
EDITORIAL NOTE

“Law, Marriage, and Women’s Agency: Studies from the Anglo-American and Iranian Worlds”

This issue presents a set of historical themes of vital importance to women’s lives: matters of marriage and divorce as well as visions of feminist reforms that circulated in national and transnational contexts. The authors thematically probe women’s responses to the legal dimensions enveloping their options, assess key moments of heightened feminist debate and reform around the mid-nineteenth century, and address the local inflections of transnational feminisms that sometimes undercut any presumption of global sisterhood. The collection highlights the workings of several different historical approaches to these common threads in a timeframe that extends from eighteenth-century England to 1970s North America. One author provides a detailed reading of ecclesiastical court records to reconstruct how English gentry wives in the eighteenth century used courts and their officials to protect their interests in contested matrimonial cases. Two of the authors adopt the biographical method to explore, respectively, new angles on debates about divorce in the early U.S. feminist movement and the opening of the bar to women in interwar England. A jointly authored article uses wide-ranging political and economic documents to reconstruct a missed era of heightened feminist debate when Australia was turning to self-government and manhood suffrage. We include as well a selection that performs a close reading of an iconic Iranian woman’s life narrative, written around 1914, to assess its place in subsequent Iranian feminist scholarly exegesis. Our last article, situated in 1970s North America, deals with feminist choices. It examines the confluence of circumstances that gave rise to the Organization for Non-Parents (NON), the first U.S. organization defending the rights of couples *not* to have children. This issue is rounded out by three excellent book review essays on related themes.

We open with Junko Akamatsu’s fascinating piece on “Revisiting Ecclesiastical Adultery Cases in Eighteenth-Century England.” Akamatsu offers a richly textured discussion of the Doctors’ Commons, an ecclesiastical court system that heard contested matrimonial cases. At stake in this early modern context was “separation” and not divorce, which could only be granted by Parliament. Akamatsu shows how significant the charge of adultery was to a wife’s reputation and welfare, concentrating on cases involving the gentry and those from the more wealthy middling strata. She uncovers important changes in legal strategies adopted by wives’ advocates and lawyers, what she labels a “new turn” in legal procedures in contrast to earlier eras. It was in 1770 that Lady Grosvenor, a defendant wife, prepared



a “counter-allegation” charging her husband with infidelity. By pursuing the complexity of legal cases, including what might encourage a husband to drop a case, Akamatsu challenges received assumptions about women’s legal disabilities due to a presumed “double standard” criterion. Legal historians previously had argued that the woman needed to show not only infidelity but also cruelty for a successful charge of adultery. Yet Akamatsu demonstrates that the courts took the counter-charges of men’s adultery seriously, even without the added charge of cruelty. Through careful reading of legal histories—and bringing in neglected sources including counsels’ thoughts and strategies designed to invalidate husbands’ pleas—Akamatsu provides new insights into how wives negotiated the “patriarchal power” of England’s legal system. She brings challenging insights from legal history to the heart of women’s history.

We continue with the theme of divorce in Adam Tuchinsky’s “‘Woman and Her Needs’: Elizabeth Oakes Smith and the Divorce Question.” Through the career, life experiences, and writings of Elizabeth Oakes Smith, a poet, novelist, lecturer, and activist, Tuchinsky explores the controversial proposition of divorce in public debates in the United States in the 1840s and 1850s, thereby offering an alternative perspective on early American feminism. While Smith was a “radical crusader” for women’s rights in general, she opposed divorce in particular. Her position, however, was a product of a distinct intersection of forces that has been largely overlooked in the literature on the U.S. women’s movement: the emergence of feminist organizing and the utopian socialism of Charles Fourier, the first socialist movement in the United States. According to Tuchinsky, socialists brought alternative perspectives to the tense civil society debates, including theoretical critiques of liberal market forces and individualism. The vocal adherents of Fourier also called for “free love” and sexual experimentation, and Smith’s views on divorce were shaped by the intense publicity prompted by the free love controversy. While her vision of female equality took into account matters of class and political economy, a position she shared with early socialists, she became a fierce defender of the sanctity of marriage as a necessary safeguard for women in the context of rampant sexual inequality. “On the issue of divorce, feminism and socialism shadowed one another,” Tuchinsky writes, and divided early feminists. Not all followed Elizabeth Cady Stanton’s push for the liberalization of divorce laws as a central component of the feminist platform. An overlooked figure, Smith represents a “progressivist” alternative to Stanton, adding “new complexity” to the early history of U.S. feminism.

