



Michael Hardy

## Marriage

by Sheila Cronan

*Sheila Cronan was a founding member of Redstockings and was active in THE FEMINISTS for more than two years. At present she is attending law school at the University of California, Berkeley.*

Marriage has been a subject which has generated considerable controversy in the Women's Movement. So far as I know, no group other than The Feminists has publicly taken a stand against marriage, although I'm sure it has been a topic of discussion in most. One widely held view in the Movement is represented in the following statement:

We women can use marriage as the "dictatorship of the proletariat" in the family revolution. When male supremacy is completely eliminated, marriage, like the state, will wither away.<sup>1</sup>

The basic assumption behind this concept, and one that I myself shared at one time, is that marriage benefits women. This idea is very much part of the male culture and is always being reinforced by men's complaints about marriage and by the notion that women are the ones who want to get married. We've all heard plenty of jokes about how women "snare" husbands, and popular songs with lines like "the boy chases the girl until she catches him." Mothers give their daughters advice on how to get their boy friends to marry them, etc. The propaganda tells us that marriage laws are operating in the interest of women and in fact exist to provide protection for the woman. From this assumption it is logical to conclude that we must retain the institution of marriage until such time as discrimination against women no longer exists and consequently "protection" is no longer necessary.

Copyright © 1970 by Sheila Cronan, and reprinted with the permission of the author. This article appeared in *Notes From the Third Year*.

The Feminists decided to examine the institution of marriage as it is set up by law in order to find out whether or not it did operate in women's favor. It became increasingly clear to us that the institution of marriage "protects" women in the same way that the institution of slavery was said to "protect" blacks—that is, that the word "protection" in this case is simply a euphemism for oppression.

We discovered that women are not aware of what marriage is really about. We are given the impression that love is the purpose of marriage—after all, in the ceremony, the wife promises to "love, honor, and cherish" her husband and the husband promises to "love, honor, and protect" his wife. This promise, which women believe to be central to the marriage contract, is viewed as irrelevant by the courts. For example, in a well-known case here in New York State, a woman attempted to obtain an annulment on the grounds that her husband had told her that he loved her prior to the marriage and then afterward admitted that he did not and never would. This was held *not* to give grounds for annulment,<sup>2</sup> despite the fact that the man committed fraud, which is normally grounds for nullifying any contract.

There is nothing in most marriage ceremonies specifically referring to sex, yet the courts have held that "the fact that a party agrees to and does enter into the marriage implies a promise to consummate the marriage by cohabitation, so that failure to do so gives grounds for annulment on the basis of fraud in the inducement."<sup>3</sup> An annulment was granted a New York man on the grounds that his wife was unable to have sex with him due to an incurable nervous condition.<sup>4</sup>

But then, one might ask, how is this particularly oppressive to women? After all, men also enter into marriage with the understanding that love is central. Many of us, in examining our personal histories, however, have suspected that "love" has a different meaning for men than it does for women. This has been substantiated by a study done by a man, Clifford R. Adams of Penn State University, who spent thirty years studying 4000 couples, researching the subconscious factors involved in mate selection. His conclusion was:

When a man and a woman gaze into each other's eyes with what they think are love and devotion, they are not seeing the same thing... For the woman, the first things she seeks are love, affection, sentiment. She has to feel loved and wanted. The second is security, then companionship, home and family, community ac-

ceptance, and sixth, sex. But for the man sex is at the top of the list, not at the bottom. It's second only to companionship. The single category of love-affection-sentiment is *below* sex.<sup>5</sup>

Sex is compulsory in marriage. A husband can legally force his wife to have sexual relations with him against her will, an act which if committed against any other woman would constitute the crime of rape. Under law, "a husband cannot be guilty of raping his own wife by forcing her to have sexual intercourse with him. By definition, the crime [of rape] is ordinarily that of forcing intercourse on someone other than the wife of the person accused."<sup>6</sup> Thus the threat of force is always present even if it is not necessary for the man to exert it—after all, most women are aware of the "right" of the husband to insist on and the 'duty' of the wife to 'submit'!<sup>7</sup> to sexual intercourse.

