

## Complex Marriage Traditions

NOTE: In each Complex Marriage Tradition, look for marriage as Personal Commitment, as Religious Recognition, and as Civil Recognition. Also look for areas of marriage prohibition relating to age, social status, degree of relationship, religious affiliation, and race. As is obvious this list is not exhaustive.

For the group discussion, what implications for marriage today can be drawn from the variety of rules and practices documented for each cultural area? How has marriage evolved through cultural shifts and historical periods, and how has it stayed the same? How much flexibility might we have in our understanding of marriage?

### 1. Early Jewish (Old Testament)

ca. 7th c. bce – With codification of the Ten Commandments, women are defined as property (Ex. 20:17).

The Deuteronomic view opposed marriage outside Judaism, for fear of apostasy and for loss of land or inheritance.

Jewish marriage contract binds together two families or clans. Marriage is regarded as an extension of kinship through a covenant or agreement between the families. Typically weddings occur after lengthy negotiations between families.

Polygamy in Israel gradually died out, and monogamy became the standard practice by the Roman period in Palestine (after 63 bce).

### 2. Greek / Roman

4th c. bce – Plato's *Symposium*'s explanation of opposite and same sex love as equal.

Roman marriage is regarded as a terminable civil contract.

Marriage between different Roman classes is prohibited, and marriage prohibited between males younger than 14 and females younger than 12.

Three Roman modes of marriage, all regarded as civil contract: (1) *confatreato* – a religious service before 10 witnesses including the sacrifice of an ox and the breaking of a wheat cake; (2) *coemptio in manum* – conveyance of a woman as by a commercial transaction; (3) *usus* – acquisition of a wife by one year of cohabitation without a three night absence.

### 3. Early Christian

Paul encourages those able to adopt unmarried celibacy, like Paul.

1st to 3rd c. ce – Early Christians favor abstinence as an act of resistance to Roman demands for children.

5th c. – Augustine praises socially and emotionally intimate relations among men as superior to most relations of men with women.

In the early Church the perfect marriage was exemplified by Joseph and Mary, which included a vow of chastity. In the late 4th c. Augustine teaches that sex detracts from marital companionship and that male dominance is essential to the marital relationship.

Marriage was not permitted between persons of the 7th degree of relationship (per Gregory I, Charlemagne); this was reduced to the 4th degree by Innocent III.

Marriage was not permitted between those with spiritual affinity (e.g. between parent and godparent).

Marriage was not permitted between Christian and those outside the Church.

Aquinas (13th c.) held that sex can promote companionship, a change from the position of Augustine. Woman is made for the purpose of procreation.

#### 4. Roman Catholic

Marriage is one of the seven sacraments of the Church. Marriage must be open to procreation, so birth control is disallowed. Sex must bring the possibility of procreation, and be within the context of marriage.

With the Reformation, marriage was not permitted between a Catholic and a Protestant.

The Church recognizes private marriage contracts, but enjoins the addition of a public marriage ceremony.

Marriage is regarded as indissoluble. A couple could be “unmarried” only if the marriage could be deemed to have been never valid.

1581 – Montaigne in Rome witnesses a Roman Catholic ceremony in which “they married, one man to another”. He notes that the official church clearly opposed the practice.

1980 – John Boswell publishes Christianity, Social Tolerance and Homosexuality: Gay People in Western Europe from the Beginning of the Christian Era to the Fourteenth Century, and then in 1994 publishes Same Sex Unions in Modern Europe. He attempts to demonstrate that “same sex marriage ceremonies” were accepted in the Roman Catholic Church in the “Office of Same-Sex Union” until the 12th c. His work produces continuing controversy.

1997 – The Catechism of the Catholic Church, Section 1623: “According to the Latin tradition, the spouses as ministers of Christ’s grace mutually confer upon each other the sacrament of Matrimony by expressing their consent before the Church. In traditions of the Eastern Churches, the priests...are witnesses to the mutual consent given by the spouses, but for the validity of the sacrament [the priest’s] blessing is also necessary.”

#### 5. Eastern Orthodox

A couple freely consents to unite their lives as husband and wife in love and faithfulness, then enters into the Sacrament of Marriage. Eastern Orthodox marriage “unlike civil marriages” are incorporated into the very life of the Church, and is sanctified, blessed and hallowed by the grace of God that give it spiritual significance.

