

Living in Sin: Cohabiting as Husband and Wife in Nineteenth-Century England

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Tanya Evans

Most historians of sexuality, courtship, marriage and the family in Victorian and early 20th-century Britain will already be familiar with the excellent social and cultural histories produced by Ginger Frost.⁽¹⁾ It will come as no surprise to them to learn that *Living in Sin* is a wonderful book that draws on a characteristically wide range of sources from the long 19th century. These include newspaper reports on bigamy, violence, neglect and desertion cases in the areas surrounding London, Lancashire and Yorkshire as well as elsewhere in England and Wales, police records, assize and Old Bailey reports, the publications of middle-class observers of the poor including Henry Mayhew and Charles Booth, law reports including the Royal Commissions on Marriage in 1848 and 1912, Foundling Hospital petitions, personal diaries, biographies, and letters together with Elizabeth Robert's oral history interviews to describe the representation and the experience of cohabitation in 19th-century Britain.

The evidence in the book establishes beyond doubt that the 19th century was a period of energetic marital non-conformity amongst couples of all social classes. Couples and communities often resisted the legal definitions of marriage and divorce imposed upon them following the passage of Lord Hardwicke's Marriage Act 1753 and the later Divorce Act 1857. In general, between 1760 and 1840 cohabitation seemed more widespread than in the mid 19th century and after 1880 attitudes towards sexual non-conformity became freer once again. Widespread practice of cohabitation has only taken place since the 1970s in Britain but many couples, albeit only a minority, chose to participate in free unions for many hundreds of years before then. Many men and women interpreted the law on marriage and divorce flexibly, fought to be able to define it using their terms, and definitions of unions remained ambiguous throughout this period and beyond.

Frost argues that this 'problematised the whole notion of "marriage" and "family", and the state's role in these institutions' (p. 1).

Frost is always sensitive to the differences in historical experience between different classes, regions and genders and uses the book to delineate the legal penalties involved with cohabitation as well as the complex lives of the many different types of cohabiting couples she has researched. She has carefully accumulated evidence of the circumstances of approximately 1000 cohabiting couples, amongst the heterosexual middle and working classes in England and Wales, to detail her argument. She divides these unions into three major groups. The first is the largest and consisted of men and women who lived together because they could not marry due to earlier marriages or because they were related to each other by blood. The second largest group was couples who did not marry due to a variety of reasons including a lack of concern with social pressure and disinterest in marriage. The third group consisted of those men and women who positively chose not to marry in reaction to the institution itself. Frost labels this group, with hesitation, 'radicals'. The numbers within these groups varied according to class and location. In general, more working-class rather than middle-class couples cohabited and more so did so if they lived in urban rather than rural areas (though Frost acknowledges that her evidence is weighted to urban rather than rural locations and suggests that further research might reveal other variations). Due to the sexual double standard men suffered far less social discrimination than women did as a result of these relationships. It was usually male partners, rather than female ones, who actively pursued cohabitation. Women were also more willing to tolerate adultery than men. While it is clear that the double standard played an important part in how these relationships were thought about and experienced it is clear that many women were free to make their own choices with regards to their lovers. The interdependency of men and women formed within their relationships is made clear by Frost. Women needed providers and men needed housewives. It is also important to realise that conflict rather than care and support is more likely to leave its mark on the historical record. As historians we know much more about the breakdown of relationships and its consequences than we will ever probably know about 'normal' relationships that endured the ebbs and flows, the vicissitudes, as well as the calms of life. Working-class unions were particularly vulnerable to economic crises and more likely to end as a result of these pressures. Working-class cohabitantes were also rather less able to escape social sanction than the middle and upper class who could flee their homes and begin life afresh elsewhere.

