Gay marriage highlights a contradiction in American national identity: if gay marriage is supported, the normative status of the heterosexual nuclear family is undermined, while if not, the civil rights of homosexuals are undermined. This essay discusses the feminist dilemma of whether to support gay marriage to promote these individual civil rights or whether to critique marriage as a part of the patriarchal system that oppresses women.

Marriage is supposed to be the private institution that establishes kinship relations in the family. As such, we should see it as a contract chosen in the private arena. Nonetheless, marriage is regulated by the state, and the campaign to change the requirements of legal marriage to allow gays and lesbians to marry created the greatest controversy among all the public policy questions raised in the last U.S. presidential election. Why are there such hoopla and public scrutiny and dismay over the question of what contracts individuals wish to sign about their sexual, intimate, and economic commitments to each other?

One answer is that the authority of the state and its laws rests on the imaginary identification of each member of society to other members as a part of a national identity. Disagreements about the content of this national identity have been particularly virulent recently as a result of the civil rights movements initiated in the 1960s and 1970s for racial minorities, women, and lesbians, gays, and queers. The right-wing backlash against social justice identity politics has intensified around the gay marriage debate. The national identity, the “American way of life,” is portrayed as so dependent on our intimate sexual and reproductive choices that private life must be made a public political issue, and wrong choices here are seen to undermine our national identity. Those
supporting right-wing “family values” from the Reagan era forward have perpetuated the fantasy that the patriarchal heterosexual family, where abortion never occurs, is basic for a healthy national identity, and that allowing single motherhood, lesbian and gay marriage, and reproductive choice will lead to chaos and disorder that will weaken our nation (Berlant 1997).

But the situation is more complicated: our national identity is both heterosexual-family-oriented and individualistic; so, in this sense, there is a conflict of values that gay marriage brings to the fore. Supporting individualism, U.S. national identity prides itself on civil rights for all adults, including minorities—we are, we proudly remind ourselves, a nation of immigrants—thus we advocate individual freedom and pluralism in the choice of lifestyles. So, one common argument for gay marriage is that government denial of the legal right to gay marriage deprives gays and lesbians of access to the social sanction and status that marriage confers, and hence to full adulthood, rights to familial or joint property and inheritance rights, and full citizenship (Rauch 1997).

As a means to defend individualism in the form of freedom of religion and of values, as well as to prevent religious wars involving attempts to set up a state church, the Bill of Rights of the U.S. Constitution advocates the separation of church and state. Refusing the right to gay marriage because of the so-called sanctity of marriage, a religious concept, would seem to deprive the sexual minority of the freedom to be free to marry if they choose a lifestyle not sanctioned by many religious denominations, and hence imposes the religious view that marriage should be a heterosexual privilege.¹

Why have modern nation-states like the United States continued to deny lesbians and gays full citizenship in this matter? Feminist legal scholars such as Drucllìa Cornell (1998) have argued that one basic function of the family law of modern nation-states contradicts lesbian and gay marriage and family rights, and hence full citizenship. This is that such nations, including the United States, have assumed the prerogative to control biological reproduction through institutionalizing and preserving the patriarchal heterosexual nuclear family. Privileging this institution requires the continued outlawing of gay and lesbian claims to marriage and adoption rights. The issue of gay marriage thus highlights a contradiction in the American national identity: if gay marriage is supported, then the normative status of the heterosexual nuclear family is undermined, while if gay marriage is disallowed, then the individual freedom and civil rights of homosexuals are undermined. Whatever way we resolve it, if we can find a way to resolve it, the national identity will have to change. This is what I see as the general American dilemma of gay marriage.

There is also a feminist dilemma concerning gay marriage. On the one hand, feminists have critiqued traditional marriage as part of the institutional system that oppresses women and perpetuates male domination. On the other hand, feminists have supported rights to reproductive choice and sexual freedom.
Gay marriage would seem to be a way to support such rights. But in supporting it, feminists seem also to be supporting that very institution, marriage, of which many are still leery because of women’s persistent inequality within it. For example, in her critique of marriage, Claudia Card (1997) dwells on the problem battered women have in escaping from abusive marriages due to the persistent social and economic inequalities of women.

My questions about these dilemmas that gay marriage poses are, first, from a perspective defending the civil liberties and rights of sexual minorities: what would it take to redefine our national identity in order to legalize gay marriage? Second, would this be a major step toward civil equality and freedom for lesbians and gays? And, third, should feminists who have challenged the institution of marriage altogether support the legalization of gay marriage, even though doing so would seem to promote an institution that is oppressive to women in general?

