

## Medieval marriage

**Review Number:**

1459

**Publish date:**

Thursday, 8 August, 2013

**Author:**

Sara McDougall

**ISBN:**

9780812243987

**Date of Publication:**

2012

**Price:**

£25.00

**Pages:**

240pp.

**Publisher:**

University of Pennsylvania Press

**Publisher url:**

<http://www.upenn.edu/pennpress/book/14988.html>

**Place of Publication:**

Philadelphia, PA

**Author:**

Ruth Mazo Karras

**ISBN:**

9780812244205

**Price:**

£32.50

**Pages:**

283pp.

**Publisher:**

University of Pennsylvania Press

**Publisher url:**

<http://www.upenn.edu/pennpress/book/14985.html>

**Place of Publication:**

Philadelphia, PA

**Reviewer:**

William E. Smith III

Michel Foucault famously described sodomy as an utterly confused category. The same could be said for marriage, especially during the Middle Ages, as the two studies under review demonstrate. Like sodomy, marriage is a category traversing several fields – law, culture, religion – that bites into people's flesh. Unlike sodomy, Western cultures have tended to treat marriage positively and ascribed to married people certain privileges. Thus the confusions around marriage could impact people for well or for woe. During the medieval period, furthermore, the incoherencies around what constituted a marriage, who could marry and

other related questions became more pressing precisely because marriage was gaining cultural and, especially, religious value. Importantly these problematic aspects of marriage and its competing as well as somewhat overlapping 'unmarriages' (long-term sexual relationships), to use Ruth Mazo Karras's evocative term, were lived experiences. Telling the tale of these embodied histories then plays a role in the intersecting histories of marriage and gender by exploring, for instance, how the partners' respective statuses affects the meaning of a relationship and how the sexes were treated differently by courts for the same crime.

Karras crafts her social history of 'unmarriages' around an interesting gambit. What would medieval marriage and other related relationships look like if we studied them comparatively against each other instead of the more usual inquiries into the (dis)continuities in the history of marriage? Partially this move is an effort to blunt the teleological forces that Karras identifies as unavoidable in any historical study of marriage. But her methodological move is also motivated by an effort to raise the profile of sexual unions that either were not considered marriages by medieval people or were, at best, contestable marriages. By operating in this manner, Karras is able to successfully pull together a disparate range of materials and topics that would otherwise be examined in isolation. Above all, she analyzes this material with a keen eye for the impact that status – along the lines of gender, slave/free, servant/master, religion, etc. – played in unions.

Karras shapes her study by limiting her cases to (presumably) sexually-active relationships between men and women that would have shared some feature with marriage. Karras call her readers' attention to three facets commonly found in medieval marriages that she argues would render these other unions marriage-like and hence engender a degree of confusion for medieval people: sexual exclusivity, longevity of the relationship, and/or the formation of a joint household (p. 7). In the process of crafting her study around such relationships, Karras labors to 'analyze pair bonds without privileging marriage, while still recognizing that medieval people did, in fact, privilege marriage' (p. 5).

Two other moves are made in order to give *Unmarriages* its border. One is the exclusion of same-sex unions of any kind, which Karras justifies by arguing that marriage was only recognizable as a union of male and female in the medieval period (p. 9). The other is to leave aside spiritual marriages and other sexless relationships between men and women. These chaste marriages and the fraught praise they earned loomed large in the Middle Ages, as Dyan Elliott in *Spiritual Marriages* demonstrates.<sup>(1)</sup> Yet Karras's decision to exclude this type of relationship makes a fair amount of sense. Since sexual relationships between men and women that endured longer than a simple tryst form the bedrock of this study, sexless marriages and their possible alternatives categorically do not belong. Furthermore, leaving out spiritual marriages helps readers keep in mind that this study is, in a limited sense, a piece of the pre-history of the kinds of non-marital long-term relationships between opposite-sex couples that emerged in the 1960s and 1970s (p. 8).