Despite not having any formal legal rights men and women understood cohabitation to involve financial and emotional commitments, especially if there were children involved, and the common law as well as criminal courts helped, most often women, to enforce these 'cohabitation contracts'. Relationships that came before the scrutiny of the courts were often cross-class, involving men who were of higher social class than women and justices in the common law courts defended the rights of these women and their children and insisted on men's duty to provide for their dependents. It is no doubt the case that this sympathy for ostensibly immoral and unchaste women was mostly due to the need to ensure that she and her dependents were supported financially, to prevent rate payers becoming liable for their cost. Nonetheless, Frost demonstrates that although English criminal justice could be 'patriarchal, class-biased, and moralistic ...it was not invariably so' (p. 32). Men who brutalised the women they cohabited with, even if those women were by definition not respectable, were often punished by the courts.

The reactions to these illegal unions could vary. Marian Evans was rejected by her family after settling down with George Lewes and other women's families were wary of the scorn that could follow irregular unions. Middle-class women willing to take the risk were often independently wealthy and many had lost their fathers. Others needed more protection and we have to remember that adulterous women were always at risk of losing their children during this period. Responses differed by class, gender and age but couples were rarely ostracised by their communities, families, kin, judges or magistrates even if those people were unhappy about the existence of these unions.⁽²⁾ People made exceptions to their understandings of what was moral and correct behaviour dependent upon particular circumstances. Respectable members of the working class and middle class were no doubt more discreet than others, the very poor, the 'criminal' classes, and the demimonde, about the status of their relationships. Nonetheless, most families supported the unconventional relationships in their midst even if they were occasionally incestuous (usually between in-laws). This was

because marriages between men and their dead wives' sisters were often seen as the best way for families, adults and children, to remain intact in situations where single sisters often took on housekeeping and childcare roles. It is clear also, that the state together with friends and family, implicitly, if not explicitly, supported these cohabitational unions.

Many couples were also willing to risk the law by living bigamously. The *Judicial Statistics of England and Wales* recorded 5,327 bigamy trials between 1857 and 1904 which averaged out at 95 per annum which Frost suggests made up about 1 in 5 of the proportion of bigamous relationships that probably existed. Judges and juries judged these unions as flexibly as communities and thought long and hard about particular circumstances before passing sentence. Most bigamists were treated leniently by the courts. In the later 19th century a minority spent over a year in prison while many, 25 per cent in the 1860s rising to 37 per cent in the 1890s, served less than a month's sentence. Women sometimes left their first husbands because they were violent or because they needed to find somebody to support them and their children. Many individuals traded legality for happiness without losing sight of the concept or ritual of marriage and while continuing to use the labels 'husband' and 'wife'. Subsequent unions were sometimes, but not always, more successful and happier than the first.

Most cohabitees, however, did not participate in an illegal marriage ceremony in order to formalise their union. They merely rationalised it by arguing that they had to escape an unhappy first union, due to mental and physical illness, incompatibility, infidelity, due to domestic violence, incapacity to provide along with a multiplicity of other reasons, in order to find happiness in a subsequent union – albeit one not recognised by the law. The legal implications of unions had significant economic, social and cultural ramifications for the individuals involved in them – men, women and children. This was particularly the case for the children born as a result of 'illegitimate' unions who were defined as *filius nullius* – the 'children of nobody' even if their parents went on to marry (until the passage of the Legitimacy Act 1959). Many men and women lived without regard for the law but some had no recourse but to turn to the law when relationships went awry and broke apart. Even Mary Wollstonecraft was vulnerable to economic ruin and left holding the baby when Gilbert Imlay abandoned her in 1795. Destitute common-law wives and their children frequently fell upon the Poor Law when their men left them. Very few men could afford to support two families, formed with different women, and the economic and legal costs for women and children were often dire.⁽³⁾ This was particularly the case when the majority of cross-class cohabitational relationships involved poor women setting up home with wealthier men. But the power relationships involved within these unions were more complicated than at first sight they seemed. Women might have suffered more than men as a result of the formation of such relationships but the construction and maintenance of cohabitational unions were complex and abandoned working-class women rarely merely 'victims'. Some women were adept at using their sexuality for their own ends and others found themselves falling in love with men whom society was not keen to match them with. Nonetheless, the realities of women's economic dependence upon men and women's biological role as the physical bearers of children meant that the consequences of these unions were often negative for women.

