights" to a woman's sexuality and his "control" over it. It is wrong to confuse a husband's legal right to collect damages from other men who sleep with his wife with a husband's right or ability to control what his wife does with her body (Collier 1988).

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Bell's paper attempts too much and suffers from it. The first half, up to his definition of marriage, is adequate and well-reasoned. Whether we need his "cross-culturally valid" definition of marriage is open to question, but he does succeed in eliminating what he considers the unnecessary, trammeling appendages to prior definitions, such as legitimacy and domestic rights. In the second half, Bell's quest for purity comes unraveled as he shifts ground from largely kin-based social sys-

tems, where his discussion of the centrality of marriage applies, to complex systems of the industrial world, where it does not.

Bell's abstract questions two prior attempts to define marriage in a cross-culturally valid manner. These attempts are briefly evaluated to suggest what is wrong with them and to apprise the reader of what might be expected in his introduction, where legitimacy is discussed to show that it is not necessary to a definition of marriage, and the section "Marriage," where domestic rights are examined through ethnographic vignettes and dismissed as irrelevant to the definition of marriage that follows.

Bell's insistence that marriage is "between individuals and not categories of individuals" might be necessary to his definition, but it is quickly modified and fleshed out later where he maintains that marriage is a configuration. I think this vacillation, which appears here and there, indicates fuzzy thinking and vitiates the thrust of Bell's argument. Further, in the "Conclusion," he states that "the essential goal of marriage is to produce social order." How is this possible if marriage is solely a relationship between spouses? A more useful phrasing might be that in any society it has to be discovered how and to what extent a system of kinship-and-marriage functions in the allocation of limited resources. But this would take us to a level of structural inquiry that does not square with Bell's interests.

In the treatment of contemporary "marriage," the quotation marks immediately cast doubt on the robustness of the institution. The discussion is burdened by unfortunate terminology that suggests poor conceptualization. I call attention specifically to the misuse of "matrilocal" and the mention of a "matrilineal rule" among tribal Jews.

Since legitimacy was broached in the introduction, the section on it seems at first out of joint. However, we have now shifted to complex systems, which also explains why, in the abstract, it was necessary to make a "distinction between spouses and lovers" in the quest for a cross-culturally valid definition of marriage. No such distinction appears in Bell's encapsulated definition, but it serves his purpose in this single-cause explanation of the disintegration of marriage in complex societies, in which, under the umbrella term "capitalism" and its "subsequent, irrepressible imperatives," marriage is driven by considerations of property and lovers vie with husbands until the institution verges on collapse, even transmogrification. This argument is specious. Not even serial polygyny is considered as an alternative to traditional marriage; nor are the abrasive effects of the automobile (permitting spatial and social mobility), Prohibition and its repeal (and the attendant effects on the family of this attempt at social engineering), World War II's irreversible effects on morality and those of the women's liberation movement on sexual mores, etc. In a paper questing for definitional exactitude, it is unwarranted to cover these and other complexities under the rubric "capital" and even to anthropomorphize it.

Bell's paper has clearly become ethnocentrically oriented. Yet concepts such as "caste" and race in the United States are dealt with in a way that might cause Oliver Cromwell Cox (1948) to spin in his grave. "Group" and "category" are carelessly used, and Bell's analysis of the subject matter lacks the precision evidenced in his treatment of traditional ethnographic materials in the first half of the article.

Finally, he suggests disillusionment when he states that two definitions of marriage might be needed to encompass the complexities not found in traditional societies. How about a more flexible definition, embracing the impedimenta he has striven to eliminate?

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Bell argues that it is "essential" for the purposes of cross-cultural analysis "that we define the minimal set of rights-responsibilities that may constitute the marital tie." In turn, he explains marriage *as* a minimal set of rights-responsibilities. Discontented with previous definitions as "tautological," he offers a model of marriage as "a specific method of allocating conjugal services . . . connected with legitimacy in the construction of [social] order."

This view derives from a number of presumptions: that "the efforts of males to make claims against the services of females have roots that are ancestral to the evolution of *Homo sapiens*"; that "in almost all societies access to women becomes institutionalized in some way so as to moderate the intensity of this competition"; that marriage is a resource-driven partnership ("a dyadic relation in which each individual earns resources from the other"); and, finally, that marriage is constituted through individual "rights," or what are frequently described as "demand-rights."