Ren Pepitone in “Gender, Space, and Ritual: Women Barristers, the Inns of Court, and the Interwar Press” draws together two previous subjects: attention to the law and the biographical method. She follows the career of



Helena Normanton, the “first female barrister to practice” law in England after the First World War. Normanton left a rich archive of papers and primary source materials that form the basis of this empirically detailed biographical study, which Pepitone carefully positions in the context of wider societal changes and debates in early twentieth-century England. Long a target of feminist reform, England’s legal profession was forced to admit women to the bar in 1919 with passage of the Sex Disqualification (Removal) Act barring discrimination. Pepitone is most interested in the masculine culture of the law and how the Inns of Court—the legal institutions that had kept women out of practicing law, even if they completed university studies—continued to make life difficult for the new cohort of female barristers. The Inns were four legal societies that served as gatekeepers to the “upper reaches of the legal profession.” A candidate had to be admitted to study at an Inn in order to practice as a barrister. Normanton, a feminist and public figure, pushed against the rituals that constrained women’s presence at the Inns, like the segregation of men and women at mealtime or notions of proper decorum that prohibited self-advertising in the press. Yet the press actively followed her career path. Normanton publicly determined that women needed lawyers to right “economic and other injustices in women’s personal and professional lives,” including cases of rape, property disputes, and divorce. Her first case, indeed, involved a woman’s petition for divorce. Contributing to a scarce literature on women’s entry into the legal profession, Pepitone offers a sober assessment of gender integration. As she notes, of the 428 women admitted to the Inns between 1919 and 1939, only between 50 and 100 women ended up practicing as barristers.

Catherine Bishop and Angela Woollacott return us to the mid-nineteenth century, recognized in wider feminist scholarship as a time of transnational feminist ferment and debate. This certainly was the case in the United States, as we have seen in Adam Tuchinsky’s article. Bishop and Woollacott reexamine the 1850s in the Australian colonies at the “outposts of the British empire.” While located in the southern hemisphere, the colony was vitally connected to the dynamic flow of peoples and ideas around the Anglophone world. Through rich details from newspaper accounts and business ventures, the authors describe a vibrant debate about women’s rights and women’s place in the public sphere. Highlighting this early moment of feminist debate challenges the existing literature on two counts. In the first place, most feminist scholars of Australian colonial history locate the origins of formal women’s movements in the later decades of the nineteenth century. They have missed this electric debate because it was not accompanied by formal movements and organizations. But they miss it at their peril because the authors claim that the mid-century ferment set the stage for Australian women’s early enfranchisement in the 1890s.

Second, the authors challenge long-standing interpretations of a mid-century "retreat of women into the home" as part of a wider acceptance of notions of gendered separate spheres across the empire. More recent literature has challenged this interpretation in national contexts, demonstrating women's vital place in economic and business ventures in the public sphere. Bishop and Woollacott align Australian patterns with this revisionist literature, showing the ways the Australian gold rush of 1851 and burgeoning business opportunities for women inflected debate and discussion in the context of newly instituted patterns of colonial self-government. The article unmistakably illustrates the value of transnational and comparative approaches that raise new questions for the study of women's movements, a topic of long-standing interest to women's and gender historians.

Shadi Ghazimoradi in "Women Writing Women: Early Twentieth-Century Iranian Feminism and the Memoir of Tāj us-Saltanih" analyzes a feminist text hailed as a "precursor of Iranian women's life writing," which began to take off only in the later 1970s. The memoir was written around 1914 by Tāj, the daughter of Shāh Nāssir-i-Dīn of the Qājār Dynasty. Never published, it was all but lost until it was printed, to great public interest, as a magazine series in the 1970s. Its authenticity was immediately questioned, however, because of its "precociously modern style" and because, as a female-authored text, it stood alone, leaving little opportunity for the comparative analysis necessary for authentication. The memoir nonetheless has helped to shape contemporary Iranian autobiography, Ghazimoradi notes, although there are different interpretations of it. One reads it for its championing of economic, political, and educational reforms for women, as an iconic text of Iranian feminism that joined the wider transnational feminist discourses of the time. A more critical postcolonial reading sees the text as "contradictory and fractured" in its "language, form, and content." Ghazimoradi sides more with the latter interpretation but reads its noted textual ambivalences against the backdrop of the "nationalist and modernist agendas of Constitutional Iran (1906–1911)" and against Western transnational values available to the educated reading public in Iran, among them the Shah's daughter herself. Tāj knew French, was acquainted with the "classics of European literature and history," and followed contemporary journalists' accounts of Western women as role models for others. This context makes the text even more complicated, incorporating two distinct discourses of inferiority—of the female sex and the Iranian nation. Carefully dissecting the memoir for readers unfamiliar with its time and place, Ghazimoradi shows how the ambiguities of modernization and implicit notions of Western superiority infiltrated the argument, turning Iranian women's agency and space into markers of national inferiority. Ghazimoradi's particular exposition helps illuminate the fraught relationship