Frost's book ends with a discussion of the circumstances of radical couples who flagrantly defied the system by publicly refusing to marry in order to challenge the convention itself because it was inescapable, because of the role of the state and the church within it and because of the inequality of women at its heart. Radical attitudes towards marriage were firmly rooted within the Owenite and Unitarian movements. After 1850 there were two major phases of marital radicalism. Between 1850 and 1880 this was a theoretical phase and between 1880 and 1914 the socialist, anarchist and feminist movements were crucial in bringing about legal change. But even the women involved in radical partnerships, like Marian Evans or Harriet Taylor, were at risk of economic and social ruin as a result of those relationships. Moreover the radical intent of these unions was often lost on women after giving birth to successive children within them and as they become overwhelmed by domestic minutiae. The sexual limits of these relationships were castigated by feminists throughout the 19th century, as the tragedy of the life and death of Eleanor Marx amply demonstrated, and many chose celibacy over sexual experimentation. The plight and vulnerability of women, of all classes, did not go ignored and evidence of their experience was used by a clamour of voices which gathered towards the

end of the 19th century and demanded reform of the marriage, divorce and legitimacy laws. Frost argues that this 'pressure from below' was particularly significant in the reform of the law on marriage. The existence of these varied illicit unions and their consequences fuelled the campaigns of early 20th-century reformers of the law eager to challenge the double standard and the lack of equality for men and women, rich as well as poor, within the existing marriage law.

Despite the evidence of happy, successful as well as unsuccessful cohabitational unions, the attachment to marriage remained strong for most Victorians. Even if they were not married, many couples insisted that they were and called themselves 'husband' and 'wife'. Others accepted these self-designations too, in the middle as well as working classes, even if many were not entirely happy about doing so. Some couples even performed the ritual of the wedding ceremony despite it being illegal in their circumstances. 'Husbands' were expected to provide for their 'wives' and children, and 'wives' were expected to perform domestic labour and to support their men in their endeavours. Despite the unconventionality of these relationships it is clear that both men and women expected their roles to remain the same, as husbands and wives, despite the absence of vows and legal status. Many cohabitees enjoyed their privacy from church and state intervention, saving the cost of the marriage ceremony as well as the freedom gained from not being joined by law in spite of the negative consequences for many of them, particularly women because of their economic disadvantage. As Frost suggests, these people on the margins of society can tell us much about the 'norm'. They remained a minority throughout the Victorian period but their existence disrupts many of our assumptions about the family, marriage, sexuality and gender in the past, as well as the strict demarcations between the so-called 'respectable' and 'unrespectable' poor. British people's experiences of marriage and intimate relationships in the past were often at odds with prescription. *Living in Sin* is well-written and kept this reader, albeit one with an unhealthy fascination with 'illegitimate unions', gripped on a lengthy plane journey between Sydney and London. This is a systematic study from which much detail and scholarship, it is made clear by the author, was cut dramatically to please the publishers in order to make the text more manageable. I'm assuming, and hoping, that we can look forward to seeing this material published elsewhere.

The author is happy with this review and sees no need to respond further

Notes

1. Ginger Frost, *Promises Broken: Courtship, Class, and Gender in Victorian England* (Charlottesville, VA, 1995); 'Bigamy and cohabitation in Victorian England', *Journal of Family History* 22 (1997), 286–306; "'The Black Lamb of the Black Sheep": illegitimacy in the English working class, 1850–1939', *Journal of Social History* 37 (2003), 293–322; "'She is but a woman": Kitty Byron and the English Edwardian criminal justice system', *Gender and History* 16 (2004), 538–60. [Back to \(1\)](#)
2. For similar reactions in the 18th century see Tanya Evans, *Unfortunate Objects: Lone Mothers in Eighteenth-Century London* (Basingstoke, 2005) and in the 20th century see Tanya Evans and Pat Thane, *Unmarried Motherhood in Twentieth-Century England* (Oxford, forthcoming). [Back to \(2\)](#)
3. See also Tanya Evans, 'Is it futile to get non-resident fathers to maintain their children?', October 2006, <[Back to \(3\)](#)

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