



Commentary

Beyond Equality—Non-Monogamy and the Necropolitics of Marriage

Daniel Cardoso ^{1,2,*} and Christian Klesse ³ ¹ Department of Communication Sciences, Lusófona University, Lisbon, 1749-024 Lisbon, Portugal² Department of Communication Sciences, NOVA University of Lisbon, Lisbon, 1069-061 Lisbon, Portugal³ Department of Sociology, Manchester Metropolitan University, Manchester M15 6BX, UK; c.klesse@mmu.ac.uk

* Correspondence: daniel.cardoso@ulusofona.pt or danielcardoso@gmail.com

† CICANT—Centre for Research in Applied Communication and New Technologies, Lusófona University, <https://doi.org/10.54499/UIDB/05260/2020>.

Abstract: ‘Marriage equality’ has been a widely used slogan and mobilizing concept for LGBTQ+ rights’ movements across the globe striving for formal recognition for ‘same-sex’ or ‘same-gender’ marriages. In this article, we critically interrogate the terminology and political rationality that have given shape to ‘marriage equality’ campaigns. We demonstrate the structural erasure of non-monogamous relations and populations from the changes hoped for and envisioned in these mobilizations. The lack of any genuine and substantial concern with consensual non-monogamies (CNMs) from most of the literature in the field highlights the close entanglement of marriage with monogamy. As a result, ideas are scarce about how meaningful and adequate legal recognition and social policy provisions for a wide range of intimate, sexual, familial, and/or caring bonds or constellations on the CNM continuum could look like. We argue that the critique of the mononormativity inherent to marriage is fundamental to understanding the role of this in the 21st century. We identify the roots of the mononormativity of marriage in its governmental role as a necropolitical and biopolitical technology, evidenced by its ‘civilizing’ function in white settler colonial projects. Because of this, an expansion of the call for equality to include non-monogamous populations does not resolve but rather aggravates the problem. We conclude that any truly queer politics of CNM consequently needs to be anti-marriage.



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1. Introduction

‘Marriage equality’ has been widely adopted in social movements striving for marriage reform, seeking to legally include people of the same gender into that institution. Unlike references to ‘same-gender marriage’ (or ‘same-sex marriage’), naming the goal of the struggle ‘marriage equality’ indicates that a core value of liberal conceptualizations of social justice is at stake. Moreover, for many, this term was also more inclusive than ‘gay and lesbian marriage’ or simply ‘gay marriage’, because it sidestepped the linguistic omission of bisexual or plurisexual people’s investments into this debate (Galupo 2009; Klesse 2018a). However, this inclusiveness has its limits, because the struggles waged under its banner have usually excluded certain populations, namely people who practice consensual non-monogamy (CNM), and has been oblivious of the barriers to marriage for Black and

indigenous and otherwise racialized populations in certain historical colonial contexts. There have been continuous efforts to stretch the meaning of marriage equality, with the growing momentum of the debate about marriage rights for polygamous and polyamorous people serving as a prime case in point (Den Otter 2015; Aviram and Leachman 2015).

Depending on the legal context, the approval or legal recognition of so-called 'marriage equality' (in the sense of a right to 'same-sex marriage') by legislators or courts has existed for longer than 23 years (The Netherlands), only a few months (e.g., Liechtenstein), or is non-existent. Currently, the Human Rights Campaign (HRC) considers 'marriage equality' to have been achieved in 36 countries, and ILGA Europe¹ reports the same number for "full marriage equality" and 34 as the number of countries with "other forms of civil partnership" (when considering only countries that are UN member-states). This leaves most states without any legal provisions of such kind.

Yet, in particular after the recognition of 'same-sex marriage' by the Supreme Court in the USA through Obergefell vs. Hodges (in 2015), the time seems to be right for speculating what will happen "after marriage equality" (Ball 2016; Brake 2016; Culhane 2023). This underscores both the USA-centrism of much of the debate and the incredibly narrow interpretation of the concept. There has been much speculation on what will happen next on, or past, the frontlines of the 'marriage equality' contestations, and some scholars have started to take clues from the histories of the 'same-sex marriage' campaigns to open up avenues for achieving marriage rights for multiple partners. 'The Future of Polyamorous Marriage. Lessons from the Marriage Equality Struggle' reads the title of Aviram and Leachman's (2015) critical analysis of the litigation strategies deployed by social movements and their legal teams in the USA. The prospect of 'plural marriage' adds another facet to the idea of 'marriage equality', bringing new groups and certain forms of CNM within the orbit of legal recognition (or regulation, depending on the point of view). Consensual non-monogamy (a term which is not fully accepted even within these communities (Cardoso 2024)) is an umbrella term for non-monogamous relationship practices and intimate bonds that exceed or refuse the couple-bond and are based on transparency, mutual agreement, and ongoing negotiation. It is often used to denote practices such as polyamory, polyfidelity, relationship anarchy, swinging, open relationships, triads, quads, etc. (Cardoso and Klesse 2022b). Some CNM advocates, particularly those from within polyamory-focused communities, believe that legal recognition through civil marriage would help to address problems, such as stigmatization, discrimination, visibility, intelligibility, insecurity, but also post-separation challenges (Sheff 2011).

In this commentary, we argue that the expansion of a 'marriage equality' strategy aimed at incorporating CNM relationships is problematic. We argue that the concept of 'marriage equality' rests on a misguided understanding of the potential for social justice that is supposed to reside in access to the institution of marriage. In their single-issue focus, marriage equality campaigns often tend to share with other legal equality politics an exaggerated optimism of what they can achieve in the life of discriminated-against groups (Leckey 2015).

We reject the notion of marriage equality as a narrow political vision that has masked the multiple exclusions structuring its discourse as a campaigning tool. More importantly, in the quest for 'marriage equality', struggles for recognition inevitably validate an institution that has been in service of patriarchal, cis-normative, and hetero-normative gender relations, and has functioned as a governmentality tool for white supremacy. We argue that it is not by accident that non-monogamous relations have been excluded from the institution of marriage for centuries. This erasure has been a result of the long history of colonial racialization of non-monogamy (as a counterpoint to monogamy), with non-monogamies being a prime signifier of racialized Otherness (Núñez et al. 2021). The

continued functioning of marriage as a biopolitical and necropolitical tool for the racialization of citizenship is scarcely addressed. Resultantly, campaigns for the expansion of legal marriage rights inadvertently end up upholding modes of citizenship rooted in cis-hetero-patriarchal whiteness.

Equality is never an absolute value, it is always relational (Klesse 2007). If we want to conceive of strategies for legal relationship recognition that are ethical and operate within a wider inclusive social justice agenda, we will need to think about the substitution of civil marriage, with more flexible and less overdetermined legal frameworks. This means marriage abolition. There is promising potential for likely alternatives to emerge from within the debates on legal pluralism (C. Chambers 2017; Palazzo 2021; Croce and Swennen 2021), but their effectiveness will be hamstrung as long as civil marriage continues to exist, as we will demonstrate further on.

This commentary is structured as follows. In the Section 1, we argue why we consider the language of ‘marriage equality’—and the campaigns run under this heading—as flawed and exclusive. We show that the semantics of the political debates around ‘marriage equality’ in LGBTQ+ contexts tend to normalize assumptions about ‘equality’ and ‘sex’ that obfuscate their exclusionary nature. We further argue that this terminology reinforces essentialist assumptions regarding what marriage is supposed to be about, and has consistently excluded non-monogamous lives and rendered invisible (some) transgender and racialized experiences.

In the following section, we examine the precarious position of non-monogamy within the academic debate on ‘marriage equality’. ‘Marriage equality’ has largely been conflated with a call for marriage rights for ‘same-sex’ couples across the entire spectrum of the literature, irrespective of whether authors have endorsed or opposed the ‘same-sex marriage’ campaigns. Some positions in favor of ‘same-sex marriage’ rights have been hostile to the idea that CNM relationships may deserve legal protection and/or recognition, too. Other parts of the literature that have been critical of the mononormativity of mainstream marriage have documented pragmatic subversions of the monogamy dictum in ‘same-sex’ marriages, but have refrained from a *substantial* thematization of non-monogamies as a theoretical challenge to the hegemony of legal recognition. Likewise, even literature that has rejected the campaigns for ‘same-sex’ marriage in principle has also often failed to provide any extensive discussion of how alternative legal provisions for non-monogamous lives could look like. We argue that marriage (certainly in heteronormative, and to a slightly lesser extent in LGBTQ+ contexts) is closely entangled with monogamy as an ideal form, regardless of whether it is practiced or not. This underscores our argument that marriage in the 21st century continues to be a bastion of monogamy.

In the following section, we theorize this conflation of marriage with monogamy. We compare two alternative analytical frameworks, Roseneil et al.’s (2020) work on the ‘couple norm’ and Barker’s (2013) ‘marriage model’. We suggest that the latter is the more persuasive explanation; through it, we argue that the marriage model sustains the ‘couple norm’, and thus reproduces the inherent monogamy of the institution, rather than the other way around. In light of this argument, which highlights the operation of deeply engrained disposition against non-monogamy at the heart of the ‘marriage model’, ideas for a reconstruction of the ‘marriage equality’ argument to include non-monogamies appear to be self-defeating.