Rights of sexual access to women are chief among the rights definitive of the marital tie in Bell's view, providing men with "a demand-right" to the "sexual services" of women. Such rights and responsibilities are seen as resource-driven, within which framework the ability to "capture the reproductivity of women" and the "wealth that is inherent in female fertility" makes "winners" of some men, "weaker parties" of others, and even may cause "mortal combat" on the "playing fields" of matrimony—presumably driven by "the protocultural importance of fierce individualism" and the "natural order which gave rise to the evident dimorphism between the sexes."

This view of marriage is in turn situated within a larger (social) evolutionary framework according to which preindustrial societies concerned to produce "technologies of social relation" have given way as a result of capitalist expansion to societies structured around "technologies of production." Consequently,

marriage as an institution has weakened, contemporary marriage practices are not a good measure for the ethnographic scene more broadly cast, and one might even expect shortly to behold "the atomistic automaton of neoclassical economic theory."

One set of problems with this scenario is similar to those encountered in the attempt to define kinship, in which traditionally the biological facts of sexual reproduction have reigned unchecked and unexamined as a baseline for post hoc legitimations of an apparent status quo. Another set of difficulties might usefully be compared to those attending the problem of paternity, also a notoriously evasive concept rendered more opaque by its frequent biologisation. It has been suggested that the linear narrativisation of human social emergence provided by evolutionary accounts is similarly obfuscating, and there remain problems as well in defining "men," "women," the "individual," "rights," and "scarcity."

Helpfully, Bell provides many examples of these confusions. "Husbands" may be "female" (or, presumably, "women"), as may be "men." One or more "men" ("male or female") may be connected to one or more "women" (who, though it is not stated, may also, as in berdache, be "male"). Moreover, although "in marriage there [must] be a tie between individuals," it does not matter "how many individuals [are] involved." Sexual access must be "rightful," although a "right" is defined as "a socially supported claim on scarce resources for some category of person," hence the "right" of sexual access is premised on its scarcity. Individuals have no rights "standing alone" (even when "fierce enough to gain possession of a desired benefit"). In the end, then, "rights are more readily claimed than effectively conferred": it is the *effectiveness* of the rights claim which appears to determine its actuality in a context of presumed scarcity.

Finally, if marriage is an institution which establishes a husband and wife, providing the husband with "a demand-right of sexual access" to the wife, who in turn will "bear the obligation of yielding" to this demand, then another important question arises at the level of "the woman of choice [who] may be entirely excluded from the choice process." This is a question many feminists asked of Lévi-Strauss, for whom the exchange of women provided the link between nature and culture. More needs to be provided by way of explanation if "husbands" are defined by rights of sexual access and "wives" by their "unique obligations to others."

In sum, if marriage resists definition as a matter of socially recognised parenthood or the legitimacy of offspring, and it is in addition so happily various as to elude, so far, definitional stasis, then sociobiology may, as ever, be recruited to do service where sociality alone will not suffice. Yet it may still be suggested that such explanations are most acceptable to "fiercely independent men for whom social restraints [are] inoperative" and that a consequence might be that "men who chronically overstep their prerogatives are subject to being beaten by an assembled mob of angry women."

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Bell's is a laudable effort to shed new light on the definition of marriage and legitimacy in anthropological practice, and one is encouraged by the lucid statement to reflect on its pluses and minuses. On the positive side, the contingent rather than essential relationship between marriage and legitimacy is a point well worth making, as is the empirical demonstration that elements of strategy based on power and dominance in the allocation of resources underlie forms of legitimacy in societies cross-culturally. What is not so convincing is the demonstration of a corollary of the power-and-dominance thesis, namely, "the essential goal of marriage is to produce social order through a specific method of allocating conjugal services," just as legitimacy is constructed in order to facilitate the monopolization of other resources.

I have three interrelated criticisms of this proposition. First, it does nothing to mitigate the androcentric bias in the Lévi-Straussian view of marriage alliance, which defines it as an exchange of women among groups of men. Secondly, it builds directly on outdated definitions of marriage as a bundle of jural rights and obligations. Finally, the cross-cultural ethnographic data that are used (the Comanche, the Bedouin, the Sharanahua, and the Inuit) raise questions and doubts, given the current mood of interrogating ethnographic texts, about its fairness—to put it boldly, whether this is "macho" ethnography!

