

Courtship, Marriage, Separation, and Divorce

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There are no universally accepted definitions of the terms "courtship," "[marriage](#)," "separation," and "[divorce](#)," but working definitions can be established in the context of American history and tradition. Courtship is the process of identifying and testing potential marriage partners and of selecting the best candidate. Marriage is the alliance of a man and a woman, of them and the state, and of two sets of kin in a socially and legally legitimized union. This union regularizes a couple's sexual relationship and childbearing, and it creates an economic unit that will support the married pair and any children they produce. Marriage usually begins with a public announcement, some sort of ceremony, and a legal document, all of which assume a degree of permanence in the marriage. Often, marriage confers adult status on the new spouses in their own eyes, and those of their families and of society.

Separation and divorce are processes that dissolve and dismantle the legal and emotional ties a married couple create. Although a marriage remains legally intact during separation and is totally nullified in divorce, both processes must provide for division of joint property, care of children, support of a financially dependent spouse, and financial arrangements in case of illness, disability, and retirement. In addition, separation and divorce must address the dissolution of kin ties--for example, grandparents' right of access to their grandchildren.

During the course of American history, these institutions have modified in several significant ways. Today the most noticeable trends are an increase in the number of people who contract several marriages of limited duration and an increase in the number of people who resort to divorce as a solution to marital problems. Most Americans think of their ancestors as people who formed enduring, stable families, but serial marriage and widespread divorce were present early in the nation's history.

Colonial America, 1607-1776

American Indian customs and laws were diverse and well established when the first permanent European settlers arrived in 1607. Native practices included patriarchal and matriarchal families; patrilineal and matrilineal descent; patrilocal and matrilocal residences; polygamy; and relative ease of divorce. Anthropologists estimate that perhaps as many as one-third of Indian tribes were matriarchal, matrilineal, and matrilocal; polygamy and ease of divorce appear to have been more widespread.

Early settlers, who of course brought their own beliefs and practices with them, frequently commented upon and criticized these native customs. Most Europeans believed that all marriages and families should be patriarchal, patrilineal, and patrilocal. They expected marriage to involve one man and one woman, bonded by a religious sacrament into a lifetime union. Some Europeans, however, accepted the idea of separation in cases of physical abuse and divorce in cases of adultery or other serious violations of the marriage compact.

Puritan settlers in what became the Massachusetts colony were the first to break with some of these accepted ideas regarding marriage. Because they had adopted Martin Luther's and John Calvin's belief that marriage was a civil rather than a religious concern, Plymouth officials formally declared in 1620 that marriage was a civil matter. As the colony's second governor, William Bradford, explained, marriage was to be "performed by the magistrate, as being a civil thing." Puritan leaders in other colonies also adopted this philosophy. By removing marriage from the jurisdiction of the church, they hoped to create strong, state-regulated families that would serve as the keystone of their society. They expected well-ordered, religiously oriented, patriarchal families to bring about their dream of a harmonious community in the wilderness.

Because effective mate selection was crucial to stable marriages, courtship was a public affair that involved not only the courting couple but their families and neighbors as well. [Romantic love](#) was not a high priority. Rather, a couple was to be well matched in abilities, ambitions, backgrounds, and beliefs. Once they married, established a productive economic unit, and produced children, conjugal love would develop.

But family members, friends, ministers, and officials could not always oversee courting couples. Sometimes necessity dictated that they be left alone while others worked, worshiped, or slept. At bedtime, a young woman's family might bundle her and her swain, both fully dressed, into the same bed. Often a board was placed between them. The rest of the family could then bank the fire and retire for the night. The custom of bundling was not a Puritan invention; it had roots in cultures all over the world, including the British Isles and American Indian civilizations. But it was controversial. Its supporters maintained that it was an innocent practice, while its critics argued that it led to fornication and pregnancy before marriage. Certainly, court records indicate that a significant number of Puritan marriages were contracted as the result of fornication which led to pregnancy. In the New Haven colony (later part of Connecticut), the sin of fornication could lead to marriage even if no pregnancy occurred.

Like courtship, marriage was a public concern regulated by social expectations, church rules, and community law. Both men and [women](#) were expected to marry. Typically, men married between the ages of twenty-five and twenty-eight. Young men who delayed marriage, or were unable to find a mate due to the high ratio of men to women, often were subject to a bachelor tax levied by their townships. During the seventeenth century, the greater number of men than women put pressure on women to marry while in their teens. During the eighteenth century, however, women customarily married between the ages of twenty and twenty-two. In 1692, Puritan minister Cotton Mather declared in *Ornaments for the Daughters of Zion*, "For a woman to be praised, is for her to be married." It is little wonder that nine out of ten women married at least once in their lifetime. Women who did not marry lived with their nearest male relatives, performed child-care duties, and did spinning--and as a result were usually known as spinsters.

Despite their rejection of marriage as a religious concern, [Puritans](#), like other European settlers, favored the patriarchal family form in which the husband was the head of the family. He was to make decisions for his wife and children as well as to direct and oversee their behavior. He also owned any wages they earned. But a husband also faced certain restrictions. He was, for example, liable for his wife's support, responsible for her crimes and debts, and required to leave at least one-third of his land and one-third of his movable property to her in his will. He was also supposed to be faithful

sexually to his wife, to live with her in peace and harmony, and to avoid abusing her.

Puritans considered a wife the "weaker vessel" who owed submission to her husband. Guidebooks titled *A Good Wife, God's Gift* and *Marriage Duties*, both published in 1620, spelled out a married woman's duties. Although before marriage she might hold the legal status of *feme sole*, which allowed her to manage her own affairs and even establish a business, after marriage she shifted to *feme covert*, which made her part of her husband's legal and political identity and prohibited her from conducting her own affairs. This change in status derived from the civil death concept early settlers brought from England. Civil death, summarized in Sir William Blackstone's *Commentaries on the Laws of England* (1765-1769), prescribed that a married woman had no legal, political, or social identity apart from her husband. She could not sign contracts, had no right to her own earnings, was not able to own property, could not vote on civil or religious matters, and lost her children in case of separation or divorce. In actual practice, however, many wives were partners in family businesses, ran their own enterprises, or took over a husband's business in case of his absence, illness, or death.