In the last two sections, we go further to argue that there are also *ethical* arguments against stretching the ‘marriage equality’ agenda to make it more (seemingly) inclusive. Taking up the work of Mbembe (2019), we develop a Foucauldian and anti-racist/decolonial perspective, to show that marriage has been an integral part of settler colonial, racial, domination, which mobilizes the cultural requirement for monogamy and anti-polygamy

discourse to shore up white supremacy. We argue that much of the literature on ‘marriage equality’ has failed to fully acknowledge this violent genealogy of marriage. This facilitates the obfuscation of how marriage in the 21st century continues to do the work not only of biopolitics but also of necropolitics.

We conclude by expanding on our main thesis that any radical queer politics of non-monogamy ought to reject marriage as an institution outright. There is no ‘equivalent’ to marriage that can be CNM-inclusive without being premised on the tacit or explicit acceptance of neocolonialism.

Before delving into the central aspect of our argument, however, we will first look in closer detail at the exclusionary impact of the omissions and underexplored assumptions encompassed in conventionalized usages of the term ‘marriage equality’, both in activism and the social science literature.

2. Beyond ‘Marriage Equality’ Arguments Reflections on Terminology and Strategy

References to ‘marriage equality’ have operated as a catchphrase to designate demands and agendas that strive for (primarily) LGB people in same-gender relationships to be able to access civil marriage². In using this catchphrase, activists and academics have narrowed the remit of identities and populations included in it, and contributed to reinforcing essentialist and naturalized ideas about what marriage is about. The ways it has been adopted by LGBTQ+ movements have generally used it to designate demand for ‘same-sex’ rights, i.e., the access of lesbian, gays, and—even if not usually vocalized—bisexual people in ‘same-sex’ couple relationships to civil marriage (Stacey and Meadow 2009; Galupo 2009).

The points of reference in the demand for equality have been heterosexually-perceived people and their model of marriage (civil and/or religious) that is available to ‘different-sex’ couples, in brief, ‘heterosexual marriage’ (Sullivan 1995, 1997). Within most legal systems and cultural contexts, the reference has been ‘full’ heterosexual monogamous marriage, with movement actors occasionally accepting or backing civil partnership or other legal models, primarily for pragmatic reasons—to enhance the scope for legal transformation in a piecemeal approach—or, occasionally for religious or cultural reasons (Wintemute and Andenæs 2001; Palazzo 2018, 2021; Pierceson 2013). Rarely have campaigning groups elaborated proposals that significantly diverged from this (for analysis and exceptions, see e.g., Cardoso 2014, 2019; Cardoso and Klesse 2022a; Vitorino 2009; Colling 2015), and such a move would take the debate far beyond marriage (Santos and Santos 2023; Santos 2019; Cardoso 2015).

We take issue with the designation of campaigns under the heading of ‘marriage equality’ for a variety of reasons. In this section, we look in closer detail at the exclusive ways in which the concept of ‘marriage equality’ has been used (rendering irrelevant the concerns of non-dyadic, non-couple-based modes of intimacy). We also touch upon what we perceive to be a short-sighted definition of political strategy, which conflates ‘legal equality’ with *substantial* equality. This is a pressing issue in the case of ‘marriage rights’ campaigns when we consider the patriarchal and colonial genealogy of the institution. This last aspect will be an issue for discussion throughout the whole commentary.

The term ‘marriage equality’ has been a rallying point and mobilizing slogan for campaigns for marriage rights for people in ‘same-sex’ couple relationships by LGBTQ+ movements and their allies for many decades. Some have preferred this term over alternatives because they considered it more inclusive as compared to other alternatives, which all come along with certain problems (Galupo 2009). The term ‘gay marriage’ has rightly been criticized for rendering bisexual and queer-identified people in ‘same-sex’ relations invisible. Although ‘gay’ has historically been used as an identity label for people

of different genders, nowadays it is often perceived as having an androcentric bias. The concept of 'same-sex marriage' is also used widely across the literature. Considering that that category of 'sex' continues to provide a key reference point in many legal regulations, there is certainly some justification for using this category.

We maintain that the usage of the term is problematic because it does not reflect the lived experience of some transgender people, and risks overemphasizing the category of 'sex' (van Anders 2022; Butler 1999; Pereira 2012), unwittingly reinforcing biologically essentialist interpretations of gender identities (Butler 1999). Speaking of 'same-gender marriage' would allow for more flexibility, cultural contingency, and personal identification; however, it fails to acknowledge the continuous investment in the notion of sex in many marriage laws, as the UK's "Marriage (Same Sex Couples) Act" clearly indicates. Moreover, the assumption of gendered 'sameness' as a requirement for applicability further erases fluidity and diversity, which is a striking feature of identifications on the trans* spectrum (Halberstam 2018). While conscious of some of these issues, many monographs and edited volumes on 'marriage equality' do not address these problems, and their implications, in detail (e.g.,: Bernstein and Taylor 2013; Ball 2016; Brake 2016; Galupo 2009; Barker 2013; Hull 2006; Brake 2012; Polikoff 2008)

Terms like "same-assigned-at-birth-sex marriage" or "legal-sex same-sex marriage" would render the 'sex' in 'same-sex marriage' less self-evident, but they are certainly a mouthful; more technical terminology like "gender/sex"³ (van Anders 2015) would avoid both issues but perhaps not garner as much mainstream intelligibility. As said above, the term 'marriage equality' seems to sidestep many of these linguistic and representational problems. However, it is only more inclusive on the surface, as it simply hides the gender/sex related assumptions and regulatory requirements that are built into existing marriage laws. Moreover, the conflation of the term with the struggle for LGB ('same-sex') marriage erases the concerns of those in plural relationships, i.e., people from within CNM communities. Paraphrasing Chandler (2013), the unsaid and unremarked often are the key to identifying hegemonic positions.

In brief, it is epistemically and ethically concerning when such terms are used as-is in academia, as if they were merely neutral descriptors (Cardoso 2024). We argue such usage indicates a pervasive investment into a universalized idea of what marriage needs to look like, and what it is supposed to be about. It reinforces claims about the alleged nature of marriage (as a majority-centering project), and masks normative exclusions.

A more accurate terminology is possible. For example, we could highlight the cisnormative⁴ and mononormative⁵ assumptions at the heart of most of the relationships or legal frameworks usually dubbed this way by talking of "cistemic⁶ monogamous marriage." Following a play on words common in trans-activism, this term could address marriages that are possible only for people who are recognized as one of two legally available gender/ses in most of the world (including people who, while being transgender, have a legal identification that matches their identification)⁷.

We used this terminology in a previous draft, but many reviewers found it too confusing. We settled for using the term 'same-sex marriage' in quotation marks to indicate our distance to the term, wherever it is warranted in a specific legal or activist context. It may take some time for academic terminologies to shift, and for viable alternatives to emerge and establish themselves. For us, this is not a minor point. The reductionism of 'marriage equality' comes with a price. It fails to do justice to the diversity of relational practices, in terms of gender, sexuality, and intimate constellations. And while we acknowledge that there are often strategic rationales behind such phrasings, their effects cannot be willfully determined by those who use them. As Spivak (1994) notes, when strategic essentialism is seen as *actual* essence, it stops functioning as intended. Considering this, we resort to

using scare quotes (e.g., ‘same-sex marriage’) to denote our critical use of these terms and to allow the reader space for a critical stance on these terms.

So far we have interrogated the terminology and established that ‘marriage equality’ primarily stands for the access of LG(B) people to monogamous couple-based marriage in the current debates (Klesse 2007, 2016). In the rest of this section, we also briefly consider some concerns regarding political strategy.

For many of its proponents, seeking ‘marriage equality’ seemed to be apt because the exclusion of marriage appeared to epitomize a painfully felt inequality, i.e., an exclusion from citizenship proper (Sullivan 1997; Whitehead 2012). It frames the question of legal regulation and intimate bonds as a matter of intimate and/or sexual citizenship (Plummer 1995; Richardson 2000; Bell and Binnie 2000). “Activism from mainstream LGBTQ organizations has long prioritized access to marriage as a proxy for equal citizenship”, argue also Rhoten et al. (2021, p. 872). For them, the limitation of the campaign to the rights of certain populations that can successfully place themselves within certain categories of sexual orientation, who embody and identify with ‘sex’ in an unequivocal cis-gendered manner, and who express their intimate bonds within a dyadic relationship (that either is or can be read as monogamous) indicates the bankruptcy of this concept of ‘equality’. This is not universal equality, but only equality for some, which paradoxically renders equality as privilege (p. 873).

