

# Marital Bonds and Chains: An Examination of 19th Century Marriage as a Sexual Contract and its Impact on Women's Rights and Freedoms

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**Abstract.** This paper investigates the institution of marriage in the 19th century as a form of sexual contract and its implications on women's rights and freedoms. Utilizing a feminist historical perspective, the study examines the societal and legal constructs of marriage during this period and their role in the subjugation and oppression of women. The research also explores the rise in divorces during the 19th century as evidence of conflicts over the principles of marriage. The work and beliefs of Victoria Woodhull, a prominent women's rights advocate of the time, are analyzed, with a focus on her Free Love ideology that posited marriage as a form of sexual slavery for women. The paper concludes with a discussion on Woodhull's vision for a societal revolution in sexual matters and its relevance in the context of the evolution of women's rights and freedoms.

**Keywords:** 19th Century Marriage, Women's Rights, Free Love Ideology, Gender Norms.

## 1. Introduction

Marriage in the 19th century was more than a union of two individuals; it was a complex social and legal contract with profound implications for the parties involved. Within this institution, women often found themselves in a position of subjugation, subject to societal norms and legal frameworks that limited their rights and freedoms (Cott, 1978; Degler, 1974). This paper aims to explore the concept of 19th century marriage as a sexual contract and its impact on women's rights and freedoms.

The societal and legal constructs of marriage during the 19th century confined women to predefined roles and responsibilities. Nancy Cott (1978) discusses the evolving notions of marriage during this period, highlighting the restrictive gender norms that framed women's place within the marital relationship. These norms positioned women as the property of their husbands, with limited agency and autonomy. Carl Degler (1974) further examines the sexual ideologies of the 19th century and their impact on women's sexuality and reproductive rights. He argues that women's sexuality was often constrained by societal expectations and marital obligations.

The rise in divorces during the 19th century reflects the growing conflicts over the principles of marriage and underscores the challenges faced by women. Robert Griswold's (1986) study on divorce in Victorian America explores the factors contributing to the increase in divorces and the societal consequences they brought. The rising divorce rates indicate a shifting understanding of marriage and reflect women's attempts to challenge the confines of traditional marital roles.

Victoria Woodhull, a prominent women's rights advocate of the time, played a significant role in challenging the norms and expectations imposed on women within the institution of marriage. Woodhull's Free Love ideology questioned the sexual contract inherent in marriage and argued for women's sexual autonomy and emancipation. Her writings and speeches, such as "Tried as by Fire" and "The Scare-Crows of Sexual Slavery," provide valuable insights into the challenges faced by women within the institution of marriage and their pursuit of sexual freedom (Woodhull & Carpenter, 2010; Woodhull, 1872).

This research contributes to a deeper understanding of the historical context of women's rights and freedoms. By examining the institution of marriage in the 19th century, we gain insights into the evolution of women's rights and the challenges women faced in their quest for autonomy and equality. Furthermore, this research offers valuable perspectives on the ongoing discussions surrounding gender, power dynamics, and the institution of marriage in contemporary society.

## **2. Understanding 19th Century Marriage: Gender Norms, Legal Frameworks, and Women's Rights**

Marriage norms and gender roles experienced significant evolution throughout the 19th century, reflecting the broader social and cultural changes of the time. Scholars such as Nancy Cott (1978), Carl Degler (1974), and Elizabeth Pleck (2000) provide valuable insights into this transformative period.

The 19th century witnessed a gradual shift in the perception of marriage from a primarily economic arrangement to one based on emotional companionship. Nancy Cott's research highlights how marriage came to be viewed as a union grounded in love, mutual respect, and shared aspirations. This shift brought about new expectations for marital relationships, with couples seeking emotional fulfillment and companionship alongside their economic considerations.

However, despite these changing ideals, gender roles remained deeply ingrained within marriage. Carl Degler's work on the legal doctrine of coverture sheds light on the legal and social limitations imposed on married women during this era. Coverture, a fundamental principle of English common law, merged a woman's legal identity with that of her husband upon marriage. Under coverture, women lost control over their property, were unable to enter into contracts, and had limited legal rights. This legal framework reinforced the prevailing social norms that positioned women as subordinate to their husbands.

Elizabeth Pleck's research on marital relationships in the United States further explores the complexities of gender roles within 19th century marriage. Pleck argues that while societal expectations often placed women in a domestic and caregiving role, their contributions extended beyond the household. Women played critical roles in managing family finances, supporting their husband's businesses, and engaging in community and social activities. Pleck's work challenges the notion of a singular gender role for women in marriage and highlights the varied ways in which they navigated and influenced their marital relationships.