As with courtship, not all Puritans obeyed the rules concerning marriage. New England church records indicate that wayward spouses were regularly brought to trial and punished. Puritan ministers usually rebuked the erring mate and ordered troubled couples to reconcile, but many feared that forcing embattled couples to remain together would undermine the social harmony they hoped to achieve. They especially feared adultery, which minister John Robinson called a "foul and filthy sin." Adultery also threatened [property rights](#), for if a man impregnated another man's wife, the other husband's property might go to a child not his own.

As a result, New England officials sometimes followed the English practice of granting "divorces of bed and board," or legal separations. In this arrangement, a couple remained married but lived separately. The husband was expected to support his wife, and both were barred from remarriage. This solution was usually unsatisfactory because husbands often missed payments, while wives, because they were still [married women](#), could not start their own businesses or marry men who could better support them.

In certain cases, divorce seemed a far better solution than forcing spouses to remain legally wed. After divorce, women returned to *feme sole* status or could remarry. Consequently, in 1639 the Massachusetts Bay Court of Assistants granted the first divorce in America to a woman who claimed her husband was a bigamist. The second divorce occurred in 1643, when Anne Clarke charged her husband with living with another woman. As these cases suggest, divorce involved a court trial in which one party sued the other. The plaintiff had to prove fault on the part of the defendant. Property, support, and child custody awards were made by the court, which typically favored the injured party. As a result, a woman who could prove her husband's sins had a far better chance of a favorable settlement than a woman whose husband proved her guilty of a marital misdeed. It is little wonder that by the early 1700s, more women than men sued for divorce in America, a situation that has continued to the present day.

Surviving court records indicate that Massachusetts magistrates had granted nearly one hundred divorces by the time of the American Revolution, a rather high number for a society dedicated to the family and in an early stage of experimentation with divorce. Also, these figures omitted nonwhite

people. American Indians were left to tend to their own marital disputes, and [African Americans](#) seldom sought, or were granted, white legal sanctions. A rare African American case occurred in 1758 when free black Lucy Purnan successfully charged her husband with extreme cruelty, including kidnapping and selling her as a slave.

Other New England and middle colonies experimented with separation and divorce. Each jurisdiction defined its own grounds for divorce, which included adultery, bigamy, willful desertion, extended absence, and nonsupport. Divorces might be granted by local courts or the governor of the colony. Some officials condoned physical and even mental cruelty as a substantiating charge, thus laying the basis for later generations' acceptance of cruelty as a ground for divorce. Of these colonies, only Connecticut appears to have surpassed Massachusetts in the number of divorces granted relative to the size of its population.

In the southern colonies, marriage and divorce differed slightly from other regions. Marriage was patriarchal, while law and custom restrained husbands from abusing their power. Such early guidebooks as *A Godly Form of Household Government* admonished husbands to "seldom reprove" and "never smite" their wives. Wives were supposed to be agreeable and obedient mates, capable and energetic household managers, and prolific and loving mothers.

Personal letters, family and court records, and similar documents indicate that numerous southern couples enjoyed devoted relationships, while others destroyed their unions with arguments and abusive behavior. But, unlike the situation in New England and in some of the middle colonies, estranged couples could only seek separations. In the colonial South, every government maintained a belief in the long-standing Anglican practice of granting only divorces of bed and board. But implementing such divorces was problematic because the southern colonies lacked the ecclesiastical courts necessary to give such decrees. Consequently, courts of chancery (courts of equity rather than common law) filled the void by giving separate maintenance orders to disgruntled spouses. Following English ecclesiastical court procedure, chancellors ordered husbands to continue to support wives who were to live on their own. They also prohibited both parties from remarrying.

Women initiated virtually all separate maintenance requests. Such orders brought desperately needed financial support to women who had absent, cruel, adulterous, and bigamous husbands. Aggrieved husbands had little to gain through such orders because they could separate from their wives without paying anything, or paying only what they thought sufficient.

The legal system of marriage and separation in the southern colonies excluded African American slaves. Slave owners usually decreed whether slaves could marry or part, and frequently ordered them to do so. In other cases, slaves turned to their churches or communities for approval of their matings and partings. The one notable law regulating African Americans' marital behavior--whether they were slave or free--were miscegenation provisions prohibiting black women and men from marrying white mates. Such laws had their roots in color prejudice and fear of "race suicide." Soon local prohibitions were enacted into colonial codes of law. Although these laws, which persisted in some states until the 1960s, were not always observed, essentially two systems of marriage developed in the colonial South, one white and one black.

The New Nation, 1776-1861

By the time the American colonies declared independence from Great Britain in 1776, a wide range of social and economic factors had modified the institution of marriage. Certainly the emergence of a market economy, new forms of production, and technology had already begun to alter the family's role as the basic unit of production. As early as the mid 1770s, the economic partnership of spouses in producing agricultural and other goods began to decline. In addition, the growing mobility of Americans and the gradual development of a trend toward western migration placed severe stresses on marriages and families. During the 1760s and 1770s, existing social and economic stresses were exacerbated by an expanding rhetoric of individualism, a philosophy which argued that liberty, justice, and the pursuit of happiness were American rights--both politically and personally. Then the Revolutionary War itself created temptations for spouses at home or at the front, encouraged people to marry without forethought, and called into question women's usual roles within the family.

When leaders in the new states hastened to write constitutions and enact codes of laws, they had to decide how each of the thirteen new states would regulate and order the marital status of citizens under their jurisdiction. At first, most simply integrated existing practices and laws into their constitutions and laws, but in the years following the Revolution, states began to change and expand the rules. As a result, the thirteen states developed thirteen different sets of rules governing marriage.

When the [United States](#) Constitution created a federal government, which went into effect in 1789, the diverse legal patterns might have been standardized if the Constitution had given the new government the power to regulate the marital status of Americans. But each colony had controlled the marital status of its own citizens since the beginning of settlement in 1607, and the new states resisted losing this, or any other, power. Thus, individual states retained the right to regulate marital status within their boundaries. In 1792 the U.S. Congress tried to bring harmony to the situation by passing a "full faith and credit" bill reinforcing a statement in the Constitution that each state was required to give full faith and credit to the acts of other states. In the matter of marital status, however, this was a practical impossibility because states still refused to relinquish their sovereignty in this matter; it was eventually adjudicated by the Supreme Court.