I will argue that the national political imaginary can only be reformed to include gay marriage as an option if other radical revisions are made to our national identity that move us away from the neo-conservative Right’s exclusive focus on the ownership society and toward a caring society. This means that queers, gays and lesbians, and our allies must make coalitions with others to expand the entitlements of the welfare state to include everyone, whether or not they are married, employed, or well off. Second, the reformist gay strategy, to use gay marriage as a wedge for undermining homophobia, is not likely to succeed in many states because of the tenacity of a heteronormative understanding of family as key to the nation’s health. The larger feminist and lesbigay political project we embrace must create alliances with heterosexuals and bisexuals to support our own chosen kinship relations as a part of a set of radical democratic family values in opposition to authoritarian traditional family models. We must expose the contradiction in the Griswold vs. Connecticut case, in which the U.S. Supreme Court found that married couples had the right to use birth control, yet still upheld the state’s interest in protecting the monogamous, heterosexual family because of its implications for reproduction—in other words, you can have your individual rights in your bedroom, but only if Big Brother is allowed to watch to ensure you are supporting the national imaginary of the heterosexual nuclear family.

Problems of Chosen Kinship

In Undoing Gender, Judith Butler defines kinship as “a set of practices that institutes relationships of various kinds which negotiate the reproduction of life and the demands of death” (2004, 102). Based on this definition, kinship practices, she suggests, are “those that emerge to address fundamental forms of human dependency, which may include birth, child rearing, relations of
emotional dependency and support, generational ties, illness, dying, and death (to name a few)” (103). Kinship, then, is an ongoing sphere of social life, which the state does not fully regulate. Kinship is important to people’s emotional lives even as it has become less central for organizing the economy with the rise of capitalism and the split between public commodity production and the private household (Rubin 1975). Many authors have documented how kinship relations operate outside the state, even though the state divides them into “legitimate” and “illegitimate” forms. Stigmatized and oppressed communities, such as African Americans under slavery, where master-slave offspring were not accorded legitimacy, developed their own chosen kinship relations, such as common-law marriages and interracial marriages, that the state did not acknowledge. Indeed, in the South, interracial marriages were illegal until 1972. Because of the violence of slavery, its forcible separation of kin, and the later migrations it caused, the African-American community has developed its own forms of socially chosen kinship, such as “othermothers,” that is, nonbiological chosen kin roles of communal parenting adopted by close women friends (Collins 2000; Stack 1974). Various forms of godparenting and “comadre” kin-like chosen obligations arose in Latin American countries like Mexico and in immigrant communities like Latino, Italian, and Irish communities (Behar 1993). Kath Weston has documented lesbian and gay nonmarital kinship relations through her ethnographies of lesbians and gays. The well-known documentary Paris is Burning features African-American “houses” of drag queens and transgendered people, each with their own chosen “mother” of the “tribal” or house “line” (Butler 1993; hooks 1992).

But queer chosen kin networks like those mentioned above only partially protect their members from heteronormativity and homophobia. Let me discuss my own experience. I am a bisexual lesbian with an adopted daughter, formerly married to the adoptive father of my daughter. My daughter chose my lesbian partner of many years to be the godmother of my granddaughter when she was born. I think she did this as a way of choosing and acknowledging a kin relation for my partner that she could not (yet) obtain through legal marriage. I was happy for my partner to be given a kin status by my daughter, although “godmother” is not an active category in my secular WASP community. It supported the impetus for my partner to form committed caring relationships with my daughter and granddaughter, and to take on the attendant duties and privileges implied. I also took full advantage of being a grandmother to see my granddaughter every week and often overnight on weekends. My partner, though not living with me, was often present during these weekends, so my granddaughter learned to think of us as a couple.

Last year, my son-in-law, a Muslim in a fundamentalist mosque, discovered that my partner and I are a lesbian couple. He subsequently persuaded my daughter, who converted to Islam on her marriage, that lesbian sexuality is
opposed to their religion, and therefore we should not have kin status or grandparent visitation rights. What makes the situation even more ironic is that my son-in-law is only the stepfather of my oldest granddaughter; yet in his chosen kin role, as a patriarch in his religious tradition, he has the heterosexual and masculinist privilege to declare my kin relation to my granddaughter illegitimate, and he has persuaded my daughter that his claims to full parental rights trump any rights that my partner or I formerly had.

Would gay marriage cure this heterosexist deprivation of kin privileges? As of May 17, 2004, we do have gay marriage in Massachusetts, where I live. But it is clear that our legal and social situation vis-à-vis my granddaughter and daughter would not improve if my partner and I were to marry. Grandparents, whether married or not, do not have legal rights to visitation privileges with grandchildren, unless they have been chief custodial parent for a certain length of time.

