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Marriage Will Never Set Us Free

Dean Spade

27–34 minutes

We must support and expand queer and trans activism centered on racial and economic justice that has never seen marriage as an answer.

That marriage is a failure none but the very stupid will deny.

– Emma Goldman

In recent years, lots of progressive people have been celebrating marriage — when various states have passed laws recognizing same-sex marriage, when courts have made decisions affirming the legal recognition of same-sex marriage, when politicians have spoken in favor of it. At the same time, many queer activists and scholars have relentlessly critiqued same-sex marriage advocacy. Supporters of marriage sometimes acknowledge those critiques, and respond with something like: While marriage is not for everyone, and won't solve everything, we still need it.

What's the deal? Is same-sex marriage advocacy a progressive cause? Is it in line with Left political projects of racial and economic justice, decolonization, and feminist liberation?

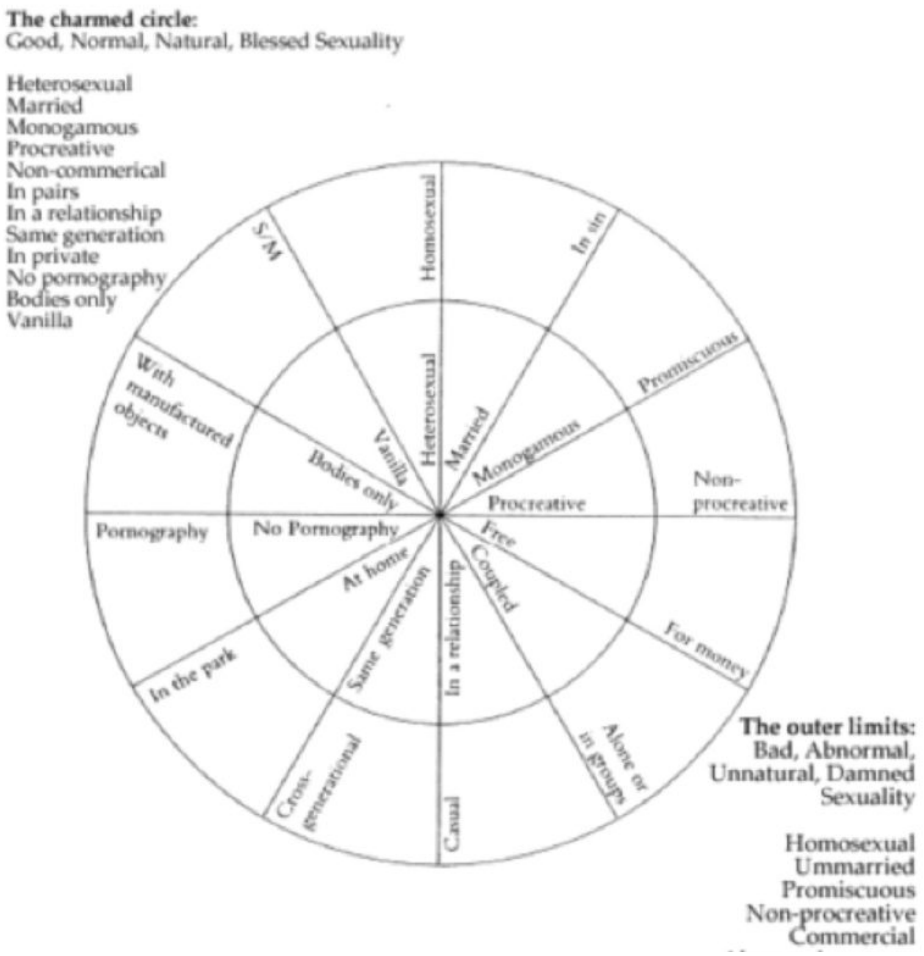
Nope. Same-sex marriage advocacy has accomplished an amazing feat–it has made being anti-homophobic synonymous with being pro-marriage. It has drowned out centuries of critical thinking and activism against the racialized, colonial, and patriarchal processes of state regulation of family and gender through marriage. It is to such an understanding of marriage we first turn.