Marriage was further complicated by the fact that Americans exhibited all three of the basic forms of family structure. The nuclear family consisting of two parents and their children gradually became the idealized form in the new nation. But some people chose the extended family in which two or more nuclear families were affiliated by parent-child relationships, or the polygamous family in which two or more nuclear families were affiliated by plural marriage, usually one husband and several wives. The extended family was often used in cases of scarce resources. For instance, western settlers lived together to pool goods and services. Polygamy was a preferred form for a number of practical and religious reasons among Mormons, who moved westward during the mid nineteenth century, first to Nauvoo, Illinois, and then to Utah.

Diversity occurred in other ways as well. In Philadelphia and Boston, New York and Virginia, during the 1780s and 1790s, for example, close kin marriages were commonly used to solidify family wealth and power. And while such northeastern states as Massachusetts and Connecticut refused to give wives a measure of protection from husbandly abuse or mismanagement by recognizing a married woman's right to hold property, southern states did so through prenuptial agreements. Such contracts

usually stipulated that the property of a bride-to-be would be held in trusteeship for her exclusive use and that she could not be held liable for her husband's debts. One example was an 1824 agreement between Henry M. Armistead and Mary Robinson of Virginia, stipulating that the bride-to-be's "considerable" land, slaves, and other personal property would be held by a trustee for her sole use throughout her lifetime. Although such agreements were usually negotiated by wealthy families, they were widely used in some areas of the South. For instance, in Louisiana, people of many backgrounds, races, and ethnic origins signed them. During the early 1830s in Louisiana, an Irish widow protected her plantation and slaves with a contract, and two free African Americans, who held 7 acres (2.8 hectares) between them, made their marks on a premarital agreement.

During the post-Revolution period, American marriage altered in yet another way. The traditional view of patriarchal marriage was increasingly under attack. An emerging ideal of companionate marriage-- a partnership of equals and companions who would respect each other in a reciprocal, loving manner--challenged the customary idea of male-headed, male-dominated unions. Articles, essays, speeches, and sermons spoke of the need for spouses to give each other respect, reciprocity, and romance during both courtship and marriage.

Wives, who had long been taught to respect their husbands, especially began to ask for more consideration. As early as 1776, political wife and farm manager Abigail Adams argued that wives should be helpmeets rather than slaves and should be free from husbandly "tyranny." The wife-slave analogy was a popular one during these years. But in 1831, an essay in *Godey's Lady's Book* informed readers that tyranny was now "out of fashion" because men were becoming "more enlightened and more rational."

Women's rights' advocates especially called for respect in marriage. Abolitionist and feminist Sarah Grimké claimed in *Letters on the Equality of the Sexes* (1838) that God intended wives as "companions, equals, and helpers" rather than as servile housekeepers. In 1843 and 1845 transcendentalist Margaret Fuller argued that wives should be companions and equal members of "household partnerships."

Reciprocity was another key ingredient to successful marriage. In 1874 popular novelist Timothy Shay Arthur explained that marital "felicity" meant that spouses tried to please each other whenever possible. And when reformer Robert Dale Owen married Mary Jane Robinson in 1832, he released a statement on reciprocity in marriage. In it, he repudiated his "unjust rights" that "an iniquitous law tacitly give over the person and property of another," and he labeled a husband's legal right the "barbarous relics of a feudal, despotic system." Later a few other couples, such as reformers Lucy Stone and Henry Blackwell, attempted to create equal marriages by issuing similar statements.

The third component of marriage was heightened romantic love. Letters of courting couples from this period clearly exhibit an intensified interest in romance rather than in practical matters. Many mentioned that they had the right to reject parental advice regarding their choice of mate, for how could another person judge the presence of true love?

The theme of romantic love also appeared in thousands of essays, stories, and novels. In 1785 an essay in *Boston Magazine* encouraged unmarried people to resist parental advice. Instead, they were

to "avoid sacrificing a life of happiness" by bending to their parents' will. T.S. Arthur also advised couples to marry for love. In *The Stolen Wife* (1843), he told the story of a woman whose true love carried her off half an hour before she was to wed the man her parents had chosen.

Of course, the three r's--respect, reciprocity, and romance--did not immediately eclipse longstanding beliefs regarding courtship and marriage. Writers of innumerable guidebooks, such as *The Young Wife*, which was popular between 1800 and 1860, argued that wives must be submissive, pure, and domestic. The home was, after all, wives' "proper sphere." Husbands were the center of women's lives, for women lived best in "the regions of sentiments and imagination." Women's sphere also included motherhood. A growing idealization of republican motherhood--mothers who raised virtuous citizens for the new republic--reinforced the customary view that motherhood was the be-all and end-all of women's lives. In 1842, Margaret Coxe unequivocally stated that motherhood was the "most important channel through which woman was to direct her special moral agency" (*Claims of the Country on American Females*, p. 37).

This dual system of values bewildered many people. Was marriage to be patriarchal or was it to be companionate? How could a person select a suitable mate in this situation? In 1850 novelist Nathaniel Hawthorne described the confusion that reigned in many romantic relationships. In *The Scarlet Letter*, distressed women come to Hester for advice about marriage, but she can only soothe them by predicting that love and marriage will be easier in the future: "At some brighter period.... a new truth would be revealed, in order to establish the whole relation between man and woman on a surer ground of mutual happiness."

Other observers of the situation took a far different stance. Some reformers argued that marriage itself was the culprit. As early as 1826, Frances Wright's utopian community, Nashoba, Tennessee, rejected the concept of marriage entirely. Wright and her supporters argued that love and respect, rather than legal ties, should bind couples. When love and respect disappeared, couples could simply separate. As a consequence, public outrage rose against Wright; her critics accused her of being a free-love advocate. On July 4--Independence Day--of that same year, Robert Dale Owen declared that no one should be trapped in a distressing marriage. In his view, only marriages that resulted in equality and companionship ought to continue.