To substantiate the above view, let us contrast Bell's definition of marriage with another that might be offered instead. According to Bell, "Marriage is a relationship between one or more men (male or female) in severalty to one or more women that provides those men with a demand-right of sexual access within a domestic group and identifies women who bear the obligation of yielding to the demands of those specific men." I would rewrite this definition as follows: "Marriage identifies a mutual relationship between one or more men (male or female) in severalty to one or more women that provides these partners with social space to exercise agency and negotiation within a framework of normative patterning of rights and obligations in the domestic group, supported by law and ritual."

The key analytical advantages that accrue from the latter definition would be to restore the balance between male and female *agency* in the institution of marriage, to include within the ambit of generalization both matrilineal and matrilocal as well as patrilineal and patrilocal societies, to provide a means of reading conventional ethnography in a deconstructive manner

whereby the incidence of male bias would be shown to be a factor of the poetics and politics of representations in the field and in the texts, and to enable anthropologists to work towards a continuous rather than a discontinuous (or billiard-ball) view of culture (see Carrithers 1992, Vermeulen and Govers 1994). In the view of culture as a continuum, ethnographic particularities and human generalities mesh together in a diachronic perspective of flux and change.

To illustrate these points in relation to Bell's text, I feel that his criticism of Kathleen Gough's analysis of the Nambudiri-Nayar relationship as "absurd" and tending to "have it both ways" is seriously misplaced. Bell discounts even the possibility that the Nayar may declare the offspring of a union of their woman with a Nambudiri Brahman legitimate on the grounds that the Nayar are lower in the caste hierarchy, therefore dominated and incapable of bestowing legitimacy. Bell also emphasises that this would be impossible if the identity of the Nambudiri Brahman genitor were known. Both these issues are well taken care of by the simple but all-important ethnographic detail, as Louis Dumont pointed out long ago, that the Nambudiri are primogeniturally patrilineal while the Nayar are matrilineal and matrilocal. The offspring of the Nayar women, therefore, existentially and legitimately belong to the mother's group (*taravad*) more or less irrespective of who their genitor is. Indeed, Dumont (1964:85) says, "The Nayar can perpetuate themselves matrilineally in a patrilineal milieu only by subordinating their productive marriages to the regional pattern of principal-primary, patrilineally productive marriage. (This is of course the crux of the Nambudiri-Nayar combination.)"

The Nayar case also proves the untenability of Bell's sharp distinction between husbands/wives and lovers. In most societies both men and women, inside and outside of marriage, may and do have lovers. There are sanctions against adultery, no doubt, and these may be governed by the jural norms of a society. But as the perennial debate on difficulties in the identification of the genitor in the anthropological literature and the existence of mixed-blood phenotypes in the real world show, norms exist not only to be respected but also to be flouted. Control of sexual access for the opposite sex by either men or women is therefore a highly volatile matter. The discovery of a rebellious oral expressive tradition of women's songs in heavily patrilineal societies of North India (Raheja and Gold 1994) is one example of how our perspective on these issues may have been limited by jurally oriented ethnographic blind spots.

I have already said that the billiard-ball concept of (discontinuous) cultures glosses over diachronic continuities and change. It seems that in contrasting Western and non-Western modes of legitimacy with reference to certain dates in Greek history Bell is using diachrony to determine an evolutionistic past and a teleological future rather than delineating a hybrid present and an even more mixed-up future of human society in which globalization will render the Western/non-Western dichotomy anachronistic if not obsolete. Finally, another dichotomy posited by Bell is that between societies valorizing social relations and those based on property. This, I am afraid, does not work at all among the numerous South Asian populations that are neither Western nor tribal. (For a recent discussion of property as negotiation at the interface of kinship and gender relations in North India, see Jain 1996.)

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The crux of the matter lies in the Athenian facts that followed the Peloponnesian Wars (quoted by Bell after Lacey 1968): However much one may want to stick with one's kind, the facts of the economy pull societies back to the reason for them—the necessity to keep the production units in working condition and to ensure their viable reproduction across generations.