To help her readers with what she does cover, Karras not only clearly frames her study in the introduction but also provides guiding comments about the three major historical lines of influences on medieval marriage: Roman law, biblical texts, and Germanic traditions. With regard to Roman law, Karras points to its importance for differentiating between types of relationships, especially between marriage and concubinage, with an eye toward a child's right to inherit as well as the fount for the medieval dowry tradition. The main point of her section on the Germanic cultural inheritance is to debunk the idea that there were two pan-Germanic models of marriage, namely the oft-romanticized and mutually dissolvable *Friedelhe* and the *Muntehe*, which was marked with its emphasis on male legal dominance and the paying of a bride price (*Dos*). When it comes to the Christian Bible, Karras only touches upon marriage in the Hebrew portion and limits this discussion to concurrent polygamy out of the various options (e.g. levirate marriage, in which a deceased man's widow and his brother are obliged to marry). While Roman law appears to be the single most important source of medieval ideas of marriage and its alternatives in Karras's eyes, by covering all three traditions she primes her interpretive pump by showing how those traditions all used the status of the woman as a way of determining the nature of the relationship.

Indeed the social status of women, Karras argues, is one of the key factors in whether or not people would have recognized a union as a marriage, with marriage usually demanding the woman to be of equal status to the man. It is no wonder then that this issue – the connections between social status (aristocrat, freeborn,

freedperson, servant, slave, etc.) and gender – serve as the opening theme to what is arguable the book's central chapter, namely chapter two, 'Unequal unions'. Karras's key claim here is that the lower the status of the woman to that of the man the greater the odds that they would not have been considered married. This particular way of gendering inequality served as a sort of first principle for medieval people when making sense of a particular case. In order to show the complexity of her point about gendered inequality, Karras explores others status markers, such as differing religious affiliations.

Intriguingly, though, this function of (primarily) female status was often more enforced by social expectation than official decrees. Two examples of people who were formally and legally married in spite of the unequal status were Katherine Swynford and John of Gaunt (pp. 73–8) and Margery Paston with Richard Calle (56–7). These instances blunt some of Karras's sharper claims, such as that 'the legal and social status accorded a union – including whether it was considered a marriage – was determined in the first instance not by what legal or contractual arrangements were made but what status (social or legal) of the partners was' (pp. 5–6). But Karras is certainly justified in stressing the unlikelihood that people of unequal social or religious status would marry – as her coverage of medieval concubinage well illustrates – or be considered married in contested cases. A good example of these kinds of non-marital relationships across social status lines of interest to Karras is the Icelandic slave-concubine known as a *frilla* (105–8). In addition to tracing out various types of class-inflected relationships, Karras gives us reasons why both men and women may have been interested in these non-marital unions and how, if at all, each partner would have benefited from it.

In the third chapter, Karras turns her attention to priests and their partners. Famously, after the 12th century priests were forbidden to marry. In spite of this prohibition, though, clerics continued to enter into unions with women. How these relationships were treated varied greatly over time and location. Extending her argument about the interlocking issues of status and gender, Karras points to the changing view of women in relationship to priests to explain the 12th- and 16th-century social upheavals in the domestic life of the clergy. During the high medieval reforms, '[t]he body itself was polluting' (p. 120). Celibacy was a way to minimize this pollution. Of course, women, who were so tightly associated with the body, were seen as sexually polluting for priests. By the time of the Reformation, though, the problem had morphed from the body per se to sinful, dangerous women specifically, with the assumption that their influence needed to be channeled and controlled through marriage. But priests' unions – be they described as frequenting, concubinage, etc – during the late medieval period expose just how tricky it was to keep these relationships from being confused with marriage since the social habits of these types of relationships overlapped, at times extensively so.

Karras turns to Parisian court records to examine a variety of problems around marriage and its alternatives. The main point Karras proves here is that 'some couples who had a choice of types of union, and ... chose not to make a formal marriage' (p. 165). The term 'formal' is crucial. Otherwise she could not include cases of bigamy, wherein a person illegally and – from a sacramental point of view – invalidly remarries while his or her first spouse still lives. Yet her most important examples deal with couples who appear to have long-term relationships, cohabitated, and could formally marry but did not and expressed to the court a desire not to. The existence of these people might strike us as less erudite versions of Heloise regarding the sacramental chains of Christian marriage. In the process Karras reveals to us how key terminology, such as maintaining, works in legal documents.