Other [utopian communities](#) also experimented with marriage. Under the leadership of Ann Lee, Shakers established their first socialistic Christian community at Watervliet, New York, during the mid 1770s. In hopes of hastening the millennium, Shakers advocated and practiced total celibacy. As Shaker communities multiplied, problems arose when one spouse wanted to join the Shakers and the other did not. Shaker leaders were afraid their communities would become havens for runaway husbands and wives. Accordingly, they refused to accept a married person without his or her spouse unless they were legally separated or divorced.

Also in New York, the Oneida Community, founded by John Humphrey Noyes in 1848, followed the practice of "complex" marriage in which every woman in the community was married to every man, and every man to every woman. The goal of complex marriage was to eliminate competition, jealousy, and inequality between men and women. Noyes hoped mates would no longer feel "ownership" of their spouses, so the need for divorce would disappear. In 1850 an Oneida tract

described marriage as "contrary to natural liberty," as "a cruel and oppressive method of uniting the sexes," and as a "huge Bastille of spiritual tyranny where men and women have the power to debar each other from their rights ..." (Oneida Community, [Slavery and Marriage: A Dialogue](#) [1850], pp. 7-13).

Most Americans rejected these and other criticisms of traditional, white, middle- and upper-class marriage. Religious leaders, notably Episcopalians and Catholics, spoke in favor of marriage as a lifetime religious sacrament. By the 1820s and 1830s, when European immigration began to increase significantly, immigrants who brought their strong religious and family beliefs with them reinforced the conservative position. But definite changes were occurring as well, especially concerning women's legal position in marriage. In 1839 the state of Mississippi passed the first Married Women's Property Act, allowing wives to own and control property. In 1848 the New York legislature adopted a similar bill; Pennsylvania and several other states soon followed suit.

As the American debate regarding the future of marriage accelerated, cases of marital dissatisfaction also multiplied. Apparently the new, freer, romantic courtship was failing to help people select partners they could love for a lifetime. Moreover, Americans' rising expectations of marriage were complicating an already difficult situation at the same time that industrialization was placing unthought-of demands on marriages. Among the middle and upper classes, women remained at home while their husbands spent long days at offices in town. Among the working classes, both spouses often went to work, but at different workplaces. [Working women](#) usually were still expected to take care of domestic chores and arrange for child care. Consequently, numbers of separations and divorces rose. When the Frenchman Michel Chevalier toured the young nation during the early 1830s, he commented that marital connections were far more easily dissolved in America than in Europe. The most noticeable change had occurred in the South, where legislatures, except in South Carolina, radically revised their divorce policies beginning in 1790. The first divorce in the South was granted by members of the Maryland General Assembly in 1790 after John Sewall proved his wife had borne a mulatto child. By the mid 1830s the Maryland legislature was granting over thirty divorces each year. But in 1842, legislators passed a bill placing primary jurisdiction for divorce in the courts. The legislators felt overburdened by the volume of divorce petitions and distracted from their other work. In 1852 the Maryland constitution prohibited legislative divorce entirely. For better or worse, divorce was now in the hands of the courts.

A similar process occurred in other southern states. As states ended their confusing dual systems of divorce by lodging jurisdiction in courts only, divorce began to expand and become easier to obtain. Divorces of bed and board were still available, but growing numbers of people sought the finality of divorce instead. In so doing, they brought a plethora of causes, complaints, and requests to judges who gradually extended the number of acceptable causes--or urged the state legislature to do so--and made a wide variety of decisions concerning alimony, property, and child custody. In particular, judicial pliancy led to a broader definition of the ground of cruelty.

As divorce developed in the Northeast--the former New England and middle colonies--similar patterns emerged. One was the gradual abolition of legislative divorce, and another, a steady expansion of lists of grounds for divorce. Of the northeastern states, Connecticut created the most comprehensive divorce laws. In 1843 legislators added habitual intemperance and intolerable cruelty to an already generous list of grounds. In 1849 they added life imprisonment, committing an infamous crime, and

the omnibus provision citing "any such misconduct as permanently destroys the happiness of the petitioner and defeats the purpose of the marriage relation."

During these years, new western states and territories tended to copy existing practices and laws, often adding refinements of their own. Divorce became more flexible and easier to obtain than in the East. For instance, in 1825, Illinois lawmakers restrained a guilty party from remarriage for two years rather than for life, allowed either wife or husband to obtain a divorce of bed and board for cruelty or intemperance, and efficiently divorced two couples (rather than one) with one legislative bill. In this land of mobility and haste, residency requirements for divorce were sometimes as low as ninety days, a situation that soon made western regions attractive divorce meccas for those who could afford temporary relocation.

Unfortunately, from divorcing women's point of view, little was done during these years to regulate and stabilize alimony, property, and child custody decisions. Most states referred such matters to judicial discretion, making settlements a lottery at best. Still, the effect of divorce upon early American women is unclear. While there is some evidence that New York and Louisiana provisions made it difficult for women to obtain divorces, the growing number of female petitioners in such states as Connecticut and Tennessee dispute the contention that divorce was punitive to women and difficult for them to obtain. American women of the early 1800s did have more recourse than their mothers and grandmothers.

At the time, Americans disagreed on the subject of divorce. Congregational minister Benjamin Trumbull in 1788 expressed his outrage when he learned that 390 couples had divorced in Connecticut during the preceding half-century. But in 1795, Judge Zephaniah Swift complimented Connecticut policymakers on their "temperate" divorce policies, which were conducive to "the virtue and happiness of mankind." Opponents of divorce believed the spread of divorce indicated decay and evil in society as well as breakdown in the family. They feared for the future of the nation and its people. Supporters argued that divorce dissolved dysfunctional marriages and released spouses to make better matches. They also believed freedom and happiness were rights of all people living in a democratic country.

Civil War to World War I, 1861-1914

Like all wars, the Civil War encouraged couples to marry in haste before men left for the battlefield. The war also created distances that heightened people's sense of romance. One young northern soldier claimed that only thoughts of his wife sustained him through battle, while a southern officer wrote to a friend that he avoided the pain of war by dreaming of the "fair and gentle wife" he would pursue once war ended.