It is clear that the compulsory nature of sex in marriage operates to the advantage of the male. The husband theoretically has the duty to have intercourse with his wife also, but this normally can not occur against his will. Furthermore, as far as the enjoyment of the sex act is concerned, figures show that men (with the exception of impotent men who generally cannot have sex at all) nearly always experience orgasm when they have sex. Women, however, are not so fortunate. Surveys have shown that:

fifteen to twenty percent of all [American] married women have never had an orgasm. About fifty percent reach orgasm on a "now and then" basis, meaning that they experience full culmination about one sex act out of three. Thirty to thirty-five percent of American wives say that they "usually" reach orgasm, meaning that they get there two out of three times or thereabouts. Only a very few women can claim that they have an orgasm every time they take part in sexual activities.<sup>8</sup>

Thus sex as practiced in American marriages clearly benefits the male far more than the female. Despite the emphasis that has recently been put on the husband's duty to give pleasure to his wife, this is not happening most of the time, and we all know that intercourse without orgasm is at best a waste of time. From the above figures we see that 70 percent of American wives have this boring and often painful experience over two-thirds of the time.

In Alabama's legal code of 1852 two clauses, standing in significant juxtaposition, recognized the dual character of the slave.

The first clause confirmed his status as property—the right of

the owner to his "time, labor and services" and to his obedient compliance with all lawful commands....

The second clause acknowledged the slave's status as a person. The law required that masters be humane to their slaves, furnish them adequate food and clothing, and provide care for them during sickness and in old age. In short, the state endowed masters with obligations as well as rights and assumed some responsibility for the welfare of the bondsmen.<sup>9</sup>

The following is a description of marital responsibilities:

The legal responsibilities of a wife are to live in the home established by her husband; to perform the domestic chores (cleaning, cooking, washing, etc.) necessary to help maintain that home; to care for her husband and children.

The legal responsibilities of a husband are to provide a home for his wife and children; to support, protect and maintain his wife and children.<sup>10</sup>

The word "slave" is usually defined as a person owned by another and forced to work without pay for, and obey, the owner. Although wives are not bought and sold openly, I intend to show that marriage is a form of slavery. We are told that marriage is an equitable arrangement entered into freely by both husband and wife. We have seen above that this is not true with regard to the sexual aspect of marriage—that in this respect marriage is clearly set up to benefit the male. It also is not true with regard to the rest of the marital responsibilities.

Women believe that they are voluntarily giving their household services, whereas the courts hold that the husband is legally entitled to his wife's domestic services and, further, that she *cannot be paid* for her work.

As part of the rights of consortium, the husband is entitled to the services of his wife. If the wife works outside the home for strangers she is usually entitled to her own earnings. But domestic services or assistances which she gives the husband are generally considered part of her wifely duties. The wife's services and society are so essential a part of what the law considers the husband is entitled to as part of the marriage that it will not recognize any agreement between the spouses which provides that the husband is to pay for such services or society. In a Texas case David promised his wife, Fannie, that he would give her \$5000 if she would stay with him while he lived and continue taking care of his house and farm accounts, selling his butter and doing all the other tasks

which she had done since their marriage. After David's death, Fannie sued his estate for the money which had been promised her. The court held that the contract was unenforceable since Fannie had agreed to do nothing which she was not already legally and morally bound to do as David's wife.<sup>11</sup>

Whereas the legal responsibilities of the wife include providing all necessary domestic services—that is, maintaining the home (cleaning, cooking, washing, purchasing food and other necessities, etc.), providing for her husband's personal needs and taking care of the children—the husband in return is obligated only to provide her with basic maintenance—that is, bed and board. Were he to employ a live-in servant in place of a wife, he would have to pay the servant a salary, provide her with her own room (as opposed to "bed"), food, and the necessary equipment for doing her job. She would get at least one day a week off and probably would be required to do considerably less work than a wife and would normally not be required to provide sexual services.