Orthodox are joined while sharing the Body and Blood of Christ administered by a priest or bishop. “The Sacrament of Holy Matrimony retains its full meaning when both husband and wife are practicing Orthodox Christians.” [Quotes from Father S. Harakas, *Guidelines for Marriage in the Orthodox Church*.]

#### 6. Traditional Protestant

Early 16th c.- Martin Luther declares that marriage is not a sacrament because it is not instituted by God. Protestant sacraments become two: baptism and communion.

Because in Protestant lands holy orders are closed to women, marriage becomes a woman's sole possible vocation.

Among the Puritans (Congregational forebears) marriage was a civil ceremony only, explicitly not conducted in the church.

## 7. European Civil

In Scotland a marriage may be "constituted by declarations made by the man and woman that they presently do take each other for husband and wife." These declarations "may be emitted on any day at any time and without the presence of witnesses."

1929 – English law establishes 16 as the legal age of marriage for both sexes.

1973 – The Swedish Parliament declares that from society's point of view, homosexuality is "a fully acceptable way of living together."

1985 – Inter-racial marriage becomes legal in South Africa.

1987 – The Swedish Cohabitation (Joint Homes) Act and Homosexual Cohabitation Act establishes rights and obligations.

1989 – The Dutch Act of Registration of Partnership legalizes homosexual relationships and establishes "registered partnerships" which results in the same civil rights and obligations as are authorized under Dutch law for married heterosexuals. Marriage is extended to same sex partners in 2001.

1999- In France Pacte Civil de Solidarite (PACS) ("civil pact of solidarity") becomes available to same-sex couples with some of the civil rights of marriage.

2005 – In the United Kingdom civil partnerships become available to same-sex couples with rights and responsibilities virtually identical to marriage.

NOTE: In 2005 same-sex marriage is recognized in law in the Netherlands, Belgium, Spain and Canada. Various named same sex civil union / domestic partnerships / registered partnerships is recognized in law in Croatia, Czech Republic, Denmark, Finland, France, Germany, Iceland, Israel, Luxembourg., Norway, Portugal, Slovenia, Sweden, Switzerland, and the United Kingdom.

## 8. American Civil

In the United States, the rules of marriage vary by State.

Early 20th c. Virginia – Law prohibited marriage of a woman to a man who had been the husband of that woman's brother or sister's daughter.

1953 edition of Encyclopedia Britannica: In the United States "marriage tends to become a relationship established by parties between themselves, and one in which the consent of the

parties becomes the only constitutive element. In the theory of American law no ceremony is essential to create the marriage relation.”

1965 – US Supreme Court invalidates the last State laws forbidding married couples from buying birth control assistance.

1968 – Inter-racial civil marriage in the United States becomes legal following the US Supreme Court decision *Loving vs. Virginia*. Previously in this case, a Virginia judge rules that the origins of the races on different continents makes their intermarriage unnatural.

1993 – The Hawaii Supreme Court rules that banning same sex marriage violates the Hawaiian constitution’s equal rights clause. “Marriage is a state-conferred legal status...” and “like it or not, customs change with an evolving social order.”

1996 – Federal Defense of Marriage Act specifies that no state need recognize a decision of another state “respecting a relationship between persons of the same sex that is treated as a marriage”, and defines marriage in the Federal domain to mean a legal union “between one man and one woman as husband and wife.”

2004 – On May 17 marriage of same sex couples begins in Massachusetts.

NOTE: In 2005 same sex marriage is recognized in Massachusetts, but can only be performed for residents of states in which same sex marriage is legal, currently only Massachusetts. Forms of same sex civil union are recognized in California, Connecticut, Hawaii, Maine, New Jersey and Vermont.

## 9. Progressive Protestant

Recognizes the importance of separation of church and state, and the separation of religious and civil marriage.

One approach to religious marriage: Marriage originates in a relationship between two persons which develops with guidance from the Holy Spirit, and which may then be recognized by the church and/or by a state.

The 2005 UCC General Synod declares in a segment of its Marriage Equality resolution: “Whereas equal marriage rights for couples regardless of gender is an issue deserving sermons, faithful discussion by people of faith, taking into consideration the long, complex history of marriage and family life, layered as it is with cultural practices, economic realities, political dynamics, religious history and biblical interpretation...”

A number of other Protestant denominations permit same sex blessing ceremonies (e.g. Presbyterians, Episcopalians). Also, the 1996 Unitarian Universalist General Assembly voted to support legal recognition for marriage between members of the same sex.