Bell's fine analysis of marriage and legitimacy draws our attention to the vanishing of the household as the template for the production unit in the contemporary Western world. He stops short of telling us that we have come close to traditional raider societies, but the parallel is clear from the evidence he assembles: The production unit nowadays equates with the individual, no longer with the household. The equation of the household with a viable production unit dates back in sociology to the seminal work of Le Play (1870) on the French peasant family. The theme was prominent also in the work of Chayanov (1925) on the Russian peasant family. More recently, Bourdieu's "La terre et les strategies matrimoniales" (1972) and chapter 1 of book 2 in Bourdieu (1980) have revived the theme, and our own contribution (Delbos and Jorion 1984) on traditional communities in Brittany developed the argument at book length, also providing strong demographic evidence.

Our study focused on two villages a mere ten miles apart, one of fishermen, the other of traditional salt-producers. To our surprise, in the first community families were large and with a clear imbalance in favour of sons; in the second, families were small and with a clear imbalance in favour of daughters. Indeed, the anomaly that caught our attention initially was the sometimes countless string of girls in the salt-producing village, where the average size of families nonetheless remained close to two children. Parallel economic analysis had shown that in the fishing community the optimal production unit was that of a boat with a crew of a man and three of his sons. In the village of salt-producers, the complex labyrinth of salt ponds could not be divided and had to be transmitted as a whole to a single son. We hesitated to suggest that the demography might reflect a birth-control "strategy" of interrupting the reproductive cycle of the family as soon as these economic requisites were met, but the closeness of the demographic facts to the probabilistic model turned out to be so stun-

ning that the hypothesis could not be discarded (Delbos and Jorion 1984: 79–80). Clearly, in these two villages the safe reproduction of the production unit was bending human wills to its iron rule, and the implications for the reality of free will in such matters were disquieting.

Reply

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Like other "definitions" of marriage my definition is actually a *criterion* by which to identify it. It is not a description of the many attributes that marriage may take on in various cultures. It is a criterion that an ethnographer or a cross-cultural anthropologist can use in classifying specific institutions as marriage in spite of the vast differences that one finds in its cultural articulation. As social scientists, we should not use labels without some kind of criterion that applies to all instances of a given one. Nor can we become repositories for the analytically uninformed or mendacious assertions of others who may have their own reasons for using the label. As Kirk and Burton (1977:734) suggest, "To use natural language in scientific investigation is to encourage blind acceptance of the unexamined presuppositions of that language and thereby to risk that the results of the investigation will be little more than abstract representations of the semantic and pragmatic structure of the investigator's language." Without some criterion, "marriage" becomes an entirely useless construct for social science. This much should be obvious, and the suggestion that there need be no characteristic common to the various instances of an institution is, to me, a manifestation of complete muddleheadedness. Rather than allow the "universality" of marriage to be an empirical question, many people have insisted on an intellectually insupportable practice of defining marriage idiosyncratically in order to ensure its universality.

It should be noted that I define "husband" as a category of person within domestic groups. I then discuss at length how his rights may vary in strength relative to the powers of lovers, and I mention the Sharanahua, among whom husbands have little leverage relative to lovers. I don't understand, then, why Jain and others believe that my definition of marriage is somehow challenged by the fact that wives in many societies are allowed to have lovers. My definition of husbands and lovers analytically facilitates their coexistence. This distinction between husbands and lovers rests on a distinction between rightful and privileged claims that emerges from a broader analysis of social process.

I have stressed the fact that women gain rights of some kind in most instances of marriage and that rights other than those of sexual access are commonly allocated to husbands. However, it is clear that a number of commentators are troubled by the asymmetry of rights in the definition of marriage. Indeed, there are indications of anger. This reaction leaves me feeling like the scientist who first noticed that spiders have eight legs, not six as would be appropriate for an insect. Should we be troubled by eight legs? Should we say that there are six legs, plus two unidentified appendages? In my view the only issue of relevance to a criterion of marriage is its analytical effectiveness in identifying a specific social institution, without regard for political correctness.

In that connection, I am surprised that some of my critics believe that my definition of marriage implies the domination of wives by husbands. The problem seems to lie not with my analysis but with the formal definition of marriage: that access rights be granted to husbands and that wives *yield* to those demand-rights. Apparently, some readers presume that this "yielding" is done under probable duress and that the wife's obligation is oppressive to her. In my presentation, I placed the obligations of wives together with the obligations of parents, with domination implied in neither case.