As the 19th century progressed, the evolving ideals of marriage, combined with the growing women's rights movements, sparked discussions and debates about the rights and autonomy of married women. These discussions paved the way for future changes in laws and societal attitudes towards gender equality within marriage.

## **3. Evolution of Marriage Norms and Gender Roles in the 19th Century**

Marriage norms and gender roles underwent significant transformations during the 19th century, reflecting changing societal attitudes and cultural shifts. This section explores the evolution of marriage norms and the shifting expectations placed on men and women within marital relationships.

Historically, marriage in the 19th century was often perceived as an economic arrangement rather than a union based on love and companionship. However, as the century progressed, there was a gradual shift towards emphasizing emotional fulfillment and shared companionship in marital relationships (Cott, 1978). Scholars argue that this shift can be attributed to various factors, including the influence of romanticism and the rise of middle-class values.

One important legal concept that shaped marriage norms during this period was coverture. Coverture, as discussed by Carl Degler (1974), merged a woman's legal identity with that of her husband upon marriage. Under coverture, married women lost their legal rights and autonomy, becoming legally dependent on their husbands. This legal doctrine affected various aspects of women's lives, including property ownership, financial independence, and decision-making power within the marriage. Women were unable to own property, sign contracts, or engage in independent economic activities without their husband's permission (Information source: Provided).

However, it is important to note that not all women experienced marriage and gender roles in the same way during the 19th century. Socioeconomic factors, race, and cultural backgrounds influenced the extent to which women were able to challenge or conform to prevailing norms. For instance,

affluent women had greater access to resources and opportunities, enabling them to exert more control over their lives and challenge traditional gender roles (Dubois, 2018).

The rise of women's rights movements and feminist ideologies in the 19th century further challenged traditional gender roles and advocated for women's autonomy and agency within marital relationships. Women began demanding equal rights, including the right to vote, access to education, and the right to own property. These movements aimed to dismantle the patriarchal structures that restricted women's opportunities and independence. Prominent women's rights activists such as Susan B. Anthony, Elizabeth Cady Stanton, and Lucy Stone played pivotal roles in advocating for women's rights and challenging societal norms (Ryan, 1997).

The legal landscape surrounding marriage and gender roles began to shift towards the end of the 19th century. Reforms and changes in legislation, such as the Judicature Act of 1873, incorporated elements of equity law alongside common law, providing a more favorable environment for women's property rights. Equity courts, unlike common law courts, considered the personal circumstances of the parties involved, allowing women to seek justice and challenge traditional legal constraints.

#### **4. Women's Rights Movements, Divorce, and the Legal Constraints of Coverture**

The emergence of women's rights movements and feminist ideologies in the 19th century challenged the gender inequalities within marriage. Women actively fought for equal rights and opportunities, including the right to vote and access to education, thereby questioning the traditional notions of marriage as a patriarchal institution (Ryan, 1997; Dubois, 2018). These movements aimed to empower women and advocated for their autonomy and agency within marital relationships.

However, despite the efforts of women's rights movements, the legal framework of coverture imposed severe limitations on women's financial independence within marriage. Under coverture, married women were stripped of their property rights, rendering them unable to engage in legal transactions without their husbands' consent (Cott, 1978). They lacked the ability to sue or be sued, leaving them vulnerable and economically dependent on their husbands. The concept of dower, which provided widows with a portion of their deceased husband's estate, offered limited financial security but was subject to various restrictions and conditions.

The rise in divorce rates during the 19th century further challenged the prevailing notion of marriage as an indissoluble union. Robert Griswold (1986) examines the factors contributing to this increase and the implications of divorce for women. Divorce often left women economically vulnerable due to limited property rights and financial resources. The legal, social, and economic implications of divorce shed light on the complexities of marital relationships during this period.

Moreover, the English legal system underwent significant changes in the 19th century. The Judicature Act of 1873 played a crucial role by incorporating elements of equity law alongside common law and ecclesiastical law in handling marriage and property issues. Equity law provided a more favorable environment for women's property rights compared to common law (Degler, 1974). Equity courts not only considered legal evidence but also took into account the personal circumstances of the parties involved. This allowed women to seek justice and challenge traditional legal constraints. Additionally, the concept of "sole and separate use" recognized by equity courts provided women with some control over their property during marriage.

#### **5. Victoria Woodhull and the Free Love Ideology: Challenging Sexual Contract and Advocating Women's Emancipation**

Victoria Woodhull, a prominent figure in the 19th-century women's rights movement, played a pivotal role in challenging societal norms and advocating for women's emancipation. Central to Woodhull's beliefs was the concept of "Free Love," which fundamentally questioned the institution of marriage as a form of sexual contract that subjugated women (Woodhull & Carpenter, 2010).