Thus, being a wife is a full-time job for which one is not entitled to receive pay. Does this not constitute slavery? Furthermore, slavery implies a lack of freedom of movement, a condition which also exists in marriage. The husband has the right to decide where the couple will live. If he decides to move, his wife is obligated to go with him. If she refuses, he can charge her with desertion. This has been held up by the courts even in certain cases where the wife would be required to change her citizenship.<sup>12</sup> In states where desertion is grounds for divorce (forty-seven states plus the District of Columbia), the wife would be the "guilty party" and would therefore be entitled to no monetary settlement.

The enslavement of women in marriage is all the more cruel and inhumane by virtue of the fact that it appears to exist with the consent of the enslaved group. Part of the explanation for this phenomenon lies in the fact that marriage has existed for so many thousands of years—the female role has been internalized in so many successive generations. If people are forced into line long enough, they will begin to believe in their own inferiority and to accept as natural the role created for them by their oppressor. Furthermore, the society has been so structured that there is no real alternative to marriage for women. Employment discrimination, social stigma, fear of attack, sexual exploitation are only a few

of the factors that make it nearly impossible for women to live as single people. Furthermore, women are deceived as to what the nature of marriage really is. We have already seen how we are made to believe that it is in our interest. Also, marriage is so effectively disguised in glowing, romantic terms that young girls rush into it excitedly, only to discover too late what the real terms of the marriage contract are.

The marriage contract is the only important legal contract in which the terms are not listed. It is in fact a farce created to give women the illusion that they are consenting to a mutually beneficial relationship when in fact they are signing themselves into slavery.

The fact that women sign themselves into slavery instead of being purchased has significance from another point of view. A purchased slave is valuable property who would not be merely cast aside if the master no longer liked him, but would be sold to someone else who would be obligated to care for him. Furthermore, the necessity for purchasing slaves ensured that only people with money could be slave masters, whereas almost any man can have a wife.

Given the existence of marriage and the fact that women work for no pay but with the expectation of security—that is, that their husbands will continue to “support” them—divorce is against the interests of women. Many of us have suspected this for some time because of the eagerness with which men have taken up the cause of divorce reform (i.e., making it easier to get one). When a man “takes a wife” he is obtaining her unpaid labor in return for providing her with basic maintenance. After twenty years of marriage in which she has provided him with domestic and sexual services, given birth to and raised his children, and perhaps even put him through medical school and helped him build a thriving practice, he is free to cast her aside in order to replace her with someone more exciting. If there are minor children involved, he will probably be required to provide child support—which is only fair since they are his children. If he is well off financially and the judge is sympathetic to the woman, he may be required to pay alimony; if this occurs you can be sure that he will complain bitterly and claim that it constitutes oppression for him. But what is alimony after all? Isn't it ridiculous to require an employer to give his employee severance pay when he in fact owes him twenty years' back wages? Very few women get alimony anyway. Often child support pay-

ments are camouflaged as alimony because it is beneficial to the man tax-wise to do so.<sup>13</sup>

It is hardly necessary to go into the situation a woman finds herself in after the divorce, particularly if the marriage has lasted any length of time. Her productive years have been devoted to her husband's interests rather than her own and she is consequently in no position to fend for herself in this society. She is not trained for any job besides that of domestic servant. Her only hope is to find another husband, and if she is past a certain age this may be very difficult. In other forms of slavery this tragic situation would not occur as the monetary value of the slave would ensure his security.

While wives are “owned” by their husbands in the same sense that slaves are owned by their masters—that is, that the master is entitled to free use of the slave's labor, to deny the slave his human right to freedom of movement and control over his own body—the scarcity of slaves resulted in their monetary value. Any man can take a wife and although he is legally required to support her, there is very little anyone can do if he is unable to fulfill this responsibility. Thus many women are forced to work outside the home because their husbands are unemployed or are not making enough money to support the family. This in no way absolves us from our domestic and child care duties, however.<sup>14</sup>

Since marriage constitutes slavery for women, it is clear that the Women's Movement must concentrate on attacking this institution. Freedom for women cannot be won without the abolition of marriage. Attack on such issues as employment discrimination is superficial; as long as women are working for nothing in the home we cannot expect our demands for equal pay outside the home to be taken seriously.