In this and other cases of queer chosen kinship, no legal changes by themselves to the structure of marriage will remove the stigma of violating the heterosexual normativity required for legitimate kinship. Only a pluralist culture that accepts the sexual rights of those who deviate from the heterosexual norm will do this. My situation used to be quasi-legitimate as an adoptive, married mother and grandmother. It was only “quasi” however because, according to my son-in-law, I was never a “real” mother but only an adoptive one. In any case, my sexuality, now out of the closet, is considered a sin that makes me queer enough to deprive me of those visitation rights I used to have. And my partner, whose chosen kinship status was conveyed on her by the consent of my daughter, has now had that kinship status removed, divorced from her as it were, without either her or my granddaughter’s consent.2

The National Identity and Its Gender and Sexual Symbolic

My partner and I and our chosen kin relationships do not fit into the national sexual imaginary of the United States at this time. We are thus the noncitizens, the abject Other that has to be constantly repressed to maintain the national ideal. The national imaginary of the United States, like most other nations in the world, is based on a heterosexual norm of the rights and obligations of its citizens, and this, in turn, is based on the institution of the heterosexual family with its kinship ties legalized by marriage. The heterosexual family is key for two reasons. First, it organizes obligations for the consequences of biological reproduction and creates legitimate kinship. Second, it perpetuates the traditional sexual division of labor in which the father and husband acts as male protector, head of household, and potential citizen soldier, and the mother and wife acts as primary caregiver, nurturer, and wifely dependent protected by and subordinate to the husband and father. In this heterosexual norm and ideal,
men are seen as the primary citizens because of their role as citizen soldiers and primary breadwinners, while women are seen as subordinate, or secondary, citizens because they are perceived as the dependent property of the men who protect them. Women thus symbolically best fulfill their obligations to the nation-state by reproducing and mothering children so that the nation has a future generation (Wilton 1995).

The analysis I have just given presents us with a functional understanding of the connection between the state, patriarchy, and the norm of heterosexuality. However, it misses the particular historical development of the kind of heterosexism embedded in American national identity as reinforced by the American legal system. Applying Michel Foucault’s insights about the effects of a shift from condemning homosexual behavior to condemning homosexuality as an identity, George Chauncey, Jr., argues that legal repression of homosexuals as a perceived “disorderly,” un-American specific group of people, thought to be sociopaths and psychologically depraved, only developed in the twentieth century (Chauncey 2004). Different historical waves of repression against homosexuals were focused slightly differently: in the 1920s, during Prohibition, homosexual repression was part of a more general concern with promiscuity and illegal drinking in bars; in the 1930s, it was a concern with women who defied conventional housewife roles and sought careers in the masculine-defined public sphere; and in the 1950s, it was a part of a general fear of Jews, Communists, and un-American elements, who were seen as rootless and cosmopolitan, and hence lacking real patriotism. Not only were gays perceived as irrational and degenerate, but gay men in particular also were vilified as dangerous pedophiles. Even lesbians, thought of as asexual old maids and acceptable companions in the nineteenth century (Faderman 1981), were seen by the mid-1950s as potentially dangerous seducers of young girls (see, for example, the film The Children’s Hour about a lesbian couple running a private girls’ school, which is destroyed by gossip about their illicit sexuality).

It is upsetting to realize the extent of repressive laws in place during this period against homosexuals, in the form of police repression (Feinberg 1993), denial of rights of association and employment, and even of representation in movies. Nonetheless, the fact that homosexuals have only been targeted as a specific out-group in the twentieth century suggests the possibility that new national and cultural understandings of gender and sexuality could allow for a change in the national imaginary to include gays and lesbians in the future.

The symbolic image of the lesbian or gay man in the twentieth century has been of someone whose sexual orientation toward a lover is nonreproductive, and who by their nature is not a full, or proper, citizen in this reproductive role. That is, even if they happen to be parents, they do not directly, or no longer, fulfill the bifurcated reproductive function as male protectors or as female caregivers in a complementary relation with the biological reproducer of the.
opposite gender. Any children they do produce are done in a way accidental
to their homosexual nature, which is seen to flout the natural and proper func-
tion of sexuality in a well-ordered state. Hence homosexuals are a problem,
and a bad example to heterosexuals of a lifestyle portrayed as not fully mature,
as pleasure seeking and obligation free. Rather than meeting the obligations
to produce and care for the future generation, they are seen as those who
break or undermine responsible heterosexual marriages. Iris Young (2003) has
argued that the modern nation-state has the symbolic role of male protector
of its citizen dependents. Such a symbolic role would be undermined if gay
marriage were allowed to challenge the symbolic gender roles of traditional
heterosexual marriage.