During the postwar period, romance retained its hold on courting couples, but the nature of courtship itself gradually changed. Growing numbers of young women and men leaving home for college, young working women who lived in boardinghouses on their own or with other women, and finally the invention of the automobile caused the demise of the custom of men "paying calls" upon women. By the end of the nineteenth century, few women still had the power to decide if a man could come to her home and meet her family. Instead, he tendered the offer of a date, took her away from the safety of her home, paid for the date, and often expected at least a kiss in return. As the historian Beth Bailey

put it, courtship was in the process of moving from the front porch of a woman's home to the backseat of a man's automobile.

The post-Civil War era brought a number of significant modifications in American marriage as well. For one thing, the emancipation of African American slaves beginning in 1863 created an opportunity for newly freed slaves to register their marriages with legal authorities. Despite the widespread belief that slaves cared little about marriage, large numbers of freed blacks reported their marriages, and others searched for mates taken from them by sale. By the 1880s, African American marriages showed the same proportion of husbands present--approximately four out of five--as did those of white Americans of the same social classes and occupational categories.

Prejudice and discriminatory laws, attitudes, and practices, however, continued to discourage, or legally prohibit, black-white marriages. Both blacks and whites argued against interracial marriage because they feared the demise of the autonomy and integrity of their own race. But others argued for marriage between the races as a way of solving differences; blend black and white into one, and prejudice would disappear.

Marriage among whites was also a source of controversy and debate during the postwar years. By the late 1880s and 1890s, a rash of self-help books and marriage manuals appeared that revealed the pressing concerns of the day. Typical advice told people to marry for love rather than wealth or status, to pick someone with compatible interests, to avoid marrying someone to save him or her, and to institute mutual decision making and open communication in marriage. In 1909, Anna B. Rogers warned potential husbands and wives to avoid "the latter-day cult of individualism; the worship of the brazen calf of Self." She especially counseled women to remember that marriage was "their work," and to get "the germ of divorce"--selfishness and individualism--out of their veins (*Why American Marriages Fail* [1909], pp. 6-7, 16).

Novelists and essayists also dissected marriage, often supporting the traditional view. In 1880, Nathan Allen maintained in the *North American Review* that American individualism was destroying marriage, for it was a "supreme selfishness" that drove mates apart ("Divorces in New England" [June 1880], pp. 558-59). In 1902, *The Outlook* decried the breakdown of marriages because of the havoc wreaked on children who, through no fault of their own, were torn away from their mother or father and lacked any redress or rights to offset their suffering ("Children's Side of Divorce" [February 1902], pp. 478-80).

During the late 1800s and early 1900s, religious leaders joined the fray. Episcopal Bishop William C. Doane of Albany, New York, helped organize an Inter-Church Conference on Marriage and Divorce that met in 1903. At this conference, representatives from twenty-five religious denominations supported the ideal of lifetime marriage. Early in 1905, the Inter-Church Conference sent representatives to plead with President Theodore Roosevelt for help. In January of that year, President Roosevelt assured the committee that "questions like the tariff and the currency are of literally no consequence whatsoever when compared with the vital question of having the unit of our social life, the home, preserved." He proclaimed that "one of the most unpleasant and dangerous features of our American life is the diminishing birth rate, the loosening of the marital tie among the old native American families." Roosevelt declared that "no material prosperity, no business growth, no

artistic or scientific development will count if the race commits suicide" (quoted in U.S. Department of Labor, *Marriage and Divorce*, 1861-1906 [repr. 1978], vol. 1, p. 4).

Certainly, Americans continued to believe in marriage. Even women who hoped to pursue a career now thought it was possible to be married as well. Although earlier generations of career women, such as Frances Willard, had eschewed marriage because of its demands and limitations, her successors married in greater numbers, worked toward companionate relationships, and continued to work. These college-educated women, however, bore no children or limited their childbearing.

In fact, after the Civil War the birthrate in general had begun to show signs of decline, especially in urban areas and among native-born women. Among immigrant women, first-generation women tended to produce large numbers of children, but second-generation women reduced their childbearing. Both [birth control](#) devices and [abortion](#) were responsible for the decline.

In 1873, the Comstock Law, which grew out of the American Medical Association's and the Young Men's Christian Association's campaign for the "suppression of vice," attacked both birth control and abortion. The Comstock Law prohibited "trade in, and circulation of, obscene literature and articles of immoral use." This included mail-order pessaries that women used to avoid conception. The act additionally banned "any article or thing designed or intended for the prevention of conception or procuring of abortion." Because the birthrate failed to rise after its passage, it is likely that the Comstock Law did little more than anger many people and drive birth control and abortion underground.

At the same time, other people worried far more about the divorce rate than the birthrate as the inexorable forces of industrialization, urbanization, changing gender roles, and rising expectations of marriage continued to disrupt American marriages. In 1860, 1.2 of every 1,000 marriages ended in divorce; in 1864, 1.4 did so; and in 1866, 1.8 did so. Undoubtedly, the Civil War was partially responsible for this increase, but figures later collected by the U.S. Census Bureau showed that the number of divorces continued to increase even after the war ended. Between 1872 and 1876, divorces rose 17.9 percent over the late 1860s, and between 1877 and 1881, they rose 30.3 percent over the early 1870s.

During the post-Civil War period, Horace Greeley's *New York Tribune* aired a long-running divorce debate, women's rights' leader Elizabeth Cady Stanton spoke on behalf of divorce and free love, and the McFarland-Richardson divorce case of 1867 stunned the nation with its sex, intrigue, and blood. In 1872, esteemed minister Henry Ward Beecher was implicated in one of the most sensational divorce trials in American history. And during the 1880s and 1890s, South Dakota, North Dakota, and Oklahoma Territory spent fleeting moments in the limelight as divorce mills.

In 1881 the New England Divorce Reform League was organized; it soon became the National Divorce Reform League, and in 1896 the Family Protective League. Under the leadership of Congregational minister Samuel W. Dike, the league urged Congress to collect marriage and divorce statistics so the extent of the problem would be clear. The resulting statistics did nothing to calm people's minds. They showed plateaus in the divorce rate, but they also showed an overall upward trend. Many reformers believed a uniform national divorce law would at least stop migratory divorce

and lower the divorce rate somewhat. Although Dike had doubts about how much migratory divorces contributed to the total, he worked for this cause until his death in 1913. Others carried on the campaign until 1947, but the states were unable to agree on a uniform set of laws and unwilling to give up their power to the federal government. In addition, women's rights' leaders, divorce reformers, and social scientists argued for divorce as a protective device for wives and as a citizen's right in a free society.