I. What is marriage?

Civil marriage is a tool of social control used by governments to

regulate sexuality and family formation by establishing a favored form and rewarding it (in the U.S., for example, with over one thousand benefits). While marriage is being rewarded, other ways of organizing family, relationships and sexual behavior do not receive these benefits and are stigmatized and criminalized. In short, people are punished or rewarded based on whether or not they marry. The idea that same-sex marriage advocacy is a fight for the "freedom to marry" or "equality" is absurd since the existence of legal marriage is a form of coercive regulation in which achieving or not achieving marital status is linked to accessing vital life resources like health care and paths to legalized immigration. There is nothing freeing nor equalizing about such a system.

In her famous 1984 essay, "Thinking Sex," Gayle Rubin described how systems that hierarchically rank sexual practices change as part of maintaining their operations of control. Rubin described how sexuality is divided into those practices that are considered normal and natural–what she called the "charmed circle"– and those that are considered bad and abnormal–the "outer limits."



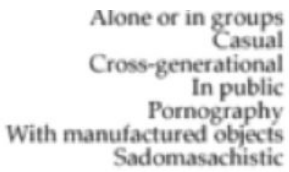


Figure 1. The sex hierarchy: the charmed circle vs. the outer limits

Practices can and do cross from the outer limits to the charmed circle. Unmarried couples living together, or perhaps homosexuality when it is monogamous and married, can move from being highly stigmatized to being considered acceptable. These shifts, however, do not eliminate the ranking of sexual behaviors; in other words, these shifts do not challenge the existence of a charmed circle and outer limits in the first place. Freedom and equality are not achieved when a practice crosses over to being acceptable. Instead, such shifts strengthen the line between what is considered good, healthy, and normal and what remains bad, unhealthy, stigmatized, and criminalized. The line moves to accommodate a few more people, who society suddenly approves of, correcting the system and keeping it in place. The legal marriage system–along with its corollary criminal punishment system, with its laws against lewd behavior, solicitation, indecency and the like– enforces the line between which sexual practices and behaviors are acceptable and rewarded, and which are contemptible and even punishable.

Societal myths about marriage, which are replicated in same-sex marriage advocacy, tell us that marriage is about love, about care for elders and children, about sharing the good life together–even that it is the cornerstone of a happy personal life and a healthy civilization. Feminist, anti-racist, and anti-colonial social movements have contested this, identifying marriage as a system that violently enforces sexual and familial norms. From these social movements, we understand marriage as a technology of social control, exploitation, and dispossession wrapped in a satin ribbon of sexist and heteropatriarchal romance mythology.

Marriage is a tool of anti-Black racism.

Since the founding of the US, regulating family formation has been

key to anti-Black racism and violence. Denying the family ties of slaves was essential to slavery—ensuring that children would be born enslaved and maintaining Black people as property rather than persons. After emancipation, the government scrambled to control Black people, coercing marriage among newly freed Black people and criminalizing them for adultery as one pathway of recapturing them into the convict lease system. After *Brown v. Board of Education*, which challenged formal, legal segregation, illegitimacy laws became a favored way to exclude Black children from programs and services. The idea that married families and their children are superior was and remains a key tool of anti-Black racism.

Black families have consistently been portrayed as pathological and criminal in academic research and social policy based on marriage rates, most famously in the Moynihan Report. Anti-poor and anti-Black discourse and policymaking frame poverty as a result of the lack of marriage in Black populations. Clinton's 1996 dismantling of welfare programs, which disproportionately harmed Black families, was justified by an explicit discourse about poverty resulting from unmarried parenthood. Under both President George W. Bush and President Barack Obama, "Healthy Marriage Promotion" initiatives have been used to encourage low-income women to marry, including at times through cash incentives. Demonizing, managing and controlling Black people by applying racist and sexist marital family norms to justify both brutal interventions and "benign neglect" has a long history in the US and remains standard fare.

Marriage is a tool of colonialism.

Colonization often casts invasion as rescuing colonized populations from their backward gender and family systems. We can see this from the land we're writing this on (Washington, D.C. & Washington State) to Afghanistan. Forcing indigenous people to comply with European norms of gender, sexuality and family structure and punishing them for not doing so has been a key tool of US settler colonialism in North America. Marriage has been an important tool of land theft and ethnic cleansing aimed at disappearing indigenous people in many ways. The US encouraged westward settlement by

promising male settlers 160 acres to move west, plus an extra 160 if they married and brought a wife. At the same time, the US criminalized traditional indigenous communal living styles, burning longhouses where indigenous people lived communally, eliminating communal landholding methods, and enforcing male individual ownership. Management of gender and family systems was and is essential to displacement and settlement processes. Enforcing gender norms in boarding schools as part of a "civilizing mission," and removing children from native communities through a variety of programs that persist today are key tools of ethnic cleansing and settlement in the US.