Yet the ‘marriage equality’ rhetoric also tends to operate on the grounds of a conflation between one specific extension of a right, and the achievement of full rights or ‘equality’. Scholars such as Leckey (2015) have pointed out that campaigns for *formal* legal equality may simply fail to deliver *substantial equality* (p. 5). There may be different reasons for this: legal achievements may never materialize the benefits hoped for; impacts may be contradictory or uneven; legal gains may be dismantled subsequently; the advancements of marginalized groups may trigger unexpected backlash; the inclusion of some may cause collateral damage for others, especially those left behind by the changes. These are pragmatic questions as much as they are ethical questions. As we will show in the next section, many of these concerns have been raised by opponents against the ‘marriage equality’ campaigns *from within* LGBTQ+ communities.

All these issues invite us to critically scrutinize equality claims in the contexts in which they are articulated. Equality is taken to be a key value in liberal democratic theory. Yet, as critics from within queer, feminist, and anti-racist movements have pointed out, equality is never a value in itself; it has to be seen as a *relational* value that only unfolds its ultimate validity if the rights, status, provisions (or what-ever is at stake) can be said to advance a wider agenda of social justice. If the goal is to get access to an institution that is inherently exclusionary, built upon the reproduction of oppressive gender/sex hierarchies and colonial practices of governmentality, such as marriage (Rubin 2007), the value of equality itself becomes questionable (Wilson 2010; Klesse 2007). For these reasons, too, we consider appeals for CNM activists to learn from the strategies of the LGBTQ+ marriage campaign movements to advance their own rights campaigns (Aviram and Leachman 2015; Sheff 2011) as problematic.

In the following section, we proceed to deepen this argument by exploring how non-monogamies have figured in the academic literature on ‘marriage equality’ or ‘same-sex marriage’. While there have been positions that are outright hostile to non-monogamies, swathes of the literature sidestep the topic or render it intellectually precarious. We will later argue that the precarious position of non-monogamy in both social movements and scholarly debates is not accidental at all. For us, it is bound up with the key processes of power and regulation bound up with civil marriage as a political project.

3. The Precarious Position of Non-Monogamy in the Literature on ‘Marriage Equality’

Current research on ‘marriage equality’ as articulated from within LGBTQ+ social movements and researchers concerned with LGBTQ+ rights has grappled with myriads of changes in how the institution has been perceived, practiced, legalized, and politically debated. The field is too complex to even try to do justice to its enormous reach. In the following, we will look primarily at the literature from hegemonic geopolitical spaces. We will first identify some key themes in the debate and then address the question of how non-monogamies have figured within these debates. It is important to recognize that LGBTQ+ movements have always been divided about the relevance of the question of civil marriage rights (Walters 2001; Hull 2006). The critique of marriage and a commitment to non-monogamous ways of life have been a feature of some LGBTQ+ activism for a very long time (Gay Liberation Front 1971), and have survived primarily in feminist and queer currents of the movement (Auchmuty 2004; Wilson 2010; Warner 2000). In mainstream activist spaces, the question of relational, and especially of marriage, rights has gained center stage over the decades.

As various authors have shown, academic research on civil marriage has been done from innumerable perspectives, highlighting different aspects (e.g.,: Ball 2016; Barker 2013; Bernstein and Taylor 2013; Brake 2016; Culhane 2023; Galupo 2009).

We identify here the following themes as being significant:

- (a) The pros and cons of ‘marriage equality’ politics (Sullivan 1997; Baird and Rosenbaum 1997; Conrad 2009);
- (b) Analyses of victories and defeats with regards to certain legal campaigns and struggles (Kollman 2017; Mello 2004; Pierceson 2013; Tiernan 2020);
- (c) The globalization and transnational dimension of ‘marriage equality’ politics (Paternotte 2015; Kollman 2007; Badgett et al. 2024; Pierceson 2013);
- (d) Changes in activist strategies within regards to ‘marriage equality’ and the wider spectrum of LGBTQ+ rights (Whitehead 2012; Stulberg 2018; Chauncey 2004; Hull and Ortyl 2013; Haider-Markel and Taylor 2016);
- (e) Concrete changes in legal innovations around relationship recognition, parenting and filiation, including marriage and non-conjugal relationships (D. L. Chambers 2001; Barker 2013; Tobin 2023);
- (f) Changes in marriage as a symbolic institution (Coontz 2006; Schroedter and Vetter 2010; Palazzo 2021);
- (g) Sociological inquiries into the lives of LGBTQ+ people who have entered marriages or civil unions (Heaphy et al. 2013; Heaphy and Hodgson 2021; Badgett et al. 2024; Dush and Manning 2021);
- (h) Socio-legal explorations of the ethics and/or practical feasibility of marriage rights for different CNM populations, ranging from polygamy to polyamory (Goldfarb 2020; Kilbride and Page 2012; Den Otter 2015);
- (i) Legal alternatives to marriage (Polikoff 2008; C. Chambers 2017; Croce and Swennen 2021).

One of the most significant lines of debate has of course been drawn along those who argue that civil marriage will lead to the normalization of LGBTQ+ people (Fischel 2016), and those who argue that LGBTQ+ people, too, like everybody else, may just want to be (seen as) ‘normal’ (Coleman-Fountain 2014).

Non-monogamies have been merely tangential to many of the debates above (for instance, those on theme (g)). They have been of central concern to others (e.g., those on theme (h)). We now comment on some of the core positions non-monogamies have been made to occupy, in a debate characterized by a mix of demonizing, silencing, and

subordinating. Debates about plural marriage, focused especially on CNMs and polygamy, are much more recent, and frequently poorly connected to the ‘same-sex marriage rights’ campaigns (Aviram and Leachman 2015; Klesse 2016).

3.1. *Demonizing Non-Monogamies, Civilizing and Normalizing Queers*

Research into social attitudes has consistently linked both religion and conservative political ideology with resistance to ‘same-sex marriage’ (Van Der Toorn et al. 2017). Of course, the two sets of worldviews do not have to go together at all (Klesse 2022), but in many cases, they meet in a shared commitment to traditional values, including ideas about family, sexuality, propriety, and gender normativity (Emens 2004; Grigoropoulos 2024). Many politically conservative and religious objections to ‘same-gender’ civil marriage reject it because of a deep investment in the idea that the family is a heterosexual institution that safeguards traditional, heteronormative gender roles and—since it confirms a monogamous conjugal bond—also keeps in check sexual license and permissiveness, creating a bulwark against promiscuity.

To the extent that homophobia comes into the mix, religious and conservative opposition to ‘same-sex marriage’ is also driven by stereotypes of gay male promiscuity (Bronski 2000; Klesse 2007). Opposition towards LGBTQ+ demands for ‘marriage equality’ (as defined as access of ‘same-sex’ couples to monogamous civil marriage) often suggested that ‘gay marriage’ (the discourse has often targeted men in specific, here) will ‘destroy’ marriage by eroding its mooring in a culture of monogamy. This anti-promiscuity discourse is further bolstered by specific ‘slippery slope’ scenarios, according to which the opening of marriage to LG(B) people would ultimately lead to further demands by other ‘undesirable groups’, such as polygamists and polyamorists for the legalization of their plural unions (Stacey and Meadow 2009; Sheff 2011; Pérez Navarro 2017; Cardoso 2014; Stacey 2003). Depending on the intended use, slippery slope rhetoric draws on moral panics (Altheide 2009; Fahs et al. 2013) to evoke horror, disgust, or dystopian visions of the end of civilization, though at times they may be presented in rationalistic narratives, envisioning the end of the institution of marriage alone. In the USA, journalist Stanley Kurz produced a range of articles that paraded slippery slope arguments. For example, in 2003, she argued:

“Once we say that gay couples have the right to have their commitments recognized by the state, it becomes next to impossible to deny that same right to polygamists, polyamorists, or even cohabiting relatives and friends. And once every one’s relationship is recognized, marriage is gone, and only a system of flexible relationship contracts is left”. (Kurtz 2003)

As Klesse (2018a) has argued elsewhere, slippery slope arguments often further mobilize specific racializing tropes, exploiting the association of racial or ethnic subjectivities with excessive sexualization (Mercer and Julien 1987). In the face of the vulnerability of LGBTQ+ rights politics towards such misrepresentations, many ‘marriage equality’ activists adopted an extremely cautious approach, avoiding any association between LGBTQ+ struggles and non-monogamy, polyamory, or polygamy (Cardoso 2014; Aviram and Leachman 2015; Santos 2019). We will later show that this dynamic complicates the relationship between respectable mainstream LGBTQ+ rights politics and CNM activism up to the current date.

Again, the debate in the United States proves paradigmatic. Building on the critiques of the practice of sex with multiple partners by some gay male authors, such as Larry Kramer and Randy Shilts, in the 1980s, during the early years of the HIV/AIDS epidemic, in the 1990s a more distinctively ‘gay conservative’ politics was emerging. It crystallized around three key objectives: a break of gay politics with left-wing agendas, the contestation of the representation of homosexuality with gender deviance (i.e., the association of gay men with effeminateness and of lesbian women with emasculation), and a rejection of the

sex-positive cultural values of, at the time, gay liberation. [Robinson \(2005\)](#) also considers authors such as [Rotello \(1997\)](#) and Michelangelo [Signorile \(1998\)](#) within this formation, even if they contest the label conservative, critical as they were of sexual license and 'casual sex'.