By 1910 a wave of "new" [morality](#), seemed to be sweeping America. Progressives and [feminists](#) called for freedom of choice in entering and leaving marriages. Socialist reformer Emma Goldman argued insistently for equality and free love, branded marriage obsolete, and advocated birth control six years before Margaret Sanger began her campaign. And in 1913, a middle-class woman named Sara Bard Field left her husband to live with attorney and reformer Charles Erskine Scott Wood without benefit of marriage.

By this time, Nevada had gained public attention by combining lax divorce laws, leisure pursuits, a pleasant climate, a six-month residency requirement (reduced to six weeks in 1931), and a long list of grounds for divorce. The city of Reno especially gained notoriety as a divorce mill. Eastern lawyers established branch offices there and advertised widely. The rich and famous--as well as average couples--responded, providing fodder for every journalist and reformer in the nation.

World War I Through World War II, 1914-1945

By the time World War I erupted in 1914, further alterations were in the offing for American courtship and marriage. Social scientists began to argue that love and mate selection were at the mercy of such factors as propinquity, membership in ethnic and racial groups, and prospective mates' educational levels. Psychologists began to maintain that personality played a larger role in courtship than previously thought. In their view, if a person could reestablish the personality dynamics of his or her own home and parents with another person, they were likely to select that person despite his or her overall suitability as a mate. It seemed, then, that underlying forces directed the course of courtship and married love in the United States.

But the nature of courtship and marriage was altered far more by the birth control revolution than by scientific studies. In 1916, public health nurse Margaret Sanger founded the first birth control clinic in the nation. Although her opponents argued that birth control would lead to "race suicide," increased promiscuity, and lessened respect for motherhood, in 1921 Sanger organized the American Birth Control League to disseminate birth control information. By 1930, fifty-five birth control clinics existed in fifteen states. And by 1937, all states except Massachusetts and Connecticut permitted doctors to dispense birth control information to their patients. If they wished, married couples could now legally attempt to regulate family size.

America's entry into the war in 1917 fostered yet other revolutions in family life. Before men left for the front, many couples married in haste. And with so many men leaving the labor force, the federal government urged women--whether single or married--to take jobs, especially in war-related industries. By 1918 many women workers felt confident enough to seek better-paying positions, join [labor unions](#), and participate in [strikes](#) and other militant actions.

When the war ended, conflict was inevitable. Because returning veterans wanted their jobs back, women workers experienced mass layoffs. While many women stayed in the labor pool by taking lower-paying jobs, others returned home, often grudgingly. During the 1920s, an emphasis on consumerism that raised people's expectations regarding standards of living and the material goods marriage should involve helped further erode marital satisfaction. By 1929 approximately one out of every six marriages ended in divorce, an all-time high.

Many Americans believed that people's increasing affluence and mobility, coupled with the availability of easy divorce in certain jurisdictions, contributed to the breakdown of marriages. Social scientists, psychologists, statisticians, social commentators, and novelists suggested other root causes of marital breakdown, including rising expectations of marriage, industrialization, decline in economic functions of the family, weakening of religious tenets, and the decreased stigma of divorce. Women's changing roles were especially blamed for divorce. Supposedly the leading culprits were woman suffrage, women's employment, the rising number of working mothers with small children, and the growing availability of birth control devices.

Statisticians attempted to test these hypotheses, but the figures proved fickle. Arranged one way, divorce statistics supported one assumption; arranged another way, they proved the validity of a different cause. The erratic collection of statistics also hampered analysis. Although government officials hoped to collect marriage and divorce statistics every ten years, the nation's entry into World War I in 1917 coincided with, and disrupted, the next scheduled survey. Data collection remained erratic until 1958, when the U.S. Census Bureau established divorce registration areas to facilitate the process.

After World War II, 1945-1991

After World War II, courtship and marriage took on a staid and traditional tone for over two decades. The back-to-the-home movement for women and a return to a belief in customary gender roles served as a buffer against a world marred by memories of the Great Depression and world war, by fear of nuclear weapons, and by anticommunist hysteria. To many Americans, stable family life, located in suburban sprawl and characterized by stay-at-home wives, seemed to be a hedge against the disintegration of the modern world.

During these postwar decades, more Americans married than in previous ones: single people accounted for 31 percent of the population in 1940, a figure that dropped to 23 percent in 1950, and to 21 percent in 1960. In both courtship and marriage, men were dominant figures; they proposed dates and marriage, earned and controlled money, and made a couple's larger decisions. Despite the increasing availability of birth control devices, the average American family produced two to four children, thus creating a "baby boom."

But when the "boomers" reached young adulthood, they questioned, and often rejected, their parents' beliefs and practices. By 1970 these young women and men, who, unlike their parents, had grown up in stable financial and political times, created and engaged in a plethora of protest activities, including the feminist movement. The baby-boom generation soon changed the face of courtship and marriage. For instance, women took some of the initiative in the courting process. During the late 1960s, American women began to go out in groups or alone, go to bars without male escorts, and join

singles' groups. By the early [1990s](#), more women than men placed personal advertisements for dates and mates in newspapers and utilized dating services. Women's growing dedication to jobs and careers, and the resulting increase in their work hours, suggest that this trend will continue as they actively look for companionship through a quick and safe means.

Many Americans "courted" by living together before marriage. In 1988 the Census Bureau estimated that the number of unmarried couples living together, which included never-married, divorced, and widowed people, had reached 2.3 million. Seven hundred thousand of these couples were raising children. Another 1.5 million same-sex couples were cohabiting, 92,000 of them with children.

Despite these changes in courtship, mate selection during the 1980s and early 1990s failed to be any more effective than in earlier times. Studies demonstrated that cohabiting couples tended to divorce sooner than couples who had not lived together before marriage. In 1989 a University of Wisconsin study indicated that 38 percent of cohabiting couples divorced within ten years, while only 27 percent of noncohabiting couples did so.