The oppressed individual in the construction of marriage is not the wife. It is the man who must submit to a set of prescribed obligations and limitations within a domestic group in order to gain support from others for his claim upon a woman. In a system of strong marriage, "elders" may provide a man complete control over his wife's sexuality—imposing upon her and/or her lover a death penalty in the event of violation—but this control is never offered without a considerable sacrifice of his own autonomy. We should not be surprised that a man's rights of sexual access may come at a high price. Social support is offered to him, and limitations are imposed on her, precisely in order to force him to pay that price. It is worse for him when this group consists of her kin, but he must in every case pay a price for the social support that gives substance to his rightful claim.

The arbitrary oppression of women is not the result of marriage. Certainly, we know that men can be brutal and oppressive in "informal" liaisons as well as in marriage; they need not marry to become that way. Indeed, it is when marriage is weak that women are at greater risk. When elders offer support for a man's claim, they almost invariably place restrictions on the pain to which a wife should be subjected, thereby moderating the degree of oppression. And when marriage is "strong" it is likely to be more broadly institutionalized in a way that offers additional rights and protections for women. I mention the Maasai as an example.

The most powerful demonstration of the need for a clear definition of marriage is the confusion that Burton suffers in his extended commentary on the Maasai. Burton's work has brought us greater understanding of issues that arise transculturally, but here he presents the case of a Maasai husband (of warrior age-status) who has no rights at all in the conjugal services of his wife. At one point he admits that this warrior is only a "potential," not an actual, husband, which would imply that

the woman whom he has joined in auspicious ceremony is not married. What is required for a marriage to exist? Burton appears to believe that a ceremony of some kind is a sufficient condition. However, marriage is an institution, not a wedding, and *all social institutions are defined substantively by sets of rights and responsibilities.* Among the Maasai, marriage is substantively unambiguous in this respect. However, none of the Maasai characteristics of marriage can apply to a Maasai warrior. He lives in a compound with other warriors, not with a potential wife, and he can have no institutionalized relationship with his potential wife. There is nothing about the potential husband and his potential wife that implies marriage, either by the minimal criterion posited by my definition or in the sophisticated and culturally elaborated Maasai sense of the term.

Although a warrior may not have sex with his potential wife, his age-mate may do so. Burton assumes that this is a manifestation of the access rights of age-mates to the wife of a fellow age-mate, but this is false. The rights of age-mates have substance only when they modify the rights of a husband. In this case the "husband" has no effective social relation with the woman in question, and the rights of age-mates are moot. Indeed, any man who has the right to have sex with unmarried girls may consort with her without penalty. Since the warrior has no rights of husband, his potential wife is simply an unmarried woman who is accessible to any warrior, age-mate or otherwise, who can gain her attention.

Lacking a criterion by which to recognize marriage, Burton misinterprets the report that a warrior cannot sleep with his potential wife because he cannot have sex with a married woman. I say that this report is correct and that it validates my definition of marriage.

For any warrior other than the potential husband, this woman is not married. Her marital status becomes an issue only when she begins to consort regularly with her potential husband. The problem is that sex with a potential husband (especially if repeated) has the appearance of being a precipitous assumption of husbandly rights of access and, hence, has the effect of converting this woman into a married woman with whom he may not have sex. Her having sex with other men does not carry this risk, but with the potential husband she becomes thereby implicitly married, and from this interaction alone she becomes a woman for whom he is forbidden. Given the facts before us, I see no other defensible interpretation. Burton's informant is correct: This woman is married when it appears that her potential husband has effectively claimed his rights of sexual access. QED. I might point out that in Western cultures we have a parallel phenomenon: If a marriage is not "consummated" through sexual intercourse, it may be annulled. Such an annulment implies that the marriage was never substantively in effect, no matter how elaborate the wedding ceremony.

Jain gives us a definition of marriage that attempts to balance the agency of men and women. I trust that this effort is to suggest how marriage *should be constructed,* and, indeed, I suggest in my paper that such balance would be nice; it simply fails to have a dominant ethnographic representation, not unlike the spider with six legs. But there is a more serious error in Jain's approach, which attempts to define marriage as a social institution by reference to negotiation processes between individual husbands and wives. While it is true that marital relationships are never identical across households in a given society and that idiosyncratic negotiations provide marginal variations in the expression of its cultural form, the substantive cross-cultural differences among forms of marriage are not the result of such negotiation. To claim otherwise is to fall prey to a Western individualism that effectively denies the existence of culture. Marriage is an expression of social and cultural forces that are imposed upon domestic groups and exploit them for their own diverse purposes.