For evidence of the hold that this vision of heterosexual marriage has on
the national imagination, one has only to note the wide spectrum of theorists
who support this heterosexual norm with explicit arguments similar to those
I have just outlined. There are the religious objections that conservatives put
forth by citing thousands of years of tradition of heterosexual-only marriage and
interpreting passages in the Bible. Most of these passages detail the comple-
mentary gender roles that are “natural” and God-given for women and men in
heterosexual families, the biological procreative function intended by God in
marriage, and the sinful nature of homosexual sex (Araujo 2003; Witte 2003).
There are also functional objections that those who are liberal in other areas
of social policy support. In the latter camp, we even find some feminists, such
as Jean Bethke Elshtain, who support the institution of heterosexual marriage
and even some gay domestic partnership rights but not the extension of access
of marriage to lesbians and gays.

Elshtain (2002) starts her argument from the claim that every society
“embraces the image of a body politic,” the point I have been making above
about the national imaginary. However, she then immediately equates gay
marriage demands with the demands for unbridled public pleasure: she claims
these demands are similar to those who claim the freedom of expression, like
Madonna has done, to perform mock masturbation before a crowd without
censorship. Elshtain claims, “I don’t think the body politic has to be nude and
sexually voracious—getting, consuming, demanding pleasure. This is a symbol-
ism that courts nihilism and privatism (however publicly it may be trumpeted)
because it repudiates intergenerational, familial, and communal contexts and
believes history and tradition are useful only to be trashed” (57–58). She
goes on to equate the demand for homosexual marriage with a “pandering
to the libidinal body” in a way that denies the prioritizing of the traditional
heterosexual family as the “horizon of intergenerationality,” and the “familial
intergenerational ideal” (59). Here, we see the appeal to the image of the homo-
sexual as a selfish individual prioritizing and indeed flaunting his or her own
pleasures to the exclusion of a commitment to older and younger generations,
and therefore as undermining the caring responsibility individuals owe to biological and heterobiologically “generative” families. But where does such a claim put queer grandmothers like myself, ones, moreover, who are adoptive mothers with no biological connections to their children? Clearly, we should be considered second-class citizens because our very existence undermines the regulative norm of this heteronormative family ideal.

Conservative critics of gay marriage are even more alarmist about the harm that gay marriage will cause. Robert Knight argues that it would deny the procreative imperative that is behind the traditional protection of marriage and family and would permit homosexuals to raise and adopt children, which would endanger their development of healthy sexual identities. Gay marriage would also injure the crucial (biological) kinship structure that is necessary for continuity, community, and stability. It would violate freedom of religion because people in civil society would have to tolerate as moral what their religion tells them is immoral. And finally, it would undermine the superior worth of heterosexual procreative relationships, which society needs to survive (Knight 1997, 289–90). In other words, gay marriage will “infect” heterosexuals with irresponsible, nonprocreative proclivities and encourage them to develop immoral interests in pleasure for pleasure’s sake.

It is hard to take these kinds of arguments seriously because so many of their empirical claims are so implausible. Chauncey points out that both religious and legal claims about the history of marriage made by conservatives are questionable: marriage was not even considered a sacrament in Christianity until the thirteenth century and legally it has never been restricted only to procreative couples. There were even “fraternal unions” or homosexual marriages between men in the late Greek and Roman period and in Europe during the early medieval period (Boswell 1980; Edwards and Spector 1991). Further, much evidence shows no correlation between the sexual orientation of children and that of their parents, and societies that have permitted various institutionalized forms of homosexual relationship have not thereby undermined heterosexual procreation or stable kinship structures.

The other claims against gay marriage are moral, not empirical, so they must be argued differently. Conservatives like Knight have not really accepted the concept of freedom of religion or religious tolerance: many religious practices and prohibitions, such as not eating pork, nonrecognition of divorce, and prohibition of birth control and abortion, are advocated by one religion but not by others. If freedom of religion means anything, it must involve at least the social commitment not to legislate in favor of or in opposition to one set of moral prohibitions based on religion, unless they are relevant to moral principles agreed upon across religions, such as those against murder, theft, assault, and so forth. As to Knight’s claims implying the infection of heterosexuals with goals of pleasure rather than responsible procreation, surely this is just a way of making
gays scapegoats for a capitalist individualist consumerist culture that affects us all. In any case, from a materialist feminist perspective, U.S. society is better off with fewer, not greater, numbers of children in a world of overpopulation, serious poverty, and lack of public concern about the availability of adequate care for all children and elders.