between Western and Iranian (or indeed other non-Western) feminisms as forged in the porous world of transnational interconnections.

Jenna Healey in "Rejecting Reproduction: The National Organization for Non-Parents and Childfree Activism in 1970s America" returns us, indirectly, to the theme of marriage, or at least to a movement that advocated the option for married couples not to have children. NON was founded in 1972 by two well-known women writers and activists, Ellen Peck and Shirley Radl. Peck, determined to claim an identity as "childless," had written a number of provocative books including one entitled *The Baby Trap* (1971). Radl's politics reflected contemporary environmental activism, which brought matters of overpopulation, development, and resources to international attention. While the leaders' formal alliance lasted only a few years, it spawned branch organizations in Canada, England, India, and South Africa. The U.S. organization was mixed sex, although made up predominantly of white, middle-class, and heterosexual women who felt societal pressures to have children, as many of their letters to the leaders of NON show. The early 1970s, Healey notes, seemed to signal a "radical re-configuration of reproductive behavior in American society," with demands for abortion, gay rights, and women's entry into the labor force as part of the debate. The childless movement was controversial on many fronts, eliciting considerable ambivalence even among early second-wave feminists who feared its impact on the struggle for women's rights. Yet paradoxically, the movement also demonstrated the power of traditional gender norms, for it affirmed monogamy, heterosexuality, and a commitment to "happier and more passionate marriages"—although unencumbered by children. While at first taking on pronatalist policies and thought, celebrating Non-Parents Day on August 1, and pressuring media outlets and TV shows, the group soon shifted to the less threatening language of choice. Childlessness was hailed as one possible choice among many others for couples. The group ultimately dissolved in the face of a conservative backlash against reproductive rights starting in the 1980s.

Denise Z. Davidson, in "The History of Marriage through the Lens of Case Studies," expands on our main theme. She analyzes four well-researched books that trace the varied fortunes of a married couple in different global settings. Each study uses marriage as an institution to address the wider legal, socio-economic, and political structures informing individual lives; together they "stretch our assumptions about the nature of marital relations prior to the late twentieth century." In "Enterprising Women," George Robb reviews books that demonstrate women's vital roles in economic development in Western Europe and the United States, thus undermining "long-standing assumptions that capitalism and industrialism pushed women out of the marketplace." His essay dovetails well with the

arguments made above by Bishop and Woollacott. Our final book review essay, by Claire Schen, is titled "Lost Stories of Women's Alliances and Networks." Each author under review relies on extensive archival materials to reconstruct informal networks and ties that strengthened women's opportunities and actions. The authors' "bottom-up" perspective demonstrates that these ties had been submerged in dominant narratives relying on official and published sources. The studies are of early modern London, a "large and rapidly growing commercial powerhouse, with international reach"; ties of female friendship in early modern Britain; a seventeenth-century scholarly community of ideas; and the connections women built in the Dutch New Netherlands in the new world. As demonstrated in our articles, new methodologies and perspectives contribute distinctly different understandings of seemingly familiar topics.

Centering on shared themes, this issue highlights the significance of legal systems for women's life experiences. It provides rich new details on the day-to-day operations of specific courts (notably in eighteenth-century and interwar England) through which women sought to promote change, independent of and in connection to explicit reform movements. It traces an intriguing process of localizing transnational patterns of feminist thought and activism in parts of the Western and non-Western worlds. Finally, the authors offer ways to rethink standard interpretations about legal, political, and social change that follow from innovative uses of archival materials and diverse methodologies—whether biography, attention to spatial and ritual patterns, literary analyses, and organizational histories.

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