Burton suggests that I have chosen a biased sample of societies wherein men dominate women. He is correct that it is a very biased sample, but the societies were chosen because the social supports for a husband's rights were very weak and in trying to understand the functions of marriage it has been useful to look at cases in which marriage is inchoate. Hence, I look at the Inuit, where marriage hardly exists by my criterion. I also look at the Comanche, not the Cheyenne or the Kiowa, although these latter societies are discussed by Jane Collier in the same book. Among the Cheyenne and Kiowa, marriage is fully institutionalized and marriage by my definition is strongly manifest. Burton should know that I am well acquainted with the Trobriand Islands, Palau, and Yap, where the status of women is relatively high, and discussions of these societies appear in my course syllabi. But there is no reason whatsoever to make reference to these societies in this paper. I chose societies for which the analysis of marriage is problematic and a challenge to my definition might emerge. There would be no point in discussing societies from a random sample, because in each of them my definition of marriage would likely apply without question. Indeed, only a handful of societies around the world lack marriage by my definition. Other than the Nayar, I am told of several societies in the south of China that lack marriage, but no ethnographies are available. Moreover, there are people (or groups) in most cultures who are not married but who may have an incentive to falsify the record. It is important that we be able to assess their assertions of marital status.

Lévi-Strauss has the idea that an elementary concept of marriage involves the exchange of women among men. I don't know whether such an idea is androcentric; it should only matter whether it is analytically correct or incorrect. In this case Lévi-Strauss is absolutely incorrect. Since families usually hold certain residual rights in married daughters, men seldom exchange women. However, they may exchange the *fertility of women as a form of wealth* for other forms of wealth. We see this in many societies. However, the claim on fertility that groups of men make is different from the claim on sexuality that husbands make. Neither claim

implies the other, as the Nuer case clearly demonstrates. Secondly, men are able to effect the exchange of female fertility only when they can be organized around a powerful form of wealth, such as animal stock, or where military force can be employed as a wealth asset for the enslavement of others. Lacking such wealth, men have no power to extract female fertility from matrilateral groups and often circulate among those groups in search of sexual services. Without a powerful form of wealth, the most that they can do is obtain patrilocal residence in a matrilineal setting, as we find in some Oceanic societies.

The exchange of female fertility is a process that is feasible only under conditions of relatively advanced wealth management. It is not a "primitive" mechanism, as Lévi-Strauss presumes, and in no system is it the same as marriage. Wealth issues are always separate from sexual and other domestic resource issues. That is why the contemporary American form of marriage, in which wealth issues are increasingly predominant, implies the abandonment of marriage and a strengthening of the relationships that belong to groups in other societies. However, Collier is incorrect in relating marriage to property in class-divided societies. The replacement of marriage by an institutional relationship between person and property is unique to postindustrial capitalism. In precapitalist class systems marriage, as a social relation, has generally been exploited by dominants for the advancement of their wealth and property interests. In doing so, they tend to strengthen a man's control over the sexuality of his wife. But it would be a serious mistake to confuse the property rights (in fertility) of corporate groups with the domestic claims of husbands.

Finally, I must agree that in my discussion there is a switching back and forth between rights of sexual access and control over a wife's sexuality. They are not the same thing, and I apologize for some carelessness on this matter. A promise of secure rightful access is the weakest condition for defining a husband. A stronger set of rights involves increasingly exclusive access and/or control over the access of others. My definition of marriage depends only on the weaker condition in which control is not implied.

Understanding legitimacy is like understanding marriage in that both concepts are related to the social positions of individuals within corporate groups. In the case of marriage, it is a domestic group wherein individuals seek access to a flow of consumption goods; in the case of legitimacy, it is a wealth-holding group wherein access to material and nonmaterial benefits may be inherited. I have argued that both of these social positions come under the control of dominants, even in relatively "egalitarian" social systems. In the construction of legitimacy, dominants must often solve two basic problems. The first is providing an heir to a man (usually) whose wife has produced no surviving eligible offspring. The second is finding a way of delimiting the characteristics of those who might be eligible to join a wealth-holding group. These are problems of deficit and redundancy that vary in form and significance over time and across social systems.