All three of these comparative chapters are possible because of Karras's careful coverage of the medieval Catholic Church's efforts to regulate marriage, especially from the 12th century onward, in her opening chapter. While marriages in early medieval period were not heavily conditioned by types of public rituals, or at least ecclesial rites, the Church worked to reverse this situation as the high and later Middle Ages progressed. And its leaders did so precisely to clarify ambiguities around whether or not people were actually married (especially with clandestine marriages in mind). As the conceptual work of theologians and theorists of canon law illustrates, medieval people were more than able to draw lines between what constituted a marriage and what did not, and render rulings about who were and were not married. This fact helps us to remember that Karras's main point primarily concerns the difficulties of determining who is and who is not married based on observable or presumed behavior (longevity, cohabitation, sexual exclusivity).

In other words, social similarity generates the core problem with these ‘unmarriages’.

Clearly there is much to be gained from Karras’s study. Yet the ways she limits her cases does obscure at least one subset of medieval relationships that might have been profitable to include, namely intimate but sexless partnerships. Karras could have reconfigured her inquiry to include these chaste unions by not making sexual activity an essential characteristic of the study, but rather rendered it a comparative study around the contours of medieval marriage as such. In doing so, Karras could have aided us in understanding how the kinds of relationships recently described by Dyan Elliot as heteroascetic couples and, perhaps, others fit into this complex world of unions Karras puts on display.<sup>(2)</sup>

Whereas Karras reveals how varied sexual unions were in the medieval period, Sara McDougall keeps our attention fixed on just how compelling marriage was for many people. Through her careful study of church court records from Troyes in northeastern France, McDougall sheds light on the lengths people went to in order to have their illegal marriages publically solemnized. These bigamists frequently gathered up false witnesses, bribed priests, and lied about their pasts in spite of the harsh, public punishments leveled upon those found guilty of bigamy in this region. Maintaining an identity as a Christian through marriage, McDougall argues, was what made this risk worthwhile for these bigamists. And it was a similar concern with the sacrament of marriage that made this reform-oriented court in Troyes search out bigamist and level steep sentences. McDougall is able to construct her mosaic by organizing her conceptually overlapping chapters around four core questions: what was the broader religious and cultural context for trying bigamy cases in northeastern France (chapter one)? Who were these bigamists (chapters two and three)? Why commit bigamy (chapter four)? And, why persecute it (chapter five)?

In studying the exceptional interest in bigamy by the diocesan court in Troyes, McDougall has made a significant contribution to the broader study of medieval and early modern bigamy. Whereas Shannon McSheffrey has shown how bigamy claims in England were often fraudulent tales told by people in order to get out of an unwanted marriage, McDougall reveals an activist court that sought out bigamists because of the court’s fealty to the Church’s sacramental vision of marriage. In doing the latter she tracks where and why bigamy developed as an issue that would feature prominently in 16th- and 17th-century Europe. In doing so her work should be of interest to readers of such scholars in this area as Alexandra Cook, Noble Cook, Richard Boyer, and Bernard Capp. In addition, McDougall provides a powerful counter argument to those who read medieval bigamy cases as a failure of Christianization among the masses. Instead, McDougall insists, especially in chapter four, that bigamy reveals a laity deeply desirous of Christian marriage even if they were not in complete lockstep with the Church’s rules for marriage in how they went about obtaining these unions.

In her chapters on, respectively, bigamous husbands and wives, McDougall demonstrates that the court dealt with the sexes in distinct ways for the same crime. Men were given harsher punishments including imprisonment and being placed on the ladder, which exposed the criminal to the public’s gaze. Women got fines. The reason for the gendered approach toward sentencing had to do with against what party the bigamous person had transgressed. For husbands, they were seen as acting against the community, whereas wives were primarily violating their relationship with their husbands (pp. 59, 70, 74). When wives committed bigamy, there was also the implication that their husbands had failed to exert proper control over their wives (pp. 92–4). As marriage gained more cultural prestige, carried more religious weight, and was understood to play an important role in social stability, husbands were increasingly obligated to adhere to the permitted forms of marriage. In other words, they were told to imitate saintly figures – especially Joseph, the Virgin Mary’s husband, who gained stature greatly in the 15th century (pp. 67–9).

McDougall also provides us with some demographic information about people who committed bigamy. They were usually mature or older persons who had spent some years in their previous marriage. The men tended to remarry in a different locale than where they had resided with their first spouse. Both men and women claimed that they were widowers and widows respectively, either out of genuine belief or in order to dissemble about their true status. Concerning why people would risk punishment to remarry, McDougall covers the usual litany of explanations (e.g. economic stability, seeking a more fulfilling relationship, to

leave a spouse who committed adultery, etc.) (pp. 101–2). But she also helpfully adds to it. She notes that while having children per se was not a motivating factor as far as the records indicate, the guarantee of legitimacy to any child born of a bigamous union may well have been (p. 105). Perhaps even more importantly, through their partially fabricated tales along with publically solemnizing their new marriages, these bigamists, according to McDougall, were seeking a ‘Christian monogamous marriage’ (p. 100).