Anti-promiscuity sentiments also blossomed in the context of the campaign for 'marriage equality'. For some authors, embracing the institution of marriage will not only welcome lesbians and gay men into full citizenship, but it would also further 'civilize' gay men by providing cultural backing and a normative framework for stable, committed, monogamous long-term partnerships ([Sullivan 1995, 1999](#); [Eskridge 1996](#)). These kinds of arguments were taken on and contested by those who wished to retain the spirit of gay liberationist, sex-positive, counter-normativity ([Dangerous Bedfellows Collective 1996](#); [Warner 2000](#)).

These new voices of gay conservatism were opposed by activists of the early waves of queer activism and figured prominently in the arguments of queer theorists on the question of 'same-sex marriage'. Queer arguments against marriage stated that the participation of gay men and lesbians in such a heterosexual monogamous institution would curtail the rich diversity of sexual, intimate, and familial practices within queer communities. It would foster conformity and result in the creation of even more stigma for those who decide to stay outside of marriage ([Warner 2000](#); [Berlant and Warner 1998](#); [Klesse 2007](#)). Moreover, it would reproduce an exclusivist institution that does not care about providing rights, benefits, and protections for those who are non-monogamous, single, or prefer to be unmarried ([Butler 2002](#)). Lesbian-feminist or queer-feminist arguments echoed these concerns but highlighted to a much stronger extent the effect and impacts of hetero-patriarchal scripts and traces within marriage culture ([Card 1996](#); [Willey 2016](#); [Duggan 2002, 2014](#)).

Within the camp of early queer theory, the rejection of marriage prevailed, with only a few scholars suggesting the entrance of lesbians and gay men into this heterosexual institution would in the long-term inevitably alter it, opening spaces for transforming it from within ([Hunter 1995](#)). More recent sociological research into LG(B) marriages speaks to these early fears and hypotheses from within queer and queer-feminist positions ([Hopkins et al. 2013](#)). For example, [Green \(2013\)](#) reports that, in contradistinction to the expectation of monogamy documented for heterosexual marriages, in his qualitative study two-thirds of 'same-sex' spouses did not take monogamy for granted (40% of the women and 60% of the men, in a total of 30 in-depth interviews) and nearly half of the gay male couples (47%) had adopted a negotiated non-monogamous practice (p. 388), many only becoming non-monogamous after marriage. For Green, 'same-sex' spouses do not simply reproduce heterosexual scripts and 'depart from and innovate upon the traditional marital ideal by adopting explicit non-monogamous sexual norms and practices and through a highly negotiated domestic division of labor' (p. 395). [Heaphy et al.'s \(2013\)](#) study of UK young couples in civil unions in the UK reports a high expectation of this 'new generation' of formally partnered 'same-sex' couples to be monogamous. However, the meaning of monogamy was frequently negotiated (rather than simply being assumed), and a minority of couples had non-monogamous arrangements, some from the start, other from later on in their civil partnership. In a later article on the study, [Heaphy \(2018\)](#) suggests that while couples in the study embrace an ordinary life, this ordinary-ness ought to be understood in its dual nature of being both reproductive of the conventional and innovative, i.e., both normative and non-normative at the same time. In a further re-reading of the data, [Heaphy and Hodgson \(2021\)](#) reinforce the argument of the complex ambiguity of negating non/monogamy across time and within the context of partnership and community ideals, leading to intimate lives that are both conventional and deconstructive of heterosexual scripts.

Inspired by [Harding's \(2011\)](#) study into family law and 'legal consciousness' and interested in how law impinges on LGBTQ people's narratives, and intimate and sexual practices, [Maine \(2021\)](#) used interviews to show how LGBTQ individuals in the UK construct resistant (or what he calls 'homoradical') sexual practices through non-monogamy, kink and public sex—in the face of available 'same-sex marriage' regulations. Maine suggests that people enact resistant practices against their backdrop of variable experiences of and relationship to 'marriage, often as conscious resistance towards it.

All these studies complicate predictive claims of 'normalization' made by different actors and scholars in the 1990s debates, including those by queer theorists. There is certainly more scope for ambiguity. At the same time, it is important to note that the queer critique has always been more complex than simply suggesting that LGB people who marry will be caught in an assimilationist trap. In the same vein, we do not argue that this normalization acts deterministically over individual intimate lives, but rather politically over historically-defined subjectivities.

Arguments by [Butler \(2002\)](#) and [Warner \(2000\)](#) have also pointed to the normative function 'same-sex marriage' will have for those who by either will or the effects of legal definition will remain outside the sanctioned state of marriage, stressing the material inequalities condoned by a narrowly defined exclusivist institution. Moreover, even if we assume that 'same-sex marriage' carries the capacity to sustain and condone non-monogamies, it does so on an extremely narrow ground: within a legal framework that enshrines the core-couple, inevitably creating distinctions between those who are married and those other friends, fuck buddies, lovers, partners, etc. who may—depending on the arrangement—share moments, the bed(s), household chores and child-rearing.

This inequality can be painfully felt as being of secondary importance to the relationship ([Klesse 2007](#)). Moreover, Melanie Heath's ([Heath 2013](#)) article, published alongside [Green's \(2013\)](#) study in the same edited volume, reports that a male couple in her study felt they received a lot of disapproval from those around them for communicating that they were non-monogamous in their marriage, obviously a decision that was seen to be incompatible with the commitment symbolized by the institution (p. 284). [Maine's \(2021\)](#) research, on the other hand, suggests that many people do not get all too impressed by such disapproval.

Overall, this section shows that non-monogamies have been a controversial issue in LGBTQ+-driven 'marriage equality' politics and scholarship. Politically, religiously, or morally conservative actors and factions, both among opponents and defenders of 'same-sex marriage' rights, have insisted on the foundation of marriage in monogamy. Some research suggests that the mononormative definition of marriage is renegotiated pragmatically by 'same-sex' spouses or couples in 'same-sex' civil unions, indicating traces of counter-normativity within the ordinary. At the same time, LGBTQ+ non-monogamy and sexual dissidence have continued as a practice in the face of the availability of the law (to some). While it is important to see changes around the discourse and practice of the entanglement of marriage/monogamy, the spaces opened for non-monogamous experimentation within marriage through 'same-sex marriage' regulations remain overdetermined and confined by legal hierarchies reinforcing and securing the prioritization of the couple-bond ([Roseneil et al. 2020](#)) and, as we argue, of whiteness.

In the following section, we look at some of the key themes that have emerged in the literature explicitly critical of marriage as monogamy.

3.2. Critiquing Monogamy—Deconstructing Marriage

There has been a long history of feminist critiques of monogamy. According to [Willey \(2016\)](#), feminist rejections of monogamy evolved around a successive set of concerns in-

cluding the oppression, exploitation, and disenfranchisement of women in heterosexual marriages, followed by ideas of women's sexual liberation, opposition to women's patriarchal oppression, queer critiques of reproductive familialism and activist problematization of privatized domesticity (p. 5). Willey shows that class, race, and gender are deeply and inextricably enmeshed with cultures of monogamy in their normative ordering of the world, in ways that are especially harmful for those identifying with femininity, racialized Others, gender non-conforming peoples, and others. Klesse (2018b) expanded this analysis by exploring the distinctive contributions of 19th-century anarchist and communist feminists, such as Emma Goldman and Alexandra Kollontai, different identity political currents within the so-called 2nd wave from the 1970s until 1990s (radical feminists, lesbian feminists, bisexual feminists, Black feminists) and queer feminists (and allies) from the 1990s onwards (including Jillian Deri, Mimi Schippers, Nathan Rambukkana).

Lesbian, bisexual feminists, and queer feminists have been vital voices in this tradition (see also Klesse 2020). For example, Adrienne Rich's famous text 'Compulsory Heterosexuality and Lesbian Existence' (Rich 2007) analyses marriage as a key patriarchal institution that subjects married women to the control of a male partner and isolates them from other women. Marriage—and by implication monogamy and heterosexual romance—are thus key obstacles to lesbian feminist consciousness, community formation, and organizing. This lesbian feminist text has been extremely influential in emerging critiques of mononormativity in CNM scholarship, as evidenced by the publications of Emens (2004), Heckert (2010), and Rothschild (2018). Rosa's (1994) work has provided an even more explicit critique of monogamy as an ideological and political tool of privatization. Her lesbian feminist platform of 'anti-monogamy' does not so much envision non-monogamy as a form of sexual experimentation and liberation (though that is implied), but primarily a utopian technique for the transformation of a women-centered culture of solidarity and friendship. Marriage—whether heterosexual or LGB—is antithetical to lesbian feminist politics in these analyses.