Furthermore, marriage is the model for all other forms of discrimination against women. The relationships between men and women outside of marriage follow this basic pattern. Although the law does not officially sanction the right of a man to force his sweetheart to have sex with him, she would find it very difficult to prove rape in the courts, especially if they have had a regular sexual relationship. Also, it is not unusual for a man to expect his girl friend to type his term papers, iron his shirts, cook dinner for him, and even clean his apartment. This oppressive relationship carries over

into employment and is especially evident in the role of the secretary, also known as the "office wife."

One of the arguments in the Movement against our attacking marriage has been that most women are married. This has always seemed strange to me as it is like saying we should not come out against oppression since all women are oppressed. Clearly, of all the oppressive institutions, marriage is the one that affects the most women. It is logical, then, that if we are interested in building a mass movement of women, this is where we should begin.

Another argument against attacking marriage has been that it is dying out anyway. The evidence cited for this is usually the growing rate of divorce. But the high rate of remarriage among divorced persons shows that divorce is not evidence for the decline of marriage. We have seen that divorce is in fact a further abuse so far as women's interests are concerned. And the fact is that marriage rates have been on the increase. From 1900 to 1940 approximately one half of all American women over twenty years of age were married at any given time. After 1940 the figure began to rise noticeably: by 1960 it had reached the rate of two-thirds of all women over twenty.<sup>15</sup>

The Women's Movement must address itself to the marriage issue from still another point of view. The marriage relationship is so physically and emotionally draining for women that we must extricate ourselves if for no other reason than to have the time and energy to devote ourselves to building a feminist revolution.

The Feminists have begun to work on the issue of marriage. It is only a beginning; however; all women must join us in this fight.

### Footnotes

<sup>1</sup> Kathie Sarachild, "Hot and Cold Flashes," in *The Newsletter*, Vol. I, No. 3, May 1, 1969.

<sup>2</sup> *Schaeffer v. Schaeffer*, 160 AppDiv 48, 144 NYS 774.

<sup>3</sup> Eugene R. Canudo, *Law of Marriage, Divorce and Adoption* (Gould Publications, 1966), p. 20.

<sup>4</sup> *Hiebinck v Hiebinck*, 56 NYS(2) 394, aff'd 269 AppDiv 786, 56 NYS(2) 397.

<sup>5</sup> Reported in *Glamour Magazine*, November, 1969, p. 214.

<sup>6</sup> Harriet F. Pipel and Theodora Zavin, *Your Marriage and the Law* (New York: Collier Books, 1964), p. 215.

<sup>7</sup> *Ibid.*, p. 64.

<sup>8</sup> L. T. Woodward, M.D., *Sophisticated Sex Techniques in Marriage* (New York: Lancer Books, 1967), p. 18.

<sup>9</sup> Kenneth M. Stamp, *The Peculiar Institution* (New York: Vintage Books, 1956), p. 192.

<sup>10</sup> Richard T. Gallen, *Wives' Legal Rights* (New York: Dell Publishing Co., 1967), pp. 4-5.

<sup>11</sup> Pipel and Zavin, *op. cit.*, p. 65. For a New York case similar to the Texas one cited, see *Garlock v Garlock*, 279 NY 337.

<sup>12</sup> Gallen, *op. cit.*, p. 6.

<sup>13</sup> *Report of the Task Force on Family Law and Policy to the Citizen's Advisory Council on the Status of Women*, April, 1968, p. 7.

<sup>14</sup> Gallen, *op. cit.*, p. 7.

<sup>15</sup> *American Women: Report of the President's Commission on the Status of Women*, 1963, p. 6.