Arguments based on the immorality of homosexuality from a religious perspective, since based on faith, are also difficult to debate. Fundamentalist religions will not be persuaded by the fact that few Americans still accept the literal word of the Bible on many moral issues, such as the need to stone adulterers to death, or for brothers to marry their brother’s widow. One can only hope to persuade them of the need for religious freedom, and the right not to have a religious perspective imposed on one by state prohibitions.

An important connection exists between feminism and gay rights in the conservative mind. Conservatives portray feminists as selfish, unnatural women who have put their careers and their own self-interests ahead of wife and motherly altruism in the home. They also speak of the “gay lifestyle” as a selfish, pleasure-seeking lifestyle that is socially irresponsible and unnatural. Susan Cohen and Mary Katzenstein (1988) have argued that the right-wing defense of traditional marriage is not really about the family but about a defense of traditional gender roles and a critique of the feminist woman. The right-wing imaginary parallels the selfish career woman with the selfish gay or lesbian, neither of whom is seen as a full citizen, since they are not fully socially responsible. Thus bodies that are recognizeably womanly, lesbian, and gay in public are abject bodies, bodies that should not be in public, that are out of place, that violate boundaries, and thus arouse disgust. Women’s and gay and lesbian liberation movements thus represent the return of the repressed, or what we can call the return of the abject: bodies that symbolize irrationality, exess, and uncontrollable pleasure demanding visibility in the public sphere of disciplined rationality (Butler 1997; Kristeva 1986; Young 1990).

**A Materialist Feminist Critique of Classical Liberalism in the Debate about Gay Marriage**

But how do we explain the persistence of the ban against gay marriage? Are we doomed always to be seen as the scary Other? A materialist feminist analysis of the gay marriage issue would maintain that the disgust is more a historical than a universal effect. The split between the public economy and the private family in contemporary capitalism has rigidified a sexual division of labor that keeps women primarily responsible for caregiving in the family, and has tended to obstruct the insight that receiving and giving care to others is a human need and a social good that should be publicly supported (Tronto 1993; Ferguson and Folbre 2000; Folbre 2000; Hennessy 2000). But we will need to do more
than simply expand the welfare provisions of the capitalist state in order to give more of a priority to the human activity of care, and to create the freedom to reorganize the social division of labor so that women are not required to be the primary caregivers.

Chauncey points out that the American welfare state, unlike European states, has required people to be married to get the health-care, veterans’, and social-security benefits that Europeans consider universal rights of citizenship. No wonder gay marriage is more of a pressing demand in the United States than in European countries, many of which have legalized either gay marriage or domestic partnerships.

Thus, more than legalizing gay marriage and simply expanding the welfare state, we need a revolution in paradigms that revises the symbolism of the public/private split and makes caregiving a public concern. As Nancy Fraser argues (1997), we need to replace the Universal Breadwinner model of late capitalist society with the Universal Caregiver model of a democratic socialism or at least a strong social democracy.

Feminist Critiques of Marriage

Three core values—equality, freedom, and committed caring relationships—are sometimes seen to be in conflict in the debate about gay marriage. Conservatives often paint feminists, lesbians, and gays as selfish individuals who advocate their own equality with men or with heterosexuals, and their own individual freedom, yet who eschew the caring relationships of the traditional heterosexual family. So, one question we need to consider is whether gay marriage is a goal that will co-opt us into supporting an institution, marriage, that will continue to oppress women.

With respect to the co-optation question, Butler (2004) raises the post-structuralist concern that the discourse of gay marriage may be another way of disciplining the queer community so as to create a new hierarchy—the socially acceptable gay marrieds versus the queer abjected Others, whose chosen kin and sexual practices continue to be despised. Conservative supporters of gay marriage, like Jonathan Rauch (1997) come uncomfortably close to such a position when they side with conservative critics against gay promiscuity and agree with the need for the marriage institution to rein in the inherent aggression in all men, straight or gay. Rauch argues that gays not only ought to be allowed to marry, in order to extend this salutary function of marriage to gay men, but also to marry, presumably to make themselves more responsible citizens. Doesn’t this amount to a kind of self-policing of gay men to avoid their supposedly inherent masculine proclivities? Can feminists and queer advocates really accept this kind of biologically based gender pessimism?
Feminists have attacked the assumptions behind the ideal of the heterosexual, gender-role-differentiated family in several ways. Liberal feminists like Betty Friedan (1963) argued that the male breadwinner/female housewife model of family deprives women of the possibility of equality with men that, in turn, requires their freedom to have a paid career and develop independence from men. Radical feminists argue that women should have the right to choose to remain single, not to become mothers, or to be lesbians—and all of these choices undermine the heterosexual, procreative, gender-differentiated family model, and marriages premised on this model.