Bisexual feminists, too, have provided a plethora of critiques of monogamy (for an overview see Klesse 2020). Their theorizations of non-monogamy mirrored many of the lesbian-feminist ideas, although their definition of authenticity carved out legitimate spaces for erotic or intimate bonds with men. Non-monogamy has been seen as a matter of bisexual feminist autonomy (Gregory 1983) or an ideal-typical bifeminist standpoint (Murray 1995). Since the 1990s, both lesbian feminist and bisexual feminist theorizations of non-monogamy have increasingly ventured towards queer perspectives and often assumed a stronger sex-radical emphasis (Gustavson 2009; Wandrei 2019). In the context of queer-feminism, Rubin's (2007) 'Thinking Sex' is noteworthy because it grounds a radical queer-feminist theory of sexuality that is critical both of marriage, monogamy, patriarchy, and heterosexism/heteronormativity. It also embraces a politics of women's (queer and kinky) pleasure, without any idealization, highlighting the risks at stake, as epitomized in the pleasure/danger paradigm (Vance 1992). Pleasure has been key to the debate, but Klesse (2018b) also notes that the theoretical conversation has shifted towards criticism of normative systems as a whole, which implies that individualized or neoliberal non-monogamy is also not an adequate response to injustices of marriage (Wilkinson 2010; Deri 2015; Zanin 2013; Pascas 2018).

But let us stay with pleasure a little bit longer. Pleasure—usually with an explicit concern with male sexual pleasure—has also been high on the agenda of gay male liberationist authors and their queer theory-oriented successors (Bronski 2000; Warner 2000). Marriage was an anathema to most of them, for distinct reasons: the role of the law as a force of governmentality and regulation (Stychin 1995); 'marriage equality campaigns' as a full-on attack on the gay liberationist legacy, and on pleasure as anti-normative (Foucault 1994a,

1994b; Pascoal and Cardoso 2024), a force of normalization—driven by conservative morals, misguided beliefs of the promises of liberal justice, inapposite capitalization on privilege, and subjection to neoliberal marketization (Warner 2000). Within gay politics, this gave rise to a dynamic dubbed the “queer wars” by Robinson (2005) i.e., the polarized debate between gay male conservatives (of different *couleur*) and queer militants we described in the previous section. It is worthwhile to highlight Warner (2000), one of the key authors of this period, and his endorsement of queer non-monogamy in political terms, highlighting ideas of difference (and authenticity) and emphasizing the community-affirmative, educational, and democratizing elements of sexual pleasure.

This discussion takes place against the backdrop of a dystopian narrative in which the assimilationism of the ‘marriage equality’ and ‘right to serve in the army’ campaigns drive the nails in the coffin of queer culture. Deploring the “desexualization of lesbian and gay movement and the depoliticization of queer sex in the 1990s”, Warner (2000, p. 76) elaborates on the unextractable entanglements of sex and intimacy in queer culture, giving rise to an endless universe of meaningful bonds:

“[O]nly a fine and rapidly shifting line separates sexual culture from any other relations of durability and care. The impoverished vocabulary of straight culture tells us that people should either be husbands and wives or (nonsexual) friends. Marriage marks that line”. (Warner 2000, p. 116)

Beyond the symbolic power of marriage, there is also the material power, namely when it comes to parenting: “Lesbian and gay parenting arrangements very often involve three adults, rather than two, a situation that is denied by the attachment of parenting rights to marriage” (Warner 2000, p. 120).

Much of the feminist and queer-feminist legal commentary is concerned with the injustice involved in limiting benefits, rights, and provisions to romantic couples, to the detriment of complex lived care arrangements; hence seeking legal alternatives (Culhane 2023; Palazzo 2021; Brake 2012; Fineman 1995; Polikoff 2008). The emerging literature that critiques civil monogamous marriage is necessarily diverse: the legal, economic, social, and cultural implications of marriage differ widely depending on jurisdiction and geopolitics. And yet, few studies explicitly address the wants or needs of non-monogamous populations (Rye 2024; Stasińska 2024; Cardoso 2019; Cardoso and Klesse 2022a; Gupta et al. 2024). Those who have done so, have tended to limit themselves to discussing more ‘acceptable’ forms of CNMs, such as polyamory, while shying away from the more controversial—and implicitly or explicitly racialized—topic of polygamy (usually reduced to polygyny)⁸.

Even authors who are on the bleeding edge of theorizing and analyzing the legal system, striving to understand who gets left out by the normative systems built around marriage, seem to fall prey to this. Both Palazzo (2021) and Culhane (2023) have published thorough analyses of the Designated Beneficiary Act (DBA), an existing legal provision in Colorado, USA, that functions legally as ‘marriage-like’. These studies would provide wonderful opportunities to explore potentially non-monogamous DBA-derived legal provisions. Yet, Palazzo (2021) limits herself to the consideration of dyadic relationships (though, to Palazzo’s credit, she mentions polyamory and other non-monogamies on several occasions). Culhane (2023), too, does not explore how the legal principles at the heart of the DBA could be relevant to non-monogamies.

Considering that the DBA is mononormative (a person can only enter one DBA at a time with one other person), we would have loved to see the authors take up the opportunity to address it as such. For us, this is not their individual or academic shortcoming, but indicative of the structural marginalization of CNM within the field of socio-legal studies of relationship regulations. In our view, it is the secure hegemonic position of marriage—qua monogamous institution—in the field that prevents more critical work in this area from

being undertaken, even if we assume this is part of a purposeful piecemeal strategy. Heath (2023, p. 2) refers to non-monogamies (she deliberately uses the term *polygamies*) as a type of “forbidden intimacies [...] [which] contribute to how the state defines itself by determining its limits of tolerance”. We would like to add that it is not *just* the state that is invested in this; as we have seen in the previous section, some activists are as well (Aviram and Leachman 2015; Editorial 2022; Cardoso 2014), as are many scholars (Brake 2016) and laypeople (Cardoso et al. 2021).

The growing debate on legal pluralism (Croce 2019; Croce and Swennen 2021; Palazzo 2018, 2021), and work on the abolition of marriage (C. Chambers 2017) gives us some hope. A lot of critical work remains to be done (Miccoli 2021).

We agree with Fischel (2016) that there is a profound tension between normative LGBT(Q+) politics as they have articulated themselves in the campaigns for ‘marriage equality’, and a more expansive politics around CNM. LGBTQ+ people’s participation in formally recognized models of marriage may have ‘normalized’ some forms of non-monogamy (and kink and public sex) *within* the framework of marriage, but it continues to enshrine the idea of the core couple. The state, and the wider public, continue to celebrate the idea of monogamous marriage, and most forms of non-monogamies are *outside* that frame.

We maintain that the symbolic conflation of marriage with coupledness and monogamy renders ‘marriage reform’ an unlikely candidate for providing meaningful answers to the need to legally protect diverse intimacies and familiar arrangements, of which non-monogamies are but a small fraction. This is, we posit, because of the normative of marriage carries, and how it has framed political mobilization.

In the following sections, we theoretically elaborate on this, first through the clarification of how we can understand the connection between marriage and monogamy, and then by analyzing the grim historical legacies of marriage as a technology of (racialized) biopolitical and necropolitical regulation. All this will help us grasp the political ontology of the marriage/monogamy nexus and the endurance of marriage as a key signifier of cultural integration via ‘marriage equality’.

4. Theorizing the Connection Between Marriage and Monogamy

There are manifold approaches to explaining the common conflation of marriage with monogamy (A. Phillips 1996; H. Chalmers 2019). In the following, we discuss two paradigmatic approaches that have plausibly explained the proximity between marriage and monogamy: Roseneil et al.’s (2020) work on “the couple norm” and the work of Barker (2013) on “the marriage model”. Although the terminology is similar, we argue that there is a fundamental difference between these authors’ arguments and theories. Examining it can both help elucidate the reason marriage is conflated with monogamy, and help conceptually distinguish between the normative framework of monogamy and that of marriage.

When defining the couple norm, Sasha Roseneil and colleagues state that it has historically been made to become “the very essence of ‘normal’” (Roseneil et al. 2020, p. 4), a mandate stipulating “that the intimate/sexual dyad is the basic unit of social life” (Roseneil et al. 2020, p. 24), involving “a complexly composed array of—sometimes contradictory—value-laden expectations and injunctions about the ideal couple-form and the right and proper way to be in a couple” (Roseneil et al. 2020, p. 28), and where marriage (as an ideal or as a practice) plays an important role. Importantly, the authors note that the couple norm is connected to personhood and adulthood, presenting itself as a teleological marker of “moral responsibility” and providing access to “full membership of the community” (Roseneil et al. 2020, p. 4). They also remark that “it is the couple-norm

that produces these effects, rather than coupledness per se”, and further clarify that this norm is “a regulatory, disciplining and channeling force” (Roseneil et al. 2020, p. 232).