In her writings and speeches, Woodhull vehemently argued against the traditional understanding of marriage, which she viewed as a system of sexual slavery for women. She contended that the prevailing marital norms undermined women's autonomy and agency, reducing them to mere objects owned by their husbands. Woodhull's Free Love ideology posited that women should have the freedom to make their own choices regarding their bodies and sexuality, independent of any contractual obligations imposed by marriage (Woodhull, 1872).

Woodhull's ideas challenged not only the legal and societal constructs of marriage but also the prevailing moral attitudes of her time. Her advocacy for sexual freedom and the right of women to control their own bodies was seen as radical and controversial in the conservative social climate of the 19th century. Nevertheless, her outspokenness and courage in advocating for women's rights and sexual emancipation contributed significantly to the advancement of the women's rights movement (Woodhull & Carpenter, 2010).

One of Woodhull's most notable works, "Tried as by Fire," delves into the oppressive nature of traditional marriage and highlights the double standards faced by women concerning their sexuality. She argued that women's sexual desires and experiences were frequently condemned and vilified, while men were often excused for their promiscuity and extramarital affairs. Woodhull's critique of the sexual double standard challenged societal norms and sought to expose the hypocrisy ingrained within the institution of marriage (Woodhull, 1872).

"The Scare-Crows of Sexual Slavery," another influential work by Woodhull, further emphasized the significance of sexual autonomy for women. In this piece, she discussed the damaging effects of repressing female sexuality and contended that true emancipation could only be achieved by granting women full control over their bodies and choices (Woodhull & Carpenter, 2010).

Woodhull's advocacy for Free Love and women's sexual autonomy resonated with some segments of society but faced vehement opposition from others. Many critics accused her of promoting promiscuity and undermining the sanctity of marriage. Nevertheless, her bold and unapologetic stance paved the way for future discussions on gender equality, reproductive rights, and women's liberation.

In the context of the evolving women's rights movement, Woodhull's ideas contributed to the ongoing debates surrounding gender roles and the institution of marriage. Her emphasis on sexual freedom and autonomy challenged the traditional power dynamics within marriage and encouraged a reevaluation of societal attitudes towards women's sexuality (Woodhull & Carpenter, 2010).

As the women's rights movement progressed, some of Woodhull's ideas were embraced and incorporated into the broader feminist agenda, while others remained controversial and divisive. Nonetheless, her contributions to the discourse on women's rights and freedoms left an indelible mark on the struggle for gender equality and the ongoing efforts to dismantle oppressive structures within society.

## 6. Conclusion

The institution of marriage in the 19th century was a complex social and legal contract with profound implications for women's rights and freedoms. This paper has explored the societal and legal constructs of marriage during this period, revealing how women found themselves in positions of subjugation and oppression within marital relationships.

The 19th century witnessed a shift in the perception of marriage from an economic arrangement to one based on emotional companionship. However, despite this transformation, gender norms remained deeply ingrained, with women often subject to restrictive roles and responsibilities within marriage. The legal doctrine of coverture further limited women's rights and autonomy, as they were legally merged with their husbands upon marriage.

The rise in divorces during the 19th century reflected growing conflicts over the principles of marriage and demonstrated the challenges faced by women within marital relationships. As the century progressed, women's rights movements emerged, advocating for equal rights, including

access to education and the right to vote. These movements challenged traditional gender roles and aimed to empower women within the marital institution.

Amidst this backdrop, Victoria Woodhull emerged as a prominent women's rights advocate with her revolutionary Free Love ideology. Woodhull vehemently contested the prevailing sexual contract inherent in marriage, arguing that it subjugated women and deprived them of their sexual autonomy. Her writings and speeches exposed the oppressive nature of traditional marriage and called for women's freedom to make choices about their bodies and sexuality.

Woodhull's ideas were both celebrated and criticized, but they left an indelible mark on the women's rights movement. Her emphasis on sexual freedom and autonomy challenged societal norms and contributed to ongoing discussions about gender equality and reproductive rights.

In conclusion, understanding 19th-century marriage as a sexual contract provides valuable insights into the historical context of women's rights and freedoms. The societal and legal constructs of marriage confined women to predefined roles, limiting their agency and autonomy. However, the rise of women's rights movements and the advocacy of individuals like Victoria Woodhull pushed for societal change, ultimately challenging the status quo.

The relevance of this historical analysis extends to the present day, as discussions surrounding gender dynamics and the institution of marriage continue in contemporary society. While significant progress has been made in advancing women's rights, challenges persist, and Woodhull's vision for sexual freedom and emancipation remains relevant. As we reflect on the past, we are reminded of the ongoing journey towards achieving true equality and dismantling oppressive structures in all aspects of life.

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