Psychologists argued that courtship had to take a different direction if it was to be effective, a direction that relied less on romance and more on common sense. In *The New Male-Female Relationship* (1984), psychologist Herb Goldberg recommended man-woman relationships based upon "authentic friendship, companionship, and [sexuality](#)" rather than "the romantic, illusion-filled approach to courtship and marriage" that dominated [American culture](#).

Despite this advice, love continued to be the byword in marriage during the postwar period. Spouses valued each other's personal qualities above all other considerations. Once married, they often found themselves embroiled in arguments, but these were different arguments than their parents and grandparents had had. Two-earner families argued over division of household tasks and child care, duties that in an earlier era would have fallen automatically in the woman's realm. Many wives expected to participate in financial decisions and planning, and demanded a voice in frequency and quality of sexual relations. In return, they expected their husbands to participate in disciplining and playing with children.

At the same time, effective and fairly reliable birth control, notably contraceptive pills, allowed couples to eliminate or to limit childbearing if they chose. For the first time in history, sexual relations and conception were separated into two functions, each with its own norms and expectations. In addition, by the late 1970s and early 1980s, women especially began to believe they did not need husbands to have children. Significant numbers of both poor, lower-class women *and* educated, middle-class women had babies without getting married. One-person and single-parent households mushroomed. By 1970, 17.1 percent of all American households consisted of only one person; by 1985, this figure reached 23 percent. In addition, single-parent families more than doubled. In 1985, single-parent families included 893,000 custodial fathers.

A growing tolerance for interracial marriages brought further diversity to the American family. In 1967 the U.S. Supreme Court struck down the last remaining miscegenation law in the United States, thus allowing black and white people to marry legally anywhere in the nation. Marriages that were mixed in terms of religion, ages, and other factors also increased and gained some acceptance. By the early

1990s, mixed marriages still exhibited a higher degree of stress and breakdown than homogamous matches, while the pattern and stability of homogamous marriage differed from group to group. Among Hispanics in the southwestern United States, for example, nearly 78 percent of Hispanic women between thirty-five and forty-four had a husband present, compared with approximately 68 percent among African Americans.

Americans tended to be far less tolerant of lesbian and gay couples who began to demand their right to legal marriage during the 1980s. Opponents called same-sex marriages outrageous and immoral, while supporters pointed out that Americans should be able to marry whomever they wished. In 1990 a special feature in *Newsweek* magazine noted that numerous same-sex couples were raising children without benefit of marriage. These children had been born in previous marriages, conceived by artificial insemination, conceived with a third person, or adopted. Clearly, the number of gay and lesbian couples who "married" during the early 1990s and the legal tangles surrounding their children would soon demand adjudication and perhaps an adjustment in legal codes.

Many significant changes occurred in divorce after the end of World War II. In 1949 South Carolina ended its prohibition of divorce. In 1966 New York expanded its list of grounds for divorce from only adultery by adding cruelty, abandonment, confinement in prison, and living apart for two years. Separation also became a precondition for divorce in many states. Even conservative South Carolina accepted a couple's separation for two years as a ground for divorce.

In 1970 California implemented no-fault divorce. No longer was divorce to be an adversary procedure in which the plaintiff had to blacken the reputation of the defendant. Other states soon followed California's lead. In 1971 Iowa became the second state to adopt no-fault divorce. By late 1977, only three states retained adversary divorce: Illinois, Pennsylvania, and South Dakota. Fifteen states had established irretrievable breakdown of a marriage as the sole ground for divorce, and sixteen had added irretrievable breakdown to existing grounds. By 1985, only South Dakota had fault divorce.

No-fault divorce changed divorce from the punishment of an offending spouse to a remedy for unendurable situations, made collusion between spouses unnecessary because one no longer had to "sue" the other, and provided relief to dissatisfied spouses on nonjudgmental grounds. Still, it was not the nirvana that reformers hoped it would be. In 1986 an article in the *New York Times Book Review* declared "no-fault" was "no fair." Its author reviewed several books that revealed the destructive effects of no-fault divorce on women and children, wives' lack of redress for a husband's adultery and defection from the marriage, and the failure of judges to offset women's low earnings with proportional alimony and property awards.

During the 1980s, experts tried to determine how legislators had adopted no-fault divorce without a searching analysis of what it might mean to women and children. Sociologist Lenore Weitzman explained that in the feminist flush of the late 1960s, legislators had envisioned wives as full economic partners. In practice, however, few wives earn as much as their husbands; many earn no cash income at all. The tragic result of no-fault divorce has been a contribution to the growing [poverty](#) of women and their children in the United States.

One of the most revealing symptoms of these changing attitudes toward marriage and divorce was

the growing self-help literature. In 1945, marriage manuals were common and divorce books were few. Typically, marriage manuals of the 1940s described marriage as a lifetime undertaking and advised wives to cater to their husbands to keep their marriages intact. Authors who did address the issue of divorce did so in dismal terms. They referred to divorce as the nation's "number one social problem" and declared that women who allowed it to happen to them would be shunned by family and friends. The postwar back-to-the-home movement, the teachings of Dr. Benjamin Spock, and such popular magazines as *Life* reinforced the view that women were meant to be wives and mothers; any other choice would bring them only despair and disdain.

By the 1960s, however, such traditional ideas were under attack. In 1961 President John F. Kennedy created the President's Commission on the Status of Women, and in 1963 Betty Friedan's *The Feminine Mystique* exposed the frustrations women felt regarding domestic life. Self-help literature responded accordingly. Although women's emancipation was linked to the divorce rate during the 1920s, writers now sharply indicted women as culprits. Working wives were too aggressive, unable to combine work and marriage, and ready to dispute their husbands' every word. Should they divorce, however, that same aggressiveness would stand them in good stead, for they could expect to receive satisfactions from their work that other women derived from marriage.

During the 1970s, conventional wisdom concerning marriage and divorce expanded even more. Responding to the feminist call for marriage based on equality and communication, self-help authors urged wives and mothers to become independent beings who deserved respect and reciprocity in marriage. A host of books such as Jerry Greenwald's *Creative Intimacy* (1975) instructed readers, who were primarily women, how to achieve the ideal marriage. From self-counseling to biofeedback, from no-fault marriage to creative aggression, self-help manuals offered ways to avoid divorce.