As for the ‘marriage model’, Nicola Barker says it is meant to signal “that marriage is much more of an ideology than a fixed definition [...] which [...] may be extended to forms of relationship that are not called marriage” (Barker 2013, p. 21). Barker focuses on the structure, consequences, and ideologies involved in ascertaining what is “marriage” or “marriage-like”; when focusing on the latter element, the author notes how “intimacy, companionship, commitment, and interdependence between two people who live together” (Barker 2013, p. 34) form the cornerstone of marriage, verified through court rulings that mobilize them as justification for enacting juridical power. For Barker, the marriage model is “both the legal framework of marriage and [...] a means to reflect both [its] ideological component and its extension to non-marital relationships” (Barker 2013, p. 37). That last element is important, since “[t]he ways in which people are defining and living their intimate (or couple) relationships remain to a large extent modelled on marriage” (Barker 2013, p. 152), a model which “permeates popular consciousness as the natural and inevitable way to live” (Barker 2013, p. 153).

We find here a tension between these two ideas—the theory of the couple norm defines “marriage” as an after-effect or subordinated normative force (whether as ideology or any concrete act of marrying); the theory of the marriage model posits “coupledom” (as a version of idealized monogamy) to be the after-effect or subordinated force. We could argue that this is an axiological difference—sociologists (such as Roseneil et al. 2020) will produce sociology-centered theory, and legal scholars (such as Barker) will produce legal-centered theory.

We think the difference is based on a divergent interpretation of historical processes. They do, however, converge on marriage as a blueprint and legal frame to hold the couples in place. Barker (2013) suggests that marriage (both an imaginary script and a legal system) continues to regulate and shape coupled intimacies and, by extension, other intimacies. Roseneil et al. (2020) argue that the power of marriage has waned in the face of ongoing legal and cultural liberalization, dethroning marriage from its central position in what they call “the intimate citizenship regimes”. At the same time, monogamy-based ideals of the couple-form have changed, they claim: “Heterosexual marriage, whilst still the ‘gold standard’ couple-form in terms of social status, in many countries is no longer the only form of intimate relationship receiving state recognition, leading to the suggestion that marriage has been de-institutionalized” (Roseneil et al. 2020, p. 38), drawing on Cherlin (2004).

We argue that the ‘marriage model’ gives us a more precise formulation of the social dynamics at stake. We therefore align ourselves with Barker’s (2013) claim that marriage is the signifier that shapes the couple-norm. The couple-norm functions as a specific effect of the marriage model. The couple-norm does exist, but it exists as an operation inside the marriage model. Likewise, marriage has indeed been increasingly deinstitutionalized—but not so much that the relationship between marriage and monogamy has been inverted. Drawing on Butler’s (2024) notion of gender as having a phantasmic nature for conservatives, we argue that marriage can also operate as a phantasm, even if partially deinstitutionalized⁹.

We believe this can be historically argued in two parallel ways:

- (1) First, Foucault (1994a) has convincingly argued that there is a close connection between the sexuality and the alliance dispositifs¹⁰. According to him, the rise of the category of sexuality (more aligned with individuation and sex in ways that resonate more with coupledom than with marrying) was partially established through (not against) the alliance dispositif (more connected to marrying). Foucault points out that sexuality was engendered within, and for, the bourgeois family, at the same time that the bourgeois family drew on the alliance dispositif to assert itself;

- (2) Second, and in line with this, [K. M. Phillips and Reay \(2011\)](#) have plausibly demonstrated that in medieval Europe, marriage was the main differentiator for Christian theological thinking, even though this meant something very different from just coupledom (the data they gathered point towards plenty of non-marital, pre-marital and extra-marital sex), and even though, as they say (paraphrasing Amy Froide), “a fifth of the population never married” ([K. M. Phillips and Reay 2011](#), p. 53). Marrying was not as common as it came to be, but still “normative premodern sex was indeed organized around the spiritual and social institution of marriage [. . .] inflected by cultural differences [. . .] and by gender” ([K. M. Phillips and Reay 2011](#), p. 53). That so few people marry is not an exclusively modern phenomenon, nor is it an indication that coupledom is an organizer of marriage—quite the contrary.

This serves to reinforce our argument: focusing on marriage has preeminent relevance. The social, legal, and cultural organization of marriage is a prerequisite for our comprehension of monogamy, and of the debates around the legal recognition of ‘same-sex marriage’.

Regardless of their different positions, [Barker \(2013\)](#) and [Roseneil et al. \(2020\)](#) agree that there is a central exclusion at the heart of both marriage and the couple-norm: all forms of non-monogamy. And, as we said, that exclusion has been an organizing principle, both for anti-queer reactionaries and for homonormative activists.

In the next section, we want to push this analysis further by drawing on historical and sociological insights that posit that non-monogamies—bundled within the discourse on polygamy—have functioned as the Other, symbolizing an attack on ‘civilized’ virtue, colonial domestic bliss, racial purity, and reasoned governance. Because of this, we argue, marriage in the 21st century can be seen as a technology of power in the (modern) project of nation-building and settler colonialism, with both biopolitical and necropolitical elements. The deployment of these technologies is predicated, as we next demonstrate, on establishing an Other that is a threat to Western, colonial nations and cultures, and on using polygamy as a marker of Otherness, and marriage as a marker of sameness.

5. Marriage and (The Imperiled) Society

[Foucault \(2004\)](#) created the concept of biopolitics in the context of a series of lectures named ‘Society must be defended’. There is perhaps no greater reason for biopolitics to come into being other than the coming into being of a given society, which must then be defended. [Mbembe \(2019\)](#) carefully detailed how whiteness is infused with fear of destruction—and ‘must’ thus defend itself.

Mbembe addresses facets of racism that, in his view, far exceed what Foucault encompassed by the concept of biopolitics. As he says, “[n]ecropolitical power proceeds by a sort of inversion between life and death, as if life was merely death’s medium” ([Mbembe 2019](#), p. 38). However, racism is also at the center of biopolitics for [Foucault \(2004, p. 254\)](#): “it is the emergence of this biopower that inscribes [racism] in the mechanisms of the State”. Biopolitics emerges alongside the sexuality dispositif¹¹—“the medicalization of perversions and the eugenics programs were, in the technology of sex, the two great innovations of the second half of the 19th century” ([Foucault 1994a](#), p. 121).

Other authors have expanded on Foucault’s passing references to racism, critically developing his analysis to account for law and desire in the context of Empire-building. Ann Laura Stoler’s work is central here: “Can we understand these discourses of sexuality and race that fold into one another in eighteenth and nineteenth-century Europe outside the wide sweep of empire in which biopolitics was registered and racial taxonomies were based?”, she asks ([Stoler 1995](#), p. 53). She shows that marriage, and the legal prohibition of intermarriage in both the North American colonies and the Dutch Empire, were key to the maintenance of white supremacy.

Marriage as a biopolitical institution is not, therefore, a novel idea. In fact, Palazzo mentions this in her book's (Palazzo 2021) opening section, Klesse has demonstrated it on multiple occasions (Klesse 2018b), and Smith (2007) analyzes in great detail the relationship between marriage, class, and the biopolitics of state intervention in UK politics. Repo's (2018) work has been elucidating in showing the complex relations between race and sexuality at the intersection of life and death and of biopolitics and necropolitics. She notes that we cannot simply ascribe race to death and sex to life; "rather race and sexuality are strategically and tactically territorialized and reproduced by biopower to enact the functions of life and death" (Repo 2018, p. 55). However, Repo only mentions marriage as a tool of state intervention in passing, when paraphrasing Anna Marie Smith—"British immigration legislation [placed] more restrictions on British women than British men who brought foreign spouses into the United Kingdom" (Repo 2018, p. 45).

Going back to Melanie Heath's work on the regulation of polygamy in the USA, Canada, France, and Mayotte, we find a clear connection between the debate on marriage and racism: "the specter of polygamy has provided a different kind of racial and colonial project based on its perceived threat to heteronormative and monogamous ideals of family", she argues (Heath 2023, p. 5). In response to the risk of a slippery slope fallacy (that 'same-sex marriages' will lead to polygamy, bestiality, and so on), activists often argue that "polygamy is antithetical to progressive, liberal, and democratic values and instead fosters authoritarian regimes" (Heath 2023, p. 5), or that polyamory necessarily fosters gender inequality (Vale de Almeida 2008). As Heath argues, in line with Denike (2010), these rhetorical moves "link polygamy to racialized populations through orientalist and xenophobic logics" (Heath 2023, p. 5). We can see this in how the demonization of Mormon polygamy in the USA and Canada is enmeshed with racist connotations (Denike 2010; Ertman 2010). These arguments are also often used to draw a wedge between certain forms of CNM (e.g., polyamory) and polygamy (Klesse 2018b, 2022; Sheff 2011; Vasallo 2018). The destruction of Indigenous non-monogamies by Christian settler colonialists is another example (TallBear 2021b).