Yet at this point I must point toward a difference in interpretation between McDougall and myself on the point of monogamy (rather than the broader category of Christian marriage). I believe McDougall misses a chance to be more precise as well as fails to follow through with an implication of her own point regarding the variety of forms bigamy took in the late medieval period. In her analysis, McDougall appears to follow Boyer’s point that ‘[b]igamy, after all, was not a behavioral category but a legal one’.<sup>(3)</sup> However, in order to understand how medieval Christian identity would be effected by remarriage, I suggest we should pay closer attention to the licit form of bigamy available to widow(er)s and how marital temporality is tracked. Importantly the kind of bigamy a widow(er) partook in was both permissible and a step away from the Christian monogamous ideal, since not remarrying at all and instead living chastely was a superior religious move (pp. 24–8). This legal form of bigamy was tainted with the scent of polygamy because medieval Christians had a strong sense of the diachronic contours of marital life. In the present, we tend to emphasize the synchronic register and thus straight-forward monogamous behavior can serve as a basis for a monogamous identity. It is also the conceptual model that enables Boyer’s distinction. In short, then, it appears to me that what kind of bigamist a person was going to be mattered deeply to these medieval Christians.

Part of why trying to determine if a person was illegally committing bigamy mattered to the court, according to McDougall, is that there was a crisis in marriage afoot. I wish to concede that there may well have been a crisis in late medieval marriage. But before rendering a judgment on the matter either way, I want a better understanding of how McDougall conceives of a crisis. On the few occasions when McDougall does comment on why bigamy constituted a crisis for late medieval marriage she articulates at least two different stances. The first position renders the problem as a conflict of authority between the ecclesial powers and the laity over who defines marriage (p. 2). In this version a crisis appears to exist regardless of whether or not any judicial action occurred since the laity initiated the crises by refusing to adhere to the matrimonial rules laid out by the Church. Elsewhere, though, the crisis appears to be merely an epiphenomenal by-product of the court’s activity: ‘A crisis emerged only when officials not only refused to tolerate more quiet acts of bigamy but also dissolved or suspended any suspect marriages ... Crises only emerged when and where the laws were upheld in their strictest sense’ (p. 43). Ironing out some of these tensions as well as elaborating more fully what constitutes a crisis would aid the reader in assessing the merits of this strand of the argument.

The possibility of a lay theology of marriage, which McDougall’s evidence suggests existed, is worthy of more investigation. It also helps return us to the opening issue of marital confusion. As McDougall shows, the court often had to determine if there was a *de facto* marriage in existence even if it was an illegal one with lay folks creating a marriage when they were not supposed to do so. In doing so, the court granted that it did not have a monopoly over marriage. In other words, even when a person was marrying in violation of the sacrament, the laws, and customs, there was still a marriage to be dissolved. Yet what made it a marriage in the eyes of the judges rather than concubinage? The rituals and other gestures toward solemnization? The fact that the spouses regarded each other as husband and wife, which is reminiscent of the Roman approach to marriage? That the community, or at least parts of it, regarded them as married? The status of the spouses? The core question over what is the *sine qua non* of marriage, a seemingly perennial one in the study of matrimony, brings us back to Karras point that it can hard to tell who is and is not married in the medieval world with all of its competing ‘unmarriages’.

## Notes

Ruth Mazo Karras thanks the reviewer for his observations and does not wish to comment further.

1. Dyan Elliott, *Spiritual Marriage: Sexual Abstinence in Medieval Wedlock* (Princeton, NJ, 1993).[Back to \(1\)](#)
2. Dyan Elliott, *The Bride of Christ Goes to Hell: Metaphor and Embodiment in the Lives of Pious Women, 200–1500* (Philadelphia, PA, 2012), pp. 150–71.[Back to \(2\)](#)
3. Richard Boyer, *Lives of Bigamists: Marriage, Family, and Community in Colonial Mexico* (Albuquerque, NM, 1995), p. 31.[Back to \(3\)](#)

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