By the mid 1970s and early 1980s, a huge number of divorce manuals had appeared. They carefully shunned the word "failure" and emphasized a practical approach to divorce instead. Because no-fault, community property, and other recent developments had complicated divorce, they explained its intricacies and included charts, worksheets, checklists, and time schedules. Still others specialized in emotional advice. Written largely by marriage counselors and psychotherapists, the books offered approaches developed through counseling patients and leading workshops. They stressed personal growth through divorce and the ability to find happiness as divorced people. Another new line was the emphasis on getting professional help--lawyers, accountants, and counselors. Marriage and divorce were no longer matters to be handled by the individual. Nor was divorce any longer a matter of embarrassment and shame.

The 1990s and Beyond

During the early 1990s, the great American debate concerning marriage and divorce continued. Some studies claimed that the marriage rate was rising--that marriage was back in style--while others predicted the end of marriage in the twenty-first century. At the same time, some studies maintained that the divorce rate continued to rise, while others argued that it was receding somewhat. Due to the variations and difficulties in methods of computation, statisticians were unable to agree upon one position or the other. Even after the U.S. Bureau of the Census established divorce registration areas in 1958 as a way of collecting necessary data, statistics remained erratic due to state inconsistencies in reporting and the common practice of including annulments and separations in divorce statistics. And as improved collection methods and computer analysis developed, it was soon clear that every

means of computing the divorce rate had its weak point. For instance, comparing the number of divorces with the number of marriages in a given year ignores the fact that most divorces are of marriages contracted in previous years. And if the number of marriages in a given year is unusually low, the divorce rate will appear high. Or if the number of divorces is compared with the population in a given area and the population contains a large number of children under marriageable age, the divorce rate will appear low. In other words, there is no such thing as a valid, conclusive divorce rate.

But what is clear, despite the method of computation, is that the overwhelming majority of Americans marry--and remarry--and remarry yet again. Marriage rates have held steady between 8 and 10 per 1,000 each year. Although the marriage rate drops during times of economic depression, it hovers around 10 per 1,000 during stable periods. The censuses of 1980 and 1990 indicated that the rate had held stable at around 9 to 10 per 1,000.

It was also clear that the overall trend in the divorce rate is upward. The rate rose after World War I, dropped somewhat during the Great Depression (although the number of desertions may very well have increased), rose after World War II, settled on a plateau between 1955 and 1963, and then began to rise again. Figures also show that since the end of World War II in 1945, urban areas continue to have more divorce than rural areas; African Americans divorce more frequently than other racial groups (although the divorce rate of Mexican Americans and Asians is rising); growing numbers of women employed outside the home seek divorces; an increasing number of families with children dissolve; and the West has the highest rate of divorce, the South is second, and the Northeast third.

If the divorce rate continues to rise, family relationships will become incredibly complicated. Statistics show that the more frequently a person divorces, the shorter the duration of his or her next marriage. In 1983 the average duration of marriage for all divorcing couples was 9.6 years; for the once-married, 10.8 years; for the twice-married, 7.0 years; and for the thrice-married, 4.9 years for women and 5.1 years for men. It may eventually become mandatory for remarriers to negotiate and sign prenuptial agreements to protect property and children.

Divorce has become more acceptable than ever before; it is commonplace in the media and in daily life. In 1990, "Mister Rogers" commented on the effect of the growth of divorce on his widely aired children's television program: "If someone told me twenty years ago that I was going to produce a whole week on divorce, I never would have believed them."

By 1990, another attitudinal change was evident. Although religious and other groups continued to support lifetime marriage and to oppose divorce, the numbers of divorces convinced them to recognize and attempt to deal with its existence. Most Catholic parishes, for example, required extensive premarital counseling, offered marital counseling and marital enrichment workshops, and organized workshops and other programs for separated and divorced Catholics.

Today, approximately one marriage out of two will end in divorce. Of course, this statistic neglects multiple remarriers and divorcers. It also overlooks the fact that people live far longer than they did during the nineteenth century; thus, divorce terminates a marriage that would have ended in the death of one spouse in earlier eras. It might also be speculated that given the modern system of computers, social security numbers, and other identification, it is more difficult for a spouse to desert than

formerly. Perhaps a number of potential desertions become divorces instead.

This summary of courtship, marriage, separation, and divorce might well be interpreted as a distressing picture of the American family, one that seems to portend destruction and despair. Or it might be seen as a hopeful scenario. Because old norms are being challenged and changed does not necessarily indicate decline and social ills. It is far more likely that American society is in a transition phase--an evolution to new forms and mores. After all, in other contexts, Americans are fond of calling rapid change and lack of permanence by the name of progress.

Rather than bemoaning these changes, it is more helpful in the long run to devise constructive coping strategies. Courtship could be improved by counseling and education so that it functions as effective mate selection. Marriage and remarriage would benefit from increased community support, such services as child care, and extensive counseling resources. Separation could be used as an exploration and counseling period rather than as a road to divorce. And divorce could be accepted as a long-term historical trend, an integral part of American life that can be made into a more positive, healing institution than it is now. The old and continuing problems of support for a dependent spouse, division of property, and custody and care of children must be addressed more thoroughly and dealt with more effectively.

During the next few decades, diversity in American marriage and dissolution practices will surely continue. Many Mexican Americans, for example, are likely to cling to more traditional ideas, while Hollywood stars and other public figures will continue to engage in multiple marriages and divorces. American society may also find itself creating and accepting new forms of marriage and dissolution. Some couples have tried open marriage and cooperative marriage in recent decades. Many have tried no-fault divorce with a wide range of results. During the twenty-first century, however, contract marriage may become commonplace. And at time of divorce, one court may grant a dissolution while another may decide custody and financial arrangements. Premarital and post-divorce counseling may become mandatory.

Despite the potential changes, the historical record indicates that the American family will survive. Marriages may be short in duration, long-distance, two-career, or gay or lesbian, but Americans will continue to court, marry, and remarry in huge numbers. Perhaps it is fallacious to judge marital success by the length of a marriage. In coming years, marriage may increasingly be judged by the success it achieved while in force, the fulfillment of mates' expectations, and the harmony and positive nature of its dissolution, should it end.

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