Mbembe also devotes time to analyzing the role of sexuality in the necropolitical and biopolitical construction of racialized relations, drawing on Frantz Fanon: "a racist society is one that is worried about the question of losing its sexual potential" (Mbembe 2019, p. 131); in response to that fear, whiteness protects itself by demonizing (racialized) non-monogamies. Marriage (as the intersection between the alliance dispositif and the sexuality dispositif (Foucault 1994a)), comes in "at the point where body and population meet" (Foucault 2004, p. 252), alongside race, addressing and assuaging that fear, and legitimizing necropolitical intervention, as we will show in the following section.

If the central objective of this commentary is to try and make sense, through a critically non-monogamous perspective, of what marriage is in the 21st century, it can only do so through a decolonial lens. Positing a separation between 'good' and 'bad' forms of non-monogamy is only possible if we ignore the colonial position from where those critiques stem: the threatening polygamous Other as an unacceptable attack on marriage.

Marriage's fundamental function, in the 21st century as before, is of a technology disciplinarily situated at the crossroads of necropolitics and biopolitics, meant to shore up whiteness against a racialized, promiscuous, animalistic, Other. This critical insight is erased in the 'marriage equality' framing, as well as in attempts at including 'acceptable' relationships (LGBTQ+, but also certain forms of non-monogamies) into the fold of marriage. This is true regardless of whether that erasure is strategic or not, and it is not just about semantics: it is about political subjectivities, and about who is, in the face of *that* definition of 'equality', expendable.

As a regulatory institution, marriage has functioned to shore up white supremacy in both colonial and decolonized white settler societies (Stoler 1995; Roberts 2017). The fact that research suggests that there are higher rates of interracial marriage among ‘same-sex couples’ as compared to ‘other-sex couples’ (Steinbugler 2012, 2014) does not change anything when it comes to the racialized dimension of either the interaction between partners (with race work being unequally divided, and problematic stereotypes being reproduced) or the frequent experience of racist framing of interracial intimacy or reproduction (Steinbugler 2012; Frankenberg 2005; Haritaworn 2016; Wekker 2016). The access to marriage by racial-ethnic, gender and sexual minorities, or interfaith families, can alleviate the living conditions of those specific people, but cannot, by itself, negate or change the political ontology of marriage, because it is that ontology which produces alleviation.

In the following section, we flesh out our argument: marriage is, first and foremost, a tool of racial regulation, and operates specifically through monogamy, by positing itself against ‘polygamy’.

6. Marriage as Biopolitics, Marriage as Necropolitics

We need to pull away from Foucault, or contemporary identities around non-monogamies, and widen the analytical scope to understand this crossroads of biopolitics and necropolitics. Academic and intellectual production from outside of white hegemonic geopolitical spaces, with their attending epistemologies, is fundamental to see how marriage has been part of a wider process of ‘civilizational’ techniques used by colonial powers (TallBear 2021a), connected to Christian logics of salvation and of doing ‘good deeds’ (Nuñez 2023). Working within the context of the USA, Letiecq (2024) uses the concept of “marriage fundamentalism” to “demonstrate how, since colonization, [it] has undergirded the privileging of [white heteropatriarchal nuclear families] and the perpetual marginalization of Black, Indigenous, immigrant, mother-headed, and [(LGBTQ+) families” (p. 1186).

What Geni Nuñez tells us in their analysis of Jesuitic letters is that coupledness (i.e., a relationship constituted by two people) was “not enough for it to be understood as monogamous” as it further required “that it respected the indissolubility of the bond” (Nuñez 2023, p. 20). This dual demand was forcefully applied to Indigenous populations throughout colonized territories. The goal was to quash the ‘irrationality’ and ‘animality’¹² of the indigenous populations of, in this case, Brazil (Nuñez 2023, p. 30; Caldeira 2024).

As Emilia Viotti da Costa states:

“Even when they had initially been moved by the natives’ ‘primitive innocence’, [...] the Europeans soon abandoned any such positive view and found ways of reassuring themselves of the natives’ inferiority or depravity”. (da Costa 1985, p. 43)

However, once duly captured and absorbed into the metropole, marriage was a way to further ‘civilize’ them and to ‘help’ them ascend. As da Costa shows, this is not yet the (scientific) racism that we identify from the 19th century onwards, but a form of differentiation based on religious and cultural grounds, which nonetheless “encouraged the emergence of racism as a central tenet of the Europeans’ ideology” (da Costa 1985, p. 49). Ultimately:

“Portuguese could declare war against Africans and enslave them whenever they killed Portuguese subjects; when, after being converted to Christianity, they abjured their faith; when they did not allow missionaries to preach the gospel; when they did not respect the laws of hospitality; or when their kings tyrannized their people or indulged in *crimes against nature*”. (da Costa 1985, 56 emphasis added)

These “crimes against nature” are, though not exclusively, related to sex and cultural customs (real or imagined). Among these is polygamy, or rather, the absence of marriage as understood by Christianity¹³. In this sense, marriage is mainly a system to dispense death (or to save from it) and to administer life (both the lives of whiteness, and the ‘animalistic’ lives of the enslaved bodies that have been ‘corrected’ into marrying and reproducing). [Letiecq \(2024\)](#) draws similar lines between Christianity, chattel slavery in the USA, and the survivability of racialized Others and of queer subjects.

This system stretches to the present, in the garb of faux-feminism:

“Just as in the colonial era, the disparaging interpretation of how Negroes and Muslim Arabs treat “their women” engages in a mix of voyeurism and envy—envy of the harem. The manipulation of questions of gender for racist ends, by way of illustrating the Other’s masculine domination, is almost always aimed at concealing the reality of phallocracy at home”. ([Mbembe 2019](#), p. 60)

This emphasis on non-monogamy as Other and as in opposition to marriage, not only conceals the Western phallocracy that Mbembe talks about, but also reinforces the assumption ideal that monogamy is inherently more equitable. As a result, the mainstream discourse is that “‘we’ need to protect our civilization from ‘them,’ presented as sexual barbarians (through polemics on the Islamic veil, but also polygamy and forced marriage, genital mutilations and more generally violence against women)” ([Fassin 2014](#), p. 142).

Nathan Rambukkana explores the multiple ways in which contemporary states engage in legislation aimed against certain (Othered and racialized) forms of polygamy, to “maintain a cordon of privilege around the intimate space of the nation” ([Rambukkana 2015](#), p. 89). He shows how pro-polyamory activism further incited the Othering of polygamy as a form of racialized non-monogamy. Both he and Heath make a point similar to Mbembe’s, and to [Spivak’s \(1994\)](#)—that the argument for the need to defend women’s rights results in stigma and criminalization (here, of certain non-monogamies), and is made at the expense of those very same women.

Polygamy is used as a reason to deny entry into a Western country or deny family reunification ([European Council 2003](#); [Zaccaroni 2025](#)); to further persecute migrants who are found to be practicing polygamy, due to its criminalization ([Youngmevittaya 2024](#)). It can be mobilized to force women away from their families, regardless of whether they want to or not, for ‘their sake’ ([Heath 2023](#), p. 188). Moreover, the trope of ‘visa marriages’ is a common form of racialized symbolic violence against migrant women in Western countries ([França and Oliveira 2021](#)); the list goes on.

Whiteness safeguards itself against intrusion by racialized, non-monogamous, Others, through the operation of a governmental technology of marriage. These Others, considered to be “illegal and ultimately undeserving of dignity” ([Mbembe 2019](#), p. 103), stand in contrast, not just to cis-hetero-monogamous persons, but also to (usually) white middle-class non-monogamous families who win court cases ([Rosengren-Hovee 2021](#)) or who are at least able to bring them to court ([Palazzo 2024b](#)). We witness here a “biologization of citizenship” ([Fassin 2014](#), p. 144) reliant on the marriage model, as [Palazzo \(2024a\)](#) shows, which reinscribes biopolitics in the body of the subject before (dis)allowing it as part of the citizenry.

That reliance continues to reinforce the policing of the line between ‘us’ and ‘them’ by continuing to treat marriage as aspirational, as a model. Interracial or interfaith intimacies and marriages blur boundaries but do not unhinge racialization as a key mechanism of the governmentality of marriage. We therefore do not think that marriage can be fundamentally transformed, although we note its continuous reform. Similarly, we cannot share the view of [Matsumura \(2022, p. 1958\)](#) when he states “Plural relationships, with their

permeable boundaries, capaciousness, and fluidity, provide that new frame [to displace marital hegemony]”.

This assumes that legal marriage can be reformed and that, given alternatives, people will gravitate away from marriage. This emphasis on small or medium-scale changes obstructs insights into the racialized necropolitical and biopolitical ontology of marriage. By emphasizing equality under the law solely at the level of sexual or intimate citizenship, legal scholars and activists ignore what we consider one of the most crucial functions of marriage—classist and white supremacist protectionism.