Marriage is a tool of xenophobia and immigration enforcement.

From its origins, US immigration law has put in place mechanisms for regulating those migrants it does allow in, always under threat of deportation, and labeling other migrants "undesirable" to both make them more exploitable by their bosses and easier to purge. Keeping out poor people, people with stigmatized health issues, and people of color have been urgent national priorities. Marriage has been one of the key valves of that control. The Page Act of 1875, for example, sought to keep out Asian women, hoping to prevent Asian laborers in the US from reproducing, but allowed the immigration of Asian merchants' wives. Marriage continues to be a deeply unjust tool of immigration control in the US, with marital family ties being one of the few pathways to immigration. One impact of this system is that it keeps people stuck in violent and harmful sexual and family relationships because their immigration status depends on it.

Marriage is a tool of gendered social control.

Feminists have long understood marriage as a tool of social control and labor exploitation. This is why feminists have worked to dismantle the mystique around romance, marriage, child rearing and care–exposing these as cultural fantasies that coerce women into unpaid labor and cultivate sexual violence. They have also worked to change laws to make it easier to get out of marriages, and

to de-link marital status from essential things people need (like immigration and health care) because those links trap women and children in violent family relationships.

Marriage is about protecting private property and ensuring maldistribution.

Marriage has always been about who is whose property (women, slaves, children) and who gets what property. Inheritance, employee benefits, insurance claims, taxation, wrongful death claims–all of the benefits associated with marriage are benefits that keep wealth in the hands of the wealthy. Those with no property are less likely to marry, and have less to protect using marriage law. Movements for economic justice are about dismantling property systems that keep people poor—not tinkering with them so that people with wealth can use them more effectively to protect their wealth.

Today's same-sex marriage advocates argue in courts and in the media that marriage is the bedrock of our society, that children need and deserve married parents, and that marriage is the most important relationship people can have. These arguments are the exact opposite of what feminist, anti-racist and anti-colonial movements have been saying for hundreds of years as they sought to dismantle state marriage because of its role in maldistributing life chances and controlling marginalized populations.

II. Common contemporary responses to critiques of same-sex marriage advocacy

You don't have to get married if you don't want to.

Same-sex marriage has been framed through a paradigm of "choice," that some of us can do this if we want to, and those that don't want to should back off and let us plan our weddings already. But such choices take place in a field of limited options already structured by legal and cultural systems. Coercive systems distribute rewards *and* punishments– marriage punishes those who do not participate in it. Saying that marriage is an individual choice hides this. Marriage is part of a system where the government chooses

some relationships, family structures and sexual behaviors as the gold standard and rewards them, while others are stigmatized and/or criminalized. Many people are not and never will be in marriage-like relationships. When proponents counter-argue that those who want to get married should be allowed to do so, the damage that the existence of a marriage system does to everyone who is not deemed acceptable through it is either erased or justified. When we look at marriage only as something individuals can choose to do or not do, we abandon any possibility of meaningful resistance or change. Individualized, aesthetic "challenges" like asking wedding guests to donate to charity in lieu of a gift or having a female "best man" become the only political action imaginable. These types of challenges do not work toward dismantling marriage as a system of rewards and punishments. Ultimately, marriage is about control, not about individuals freely choosing from a menu of options.

But marriage is about love and love is revolutionary!

As described above, marriage is about controlling people and property for the benefit of white people, wealthy people and settlers. It does so under the cover of a consumer-driven mythology about love. US popular culture is permeated by a set of myths about sex and romance that feminists have long worked to analyze and dismantle. We are told that people, but especially women, have empty, useless lives unless they are married. Women are encouraged to feel scarcity about the ability to marry—to feel that they better find the right person and convince him to marry them quickly—or else face an empty life. In this equation, women are valued only for conforming to racist and sexist body norms and men are also objectified and ranked according to wealth. These myths drive the diet industry, much of the entertainment industry, and certainly the gigantic wedding industry ($40 billion per year in the US), which is based on people's terrified attempts to appear as wealthy, skinny, and normative as possible for one heavily documented day. Feminists understand the scarcity and insecurity that women are trained to experience about love, romance and marriage as a form of coercion, pushing women into exploitative and abusive sexual relationships and family roles. Media messaging

about how essential marriage and childrearing is for women to have a meaningful life is part of an ongoing conservative backlash against feminist work that sought to free women from violence and unpaid domestic labor.