Some radical feminists have taken this opposition to the traditional family model further to critique any participation by feminists in marriage at all. Early-twentieth-century radical feminist and socialist/anarchist Emma Goldman wrote in 1910 and 1911 in her essays “The Traffic in Women” and “Marriage and Love” (Goldman 1969) that marriage oppresses women because it is primarily an economic arrangement that makes women dependent on men. Goldman described marriage as only one step up from prostitution: whereas in marriage a woman is only dependent on one man, in prostitution she is dependent on many men. Furthermore, Goldman believed that marriage undermines the conditions for love, which ought to be free of economic constraints and not regulated by the state. She went so far as to argue that free motherhood could only be single motherhood, where a mother’s relation to her child is not dependent on a love or economic relation with her father, whether in a free union or in marriage. One can see why conservatives both when she was writing and today, almost one hundred years later, would panic at this position. Indeed, Goldman’s positions on marriage, sexuality, and other social issues were so radical for her time that she was ultimately deported from the United States.

Claudia Card summarizes her radical lesbian feminist objections to the marriage institution by opposing the discrimination that denies lesbians and gays the rights to marry, yet opposing lesbian-feminist Christine Pierce’s (1995) advocacy of lesbian and gay marriage as a goal. To Pierce’s argument that such marriages would make lesbian and gay people visible as couples, partners, family and kin (as opposed to the stereotype of mere pleasure-seeking irresponsible individuals), Card responds:

It is not clear, however, that legal marriage would offer visibility to our relationships as they presently exist. It might well change our relationships so that they became more like heterosexual marriages, loveless after the first few years but hopelessly bogged down with financial entanglements or children (adopted or products of turkey-baster insemination or previous marriages), making separation or divorce (at least in the near future) too
difficult to contemplate, giving rise to new motives for mayhem and murder. Those who never previously felt pressure to marry a lover might confront not just new options, but new pressures and traps. (1997, 325–26)

In contrast to the radical feminist rejection of marriage as an institution necessarily oppressive to women, many contemporary liberal feminists assume a reform position on marriage; that is, they support the choice to marry on the understanding that women and men can conduct their marriages in nontraditional ways that will eventually undermine patriarchal aspects of the traditional model. A feminist nontraditional marriage minimizes or eliminates gender-differentiated roles in hopes of creating the conditions for gender equality between husband and wife and equal freedom for each partner. A nontraditional marriage can even be an open marriage if both partners agree; that is, each partner has the freedom to engage in nonmonogamous relationships as long as they don’t take priority over the central marriage bond. In the ideal feminist heterosexual marriage, both partners share equally in the unpaid work of childcare and domestic labor in the home and both equally are breadwinners, hopefully with chosen careers.

Marriage-reform liberal feminists tend to agree that there is a core truth behind the conservative emphasis on family values: there is great value in the committed, caring relationships marriage can foster, whether or not children are a part of the family. They might even agree that the traditional heterosexual extended and nuclear family kin models have been the key institutions in the past that provided the necessary material basis, kinship networks, and social identification for the caring work and the caring relations they preserve. But they would disagree with conservatives that married heterosexual family and kinship structures are the only way to guarantee such caring relations, or that caring relations must be structured by a gender division of labor into caretakers and caregivers. Thus, they would challenge the conservative view that defense of women’s and gay rights necessarily undermines committed caring relationships, although it certainly is at odds with the imaginary ideology of the patriarchal and hierarchical daddy-mommy-children family.

George Lakoff (2002, 2004) argues that what is at stake in the gay marriage debate is the choice between two different models of marriage and the family: the traditional patriarchal model versus the liberal feminist egalitarian model. The first model assumes that there is a natural complementarity between the partners based on the sexual difference between men and women. Such a natural distinction justifies the different gender roles of caretaking and caregiving presented above, as well as the man in position of natural authority, the patriarch, over the woman as wife and mother, and the children. Permitting gay marriage would completely undermine this natural complement model, because there is
no natural reason for two persons of the same sex to be slotted automatically into the different caring roles of caretaker versus caregiving or the different authority roles of master and subordinate. Thus gay marriage must be based either on the liberal feminist egalitarian model or on some individually negotiated set of roles that are chosen rather than naturally mandated. Legalizing gay marriage does undermine the traditional patriarchal model. From this perspective, we can see why those committed to that model are unable to perceive gay marriage as just another lifestyle option or even to accept arguments that hold that gay marriage will promote the social good of establishing more stable, committed partner relationships in society.