As several authors note (Morais 2025; Mogrovejo 2025; Pérez-Cortés 2025; Prado et al. 2025; dos Santos 2025), pushing the ‘marriage equality’ agenda, especially through an emphasis on romantic love, towards plural marriage assumes that the symbolic aspect of marriage is separate from its functional aspect. In contradistinction, we argue, marriage is used to *signify*. Signifying is an important function of marriage, since it is what makes possible the ‘us’ (the modern nation, the ‘civilized community’) and ‘them’ (‘backward’ sexual, racial, and gender deviants) dichotomy. Since legally functional alternatives do not signify in the same way—and since their provisos do not touch upon formal citizenship—they cannot bring about a fundamental transformation of marriage.

The regulation of formal citizenship is inextricably linked to marriage; some countries speak of *jus sanguinis* and *jus solis* and of how birth-right-related citizenship¹⁴ is closely connected to marriage¹⁵, defining who gets or does not get granted citizenship rights. No legal changes in marriage, nor expansions thereof, will alter the biopolitical and necropolitical functions of marriage. Those functions, as per the letter of the law, are not located there—marriage is fundamentally not about sexuality-in-itself, intimacy-in-itself, or kinship-in-itself, but about the state-centric project of (neoliberal capitalist) imperial whiteness.

7. All Which Is Necropolitical, Is Queer-Antithetical

Earlier in the century, Wilkinson (2010) asked “What’s queer about nonmonogamy now?” We suggest that the question regarding the potential for queering or de-queering LGBTQ+ lives and sexualities through marriage and investigations into the emergent legal agendas within CNM-related social movements are relevant and worthy goals, and acknowledge all the excellent work done in this area (Porto 2022; Poggiali and Gambogi 2018; Filho and Viegas 2019; Luterman 2023; Aviram and Leachman 2015; Aviram 2005, 2008, 2010; Cardoso and Klesse 2022a; Cardoso et al. 2013). However, we see them as partial questions, since they fail to address the central nexus of marriage—its role as a biopolitical and necropolitical system mainly designed to preserve white statehood and supremacy.

As we have shown, the terminology of ‘marriage equality’ is predicated on, and feeds into, the obfuscation of the violence committed against racialized, ‘animalistic’, non-monogamous Others. If ‘marriage equality’ has been achieved, it rhetorically opens the door for the conversation to move elsewhere—thus obscuring the necropolitical element encapsulated in the biopolitical function. Extending the existing legal affordances of marriage to non-monogamous families or configurations would not solve this issue, as we argued above. If nothing else, such extension would always rely on the application of a distinction between ‘good’ and ‘bad’ forms of non-monogamy (Youngmevittaya 2024), but not on ‘good’ and ‘bad’ forms of monogamy¹⁶.

Exploring the political ontology (Hay 2013) of marriage and its entanglement with monogamy in the 21st century, amid the rise of right-wing political extremism that targets Othered bodies (Butler 2024), allows us to understand why marriage is gaining force (even though marriage rates are falling), and how it fuels the walling up of borders, physical and otherwise. To ask about marriage rates, about non-monogamous sex escapades of

married (lesbian or gay) couples, or to demand the right for three adults unrelated by blood to cohabit—those are valid and valuable pursuits, but they do not result in the queering of marriage, regardless of what might be found by researchers and done in peoples' everyday lives.

Our approach to marriage engages with its political ontology, and while it is true that we have resorted to historical data to support our points, we would like to emphasize that data gathering and interpretation are necessarily predicated on ontological and epistemological claims. An analysis of their impact on academic knowledge-building, the terminology used, and how it feeds back into specific political imaginaries and systems of inclusion and exclusion, should not be seen as secondary to empirical research.

In that sense, research mustn't analytically conflate the legal act of marrying with the *model* that is marriage. The legal gains that have improved the lives of so many people are still predicated on the systemic annihilation—symbolic and physical—of a host of Othered lives who sit outside 'equality'. We echo Letiecq's (2024, p. 1198) call for more critical work in the field of social sciences, without which we risk "(perhaps inadvertently) fueling narratives of White heteropatriarchal family supremacy".

The radical critique of the institution and ideology of marriage, the call for its abolition, and for its replacement with alternate practices of celebration and social and legal recognition, protection, and (re)distribution that are not constrained to (but also that do not ignore) intimacy and sexuality—all these appear to us to be more adequate responses to the necropolitical and biopolitical functions of marriage (Cardoso 2015). The affordances of citizenship will only ever save some, never all. Citizenship itself is predicated upon a division between those who are 'We' (the nation) and those who are 'Others' (strangers, misfits, or unclassifiables). Marriage is a core component of the boundary-keeping that constitutes citizenship and, as Lorde (1998) famously stated, "the master's tools will never dismantle the master's house [. . .]; they will never enable us to bring about genuine change".

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Notes

¹ <https://database.ilga.org/same-sex-marriage-civil-unions> (accessed on 22 January 2025).

² This does not mean that trans people are wholly excluded from the process, as research shows (London 2022).

³ As outlined by van Anders (2022, p. 477), the concept "refers to phenomena, features, and whole people where gender and sex intertwine, both could be relevant, and/or the two cannot be disentangled easily or at all". The use of this terminology avoids the shortcomings of either using 'gender' or 'sex' and would work against the general lack of conceptual precision in this debate.

⁴ Cisnormativity refers to a regime of power that assumes that each person identifies with—and claims a gender—that aligns with or matches the sex ascribed to them at birth. It goes hand in hand with the delegitimization and/or erasure of transgender identities.

- 5 Mononormativity describes a system of beliefs and practices that enshrine monogamy as the only natural and socially desirable relationship formation, rendering problematic all forms of non-monogamy, including its consensually negotiated modalities.
- 6 This play on words works by replacing “sys” with “cis”—that is, the beginning of the word system with the word cisgender, intending to denote that the system is cishnormative, that it relies on a binary and immanent understanding of the sex/gender system, and thus erases the experiences of (some) transgender people.
- 7 Let it be noted that until recently, many countries made access to marriage for transgender people contingent on compulsory sterilization. The complexity of this debate is beyond the scope of this commentary. For a discussion of legal practices in Council of Europe states, see [Lee \(2015\)](#).
- 8 Due credit to notable outliers: [Lenon \(2016\)](#) and [Rambukkana \(2015\)](#) both explore the different legal treatment of polyamory in Canada in a comparative manner and [Kilbride and Page \(2012\)](#) and [Den Otter \(2015\)](#) fully dedicate their books to the question of legal reform regarding polygamy. These, however, are the exceptions to the rule, not its rebuttal.
- 9 A similar point was made by [Beck and Beck-Gernsheim \(2001\)](#) about ‘family’ as a zombie social category.
- 10 We use the term here in its French original for the same reasons articulated by [Callewaert \(2017\)](#), who also does an overview of the concept itself; for an in-depth analysis see [Agamben \(2005\)](#), and see [Cascais \(2009\)](#).
- 11 The class was taught by Foucault in 1976, the same year in which the first volume of *History of Sexuality* was published.
- 12 The connection between animality and the construction of racism, and of inferiority as being associated with bodily instincts, is beyond the scope of this commentary, but an important background element to such discourses, especially concerning the Christian concept of “the flesh” ([Foucault 2021](#); [Gould 2008](#); [Agamben 2004](#)).
- 13 While it is evidently true that Christianity, in its long history, has not been a singular static set of beliefs and morals, and that the role of sex, and of pleasure, throughout its intellectual history has greatly changed ([Mottier 2008](#)), the symbolic role of monogamy (understood, of course, in different ways from ours) was one of the few things which remained mostly stable—and, in fact, was inherited (as much of Christian theological work) from Ancient Greece’s concern with it. Therefore, then as now, while the everyday lived practices are mutable, marriage and monogamy as institutionalized ideals, i.e., as the “marriage model”, have shown immense resilience and an ability to project their own immutability throughout time which only serves to reinforce its hegemonic power. And while the role of marriage within the salvific teleology of Christian thinking evolved over time (from a least undesirable mode of life, to an active way of being in service to God, for instance, as scholastic thinking shifted over to considering the role of “the flesh” in sinning ([Foucault 2021](#))), marriage was ever only second to monastic devotion, and as an assumed lifelong bond, and has ever stood in absolute contrast to pleasure for its own sake; likewise, we can argue that the role of fidelity (sexual and otherwise) has only increased with time, within Christian theorizing ([Foucault 2021](#)). See also Section 4 of this commentary.
- 14 While the first version of this text was written before January 2025, the recent decision by the USA’s President Donald Trump to refuse birthright citizenship only makes the timeliness of this discussion more apparent ([Schwartz and Baker 2025](#)).
- 15 In Portugal, only on October 2019 was a law from 1967 revoked, which required women to wait 300 days before they could remarry after a divorce, whereas men ‘only’ needed to wait 180 days ([Ferro Rodrigues 2019](#)).
- 16 Contrary to what happens with polygamy, literature about whether Monogamy is morally defensible is much more recent and much smaller ([H. Chalmers 2019, 2022](#)).

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