Illegitimacy is loss of social position as a consequence of some characteristic of parentage. It is possible that such persons fall into a category of disrepute, as the term "bastard" connotes. But neither parent of the bastard is a bastard, and in most societies the sons of bastards need not be bastards. However, in the application of illegitimacy to the racial structure of the United States, the disadvantaged individual is assigned to membership in the category of the nonwhite parent. Hence, it is structurally identical to the Nayar-Nambiduri case. Jain appears to believe that the possibility of Nayar affiliation as a result of their matrilineal structure argues in favor of Gough's attempt to define legitimacy both ways, but in fact *xenoi* and nonwhites accept socially displaced persons of mixed blood as their own in much the same way. Again, an individual may prefer the status of Greek bastard to that of *xenoi.* And, similarly, a "bastard Nambiduri" is no doubt of higher status than a person of pure Nayar parentage. We know that many Nayar boast of Brahman blood, but unfortunately the Brahmans do not offer them benefits from this intermediate position. Lacking this intermediary position, the bastard is thrown to the bottom and becomes a Nayar. This is why I say that the claim of legitimacy for this person is "absurd." On the scale of logically feasible social positions, he can go no lower.

Jorion's comments do not address the issue of legitimacy, since legitimacy relates to wealth-holding groups. Rather, he is looking at the structuring of domestic groups in relation to the work requirements thereof. In particular, who should be allowed to be born into the domestic group? This is an issue of critical importance to the Inuit, who euthanize at least a third of their daughters, given the fact that men are needed for hunting and given the high mortality from hunting and homicide. Similar issues now face peasant families in China who seek the old-age security that only sons can be expected to provide. This question relates more directly to my discussion of marriage in the sense that marriage determines which men will be allowed to enter a matrilateral group or, in the case of certain polyandrous groups in India, the number of wives to be shared by a group of brothers. Hence, Jorion has raised a different but related and important issue in the structure of domestic groups.

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Calendar

1997

April 1–6. International Rock Art Congress, Cochabamba, Bolivia. Write: Matthias Strecker, Secretary-General, Sociedad de Investigación del Arte Rupestre de Bolivia, Casilla 3091, La Paz, Bolivia.

April 2–5. American Association of Physical Anthropologists, 66th Annual Meeting, St. Louis, Mo., U.S.A. Write: Clark Larsen, Research Labs of Anthropology, Alumni Bldg., CA #3210, University of North Carolina, Chapel Hill, N.C. 27599-3120, U.S.A. (cslarsen@email.unc.edu).

April 10–12. Delta Studies Symposium III: The Blues and Beyond, State University, Ark., U.S.A. Write: Delta Symposium Committee, Department of English and Philosophy, P.O. Box 1890, Arkansas State University, State University, Ark. 72467, U.S.A. (delta@toltec.astate.edu).

May 8–10. International Society for the Comparative Study of Civilizations, 26th Annual Meeting, Provo, Utah, U.S.A. Theme: Civilizations and Religion: What Is Their Relationship? Write: Ellen Z. Berg, 4862 Reservoir Rd., NW, Washington, D.C. 20007, U.S.A.

June 4–7. Bison Ecology and Management in North America, symposium, Bozeman, Mont., U.S.A. Topics: Epidemiology and ecological relationships of bison and disease, bison genetics, ecology of bison, historic and prehistoric ecological relationships between humans and bison, and contemporary management strategies for bison. Write: Bison Symposium, Montana Extension Service, Montana State University, Bozeman, Mont. 59717, U.S.A.

July 20–25. 16th International Congress of Linguists, Paris, France. Plenary session topics: The Development of Linguistics in the Second Half of the 20th Century; Language Families, Areas, and Types, Linguistic Structures and Mental Activities; Linguistic Structures and Communication. Write: CIL 16, Bernard Caron, CNRS LLACAN, 4 ter, route des Gardes, F-92190 Mendon, France (cil16@cnrsbellevue.fr).

July 21–25. Inter-Congress of the International Union of Anthropological and Ethnological Sciences and 21st Meeting of the Human Genetics Society, Fremantle, W.A., Australia. Theme: Human Genetics: Diversity and Disease. Write: Alan H. Bittles, Department of Human Biology, Edith Cowan University, Joondalup Campus, Perth, W.A. 6027, Australia (A. Bittles@cowan.edu.au).

July 27–August 1. 16th International Congress of Nutrition, Montreal, Canada. Theme: From Nutrition