In my view, the question before us is not whether the U.S. states that have passed defense of marriage acts which exclude lesbians and gays are correct or whether we should resist the current right-wing agenda to pass an amendment to the U.S. Constitution. I would agree with Drucilla Cornell (1998) that we need to broaden the U.S. political imaginary in a pluralist way that would permit all of us, including lesbians, gays, transgendered, and intersexed persons, the right to represent our sexuate beings (Luce Irigaray initiated the concept of the sexuate being, 1975/1985) in ways that we individually choose. Such a self-representation ought to be able to be expressed by gender and sexual minorities in any institution open to heterosexuals; hence, if marriage continues as an institution of self-representation, lesbians and gays ought to have the right to participate in it.3

I would argue that the debate between radical lesbian and marriage reform feminists as to whether to espouse lesbian and gay marriage is based on a false dichotomy: that of reform versus revolution. The “reject marriage for moral revolution” view assumes an essentialist understanding of marriage as an institution with specific social functions, such as organizing and regulating kinship relations and reproduction, perpetuating patriarchy by perpetuating an exploitative sexual division of labor, and upholding a certain sort of heterosexual normativity by stigmatizing nonheterosexual, nonmonogamous relationships.

But marriage is neither an institution with an essential meaning or function, nor an institution that can be reformed in all contexts, so the “reform or revolution” dichotomy is overly simplistic. Rather, whether marriage is reformable in a feminist direction in a particular context depends on the other resources available to women through the legal system, as well as their options in the economic system, and their social and citizen status. As it is presently embedded in these other institutions, marriage can be seen to be morally risky (Ferguson 1998). Calling the institution morally risky means that individuals are morally permitted to engage in it through their own choice, but that supporting it or expanding it will not automatically lead to a morally desirable state of affairs, and engaging in it may indeed lead to a worse situation in certain contexts. The point is that the unequal salaries of men and women because of the gender division
of wage labor, the second-shift problems of unpaid housework and childcare for working women because of the gendered division of household labor, and the lack of automatic state welfare supports for single mothers in the United States make marriage, whether heterosexual or homosexual, an institution that continues to perpetuate gender inequality and lack of freedom for women.

In sum, marriage today is not what I would call a morally safe or morally basic institution for feminists. It cannot be assumed to promote equality, freedom, and caring among those who engage in it. Nonetheless, we have strong reasons in the present context to think we should not simply reject marriage and hope it withers away, but instead should attempt to reform it as a better way to achieve these feminist goals.

Does this mean that all lesbians and gays ought to get married, if it is possible? Such a moral demand overlooks the white and class privilege that allow some of us but not others to be open about our lesbian or gay identification. However, those who do have the possibility to marry and currently are living in committed partnerships can think of themselves as making a political statement by getting married, or by forming same-sex civil unions or domestic partnerships if they are legally available, as they are in Massachusetts, Vermont, and Connecticut. Such action can be read as a public commitment to assume social responsibility for particular same-sex love partners and children. Insofar as that reading carries weight, it undermines the stereotypes of same-sex people as immature and only committed to their own sexual pleasure with no social responsibility in intimate relationships, that is, no commitments toward caring for lovers or children.

Of course, the achievement of positive peer recognition by the act of getting married as a lesbian or gay person is precarious: it carries the moral risk and dangers Goldman and Card outlined: that a sexist and heterosexist viewer—whether the viewer is an outsider to the relationship, a heterosexual family member, or the deep structure of our unconsciously socialized self—will not read this action as such. There is always the possibility that an individual marriage, whether heterosexual or homosexual, will be an abusive trap limiting the equality and freedom of the partner who becomes overly dependent on the other economically or psychologically. As various lesbian-feminist writers have pointed out, this may be particularly true for lesbian marriages (Chodorow 1978; Card 1997). If one accepts Nancy Chodorow’s object-relations analysis, it follows that girls raised in mother-centered infant care will generally have more difficulty separating themselves from mothers and mother-substitutes than boys, and will thus tend to less psychological autonomy in woman-woman relationships.

There are also reasons to advise against gays’ marrying because of economic disadvantages and ambiguities in the present situation where only a few states recognize them. For example, in Massachusetts, a married gay couple must file
as singles on their federal tax returns (since the national Defense of Marriage Act forbids the federal government to recognize state-sanctioned gay marriages), but are required to file as married on their state income taxes. This means that gay spouses don’t have the same opportunity for federal deductions as straight couples. National health insurance plans don’t cover spouses of gay partners, and some spouses who married in Massachusetts lost the domestic partnership benefits they had with certain state employers who cancelled those benefits after gay marriage became legal in the state. Gay marieds will not be able to serve in the armed forces because of the U.S. military’s “don’t ask, don’t tell” policy. And married gays may not be permitted by all courts to adopt their spouse’s child, even when the other biological parent is not relevant (as in a sperm donor), or agrees to the change—something that would be nearly automatic for heterosexual step-parents.

There is also the moral risk that lesbians and gays who marry are thereby consigning those lesbians and gays who can’t marry to social nonrecognition. To avoid supporting such an insider/out sider hierarchy, I agree with Urvashi Vaid (1995) and Valerie Lehr (1999) that gay marriage activists must support a radical democratic vision of queer family values. That is, there should be many legal options to support chosen gender and sexual relational rights, such as transgender and intersexual rights, civil unions, domestic partnerships, and parental and adoption rights for nonbiologically related caregivers. It should include youth and children’s rights to safe space against parental and social pressure to conform to heterosexual normativity. We can think of this as a “chosen kin” approach, that is, support for a range of queer choices of goods, including prioritizing nonfamilial and nonsexual relationships, such as deep ongoing friendships; establishing nonmonogamous sexual life styles; and remaining celibate yet connected to sexually active communities. Such chosen kin networks are particularly important for lesbians to subvert values associated with women, femininity, and sexuality as a rearticulation of our identities as women and to enter the process that Sarah Hoagland has called “remoralizing” ourselves to escape from internal sexist oppression (Hoagland 1988; Anderson 1999). We must also support feminist demands, such as reproductive rights, challenges to exploitative gender divisions of labor, and easier exit options from marriage for victims of domestic violence.

Queer liberation will only come about through a political alliance that includes not only lesbian and gay sexual rights and women’s formal rights to freedom and equality with men, but also the material conditions across class and race that make it more possible to acknowledge care as a public good, such as accessible health care and quality education for all, challenging the gender division of wage and family labor, and a reduction of the wage work week in order to free up the space for all to spend more time in unpaid caring work in the family and community (Lehr 1999; Ferguson 2005).
In order to make this nuanced position supporting chosen kin and queer relational rights clear, I would counter Jonathan Rauch’s general claim that gays should marry (or form civil unions where available) with the claim that some of us should not marry, not just because marriage is a risky institution for women, but because the right to form democratic queer families ought not be tied to one’s marital status and the implicit social hierarchies this assumes.

In conclusion, we should defend gay marriage as the formal right to access a basic citizen right that if denied keeps lesbians and gays in the position of abject Other. Marrying for some is a way to confirm social standing for their same-sex bodily desires and relational commitments to a loved other. This should be available as an option in the construction of chosen and free social kinship relations. But we must defend a broader vision of queer relational rights for both straights and gays, centered in an ideal of democratic family and chosen kin relationships free of normative prohibitions by the state.

Notes

1. Religious advocates of gay marriage believe in a broader scope for marriage as a religious sacrament, and under this auspice, Unitarian and other progressive Protestant denominations have been performing gay marriage ceremonies for years, while being unable to legalize these ceremonies. Gay marriage advocates, whether religious or not, have claimed that there should be no religious litmus test for who is entitled to civil marriage.

2. Two years farther along in this struggle for legitimacy, the intervention of my ninety-four-year-old mother, who argued to my daughter and husband that the grandchildren should be allowed access to their grandmother and partner regularly, has resulted in an uneasy truce in which we can petition for a few hours’ visit every month. Such visits can be granted on whim and only if the children are chaperoned by my daughter to guard against any “improper influence” by us.

3. One of the transformative goals of feminists and lesbigay advocates should be to promote the conditions for autonomy, or self-conscious agency (in this sense of freedom), for everyone, particularly women in relation to men, but also for other oppressed groups, for example, racial minorities in relation to whites, working-class folk in relation to the middle class and the wealthy, and lesbians and gays in relation to heterosexuals. A relational understanding of subjectivity makes it clear that a person’s ability to interpret and rearticulate their goals and identity is partially dependent on the social recognition of others through whom their identities are defined (Benjamin 1995; Butler 2004). How one understands one’s social identity as a woman depends on how woman is defined in relation to man. Thus one’s freedom to interpret and redefine that identity depends in part on other women and men giving one the acknowledgment and social space to do so. Drucilla Cornell (1998, 8) defends gay marriage and other lesbian and gay rights on the ground that everyone should have the legal and socially recognized right to be
accepted as the source of meaning, to frame our own ideal in the imaginary domain of our sexuate being.

References

Cohen, Susan, and Mary Fainsod Katzenstein. 1988. The war over the family is not over the family. In Feminism, children and the new families, ed. Sanford M. Dornbusch and Myra H. Strober. New York: Guilford.