This does not mean that people do not experience love in many ways, including in romantic relationships. But the system of marriage is not about the government wanting to recognize people's love and support it—it is about controlling people and resources. Same sex marriage advocacy has bolstered conservative mythologies about how marriage is about love and is the best way to have a family.

But if I want to express my love this way, stop telling me how to be queer!

One common response to critiques of same-sex marriage advocacy is defensiveness by those who are married or want to be married. These people often claim to feel judged by the critics. This response, reducing a systemic critique to a feeling of discomfort about being individually judged, is so disappointing coming from anyone on the Left! Haven't we learned to recognize that we are implicated in oppressive systems, and even benefit from them? Don't we know how to hear a critique of a system that we're implicated in and realize that we should not silence it to dispel our discomfort, or pretend to be victimized by the critique because it is hard to recognize our own privilege? Okay, we're not great at it, but let's work on that. It is absurd for married people or people who want to marry to paint themselves as victims of judgment when someone critiques the institution of marriage while the entire society is organized to support them for marrying.

Critics of marriage are not just individual anti-assimilationists judging other individuals for assimilating. The critique of marriage is not about promoting one kind of queer culture over another, it is about material distribution. People should have whatever parties and dates they want. The point is that they should not be rewarded for that with immigration status or health care. When critiques of marriage are reduced to just being about assimilation, all the racial

and economic justice and decolonial analysis is left out, which is probably why this reductionist version gets the most play. Don't get us wrong, the anti-assimilation argument is an important rallying cry: We don't want to marry, we just want to fuck. Queer counterculture does matter, because for some people in some places and times it has been a key tool for survival and producing alternatives, but the critique of marriage should not be boiled down to an aestheticized radical queer counterculture. The anti-assimilation argument alone risks reifying the "choice model" – as if we can opt in and out of these systems. But in fact we all are implicated in heteropatriarchy, colonialism, white supremacy, and capitalism. The question becomes about how we survive in those systems while dismantling them. The goal is to build a world where everyone gets what they need and it is not conditioned on conforming to sexual, gender or family norms. Dismissing critics of marriage as judgey queers dangerously silences important conversations about movement strategy.

But it will get people health care and immigration status.

Why should anyone have to get married to get health care or immigration status? Same sex marriage advocacy is sold as a method of getting people vitally needed resources, but most undocumented queer people don't have a partner who is a citizen and most uninsured/unemployed queer people don't have a partner with a job with health benefits. People tend to date in their own class statuses so we cannot partner our way out of immigration and health care crises, nor is it acceptable for our movements to endorse that kind of coercion. Same-sex marriage advocacy is not a strategy for really attacking these problems. At best it helps a few of the most privileged get these necessities, but those in the worst circumstances see no change.

The Big Problems	The Official Lesbian & Gay Solutions	Other Queer Political Approaches
Queer and trans people, poor	Legalize same-sex marriage to allow	Medicaid/Medicare activism; fight for

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people, people of color, and immigrants have minimal access to quality health care	people with health benefits from their jobs to share with same-sex partners	universal healthcare; fight for transgender health benefits; protest deadly medical neglect of people in state custody
Unfair and punitive immigration system	Legalize same-sex marriage to allow same-sex international couples to apply for legal residency for the non-U.S. citizen spouse	Oppose the use of immigration policy to criminalize people of color, exploit workers, and maintain deadly wealth gap between the U.S. and the global south; support current detainees; engage in local and national campaigns against "Secure Communities" and other federal programs that increase racial profiling and deportation
Queer families are vulnerable to legal intervention and separation from the state and/or non-queer people	Legalize same sex marriage to provide a route to "legalize" families with two parents of the same sex; pass laws banning adoption discrimination on the basis of sexual orientation	Join with other people targeted by family law and the child welfare system (poor families, imprisoned parents, native families, families of color, people with disabilities) to fight for community and family self-determination and the rights of people to

The Big Problems	The Official Lesbian & Gay Solutions	Other Queer Political Approaches
		keep their kids in their families & communities
Institutions fail to recognize family connections outside of heterosexual marriage in contexts like hospital visitation and inheritance	Legalize same-sex marriage to formally recognize same-sex partners in the eyes of the law	Change policies like hospital visitation to recognize a variety of family structures, not just opposite sex and same sex couples; abolish inheritance and demand radical redistribution of wealth and an end to poverty

It is unethical for movements to prioritize those with the most access. We should prioritize those vulnerable to the most severe manifestations of homophobia and transphobia. That would mean putting resources toward real solutions to these problems—the struggles against immigration enforcement and for health care access for all—and bringing particular insight about homophobia and transphobia to these struggles. Legalizing same-sex marriage puts a stamp of "equality" on systems that remain brutally harmful, because a few more-privileged people will get something from the change.

A real approach to changing these systems includes asking why marital status is tied to immigration and health care access, how queer and trans people are impacted by immigration imprisonment and deportation, and how homophobia and transphobia create negative health outcomes and block health care access. There are big fights going on to stop immigration enforcement expansion, end border militarization, detention and deportation and stop health care profiteers from bleeding us all dry. Unfortunately, the biggest, richest gay organizations have not put those fights at the center–

even though they are the real pathways to addressing queer and trans immigration and health care problems–because they've poured almost everything into marriage (the rest to military service and expanding criminal punishment). Meanwhile, straight people on the Left have gotten convinced that they have to be in favor of same-sex marriage or else they are homophobic, because they have been told it will solve important problems facing queer people.

But queers will change marriage.

When people say this they are often referring to how the traditional gender roles of "husband" and "wife" will be altered by the possibility of having two women or two men as married spouses. The problem is, we already know how sadly little difference this will make. We know that queer relationships have the same rates of domestic violence (approximately 30%) as straight relationships.

We know that adding women or queers or people of color to roles where they were traditionally excluded, such as police forces or militaries, does not change those roles or the institutions that rely on them. The argument that adding same-sex couples to marriage will "change marriage" is based on a hope for cultural shift that not only fails to address that the harmful, racist and colonial structures of marriage stay firmly in place, but also ignores that same-sex marriage advocacy has produced a much stronger cultural shift that has beat back feminist and anti-racist critiques of marriage and re-valorized marriage with a romantic mystique.

Further, this argument for same-sex marriage advocacy locates marriage only in the realm of culture. Of course, culture and economy interact in complex ways, and changing cultural norms about gender and sexuality is not irrelevant. Shifting cultural norms often comes with economic rewards and opportunities, *for those*

whose status is shifted. While same-sex marriage legalization may shift the "meaning of marriage" in some symbolic ways, in no way at all does it undo the damage produced by the institution as it distributes its rewards and punishments. It just gives some of those rewards to some more people–same-sex couples with property to share, health benefits to share, and/or immigration status to share might gain something, but the growing numbers of queer and trans people who are poor, unemployed, undocumented and/or uninsured will see no change. It also further legitimizes the punishment of those who are excluded by branding marriage as inclusive and just—so it must be your fault you're all alone and have no health insurance!!

Some people also argue that same-sex marriage advocacy has improved popular opinion about gay and lesbian people, helping more people see gay and lesbian people as members of families, as parents, as ordinary couples rather than through hyper-sexualized or pathologizing stereotypes. The problem with the limited newfound acceptance won by this advocacy is that it hinges on portraying queer people as members of normative couples, reifying the stigmatization of everyone who is not. Queer politics should be about dismantling the sexual and gender hierarchies; same-sex marriage efforts are about getting those who can conform into the charmed circle. This couples' rights framework not only fails to challenge, but is actually aligned with, the ongoing expansion of criminalization of queer and trans people through sex offender registries, sex trafficking statutes and other recent tools of criminalization. Inventing a new inaccurate stereotype—one that portrays queer people as just a bunch of domesticated normative couples—is a terrible strategy if our goal is to reduce the harms wrought by systems of sexual and gender coercion and violence.

But what you want is unwinnable—we need to take incremental steps and this is an incremental step towards equality.

This is a heartbreakingly conservative argument that says there is no alternative to neoliberalism, to capitalism, to a culture based on racist criminalization and imprisonment. We are relentlessly told not to

imagine alternatives, and only to tinker with hideous systems to let a few more people in. Legalizing same-sex marriage is not an incremental step toward what queer and trans people need to reduce the harm and violence we face, it's a moment when that harm is being publicly officially resolved while in reality it worsens. The "deserving" and "undeserving" are further divided, and the institution of marriage and its mystique are rehabilitated in the name of anti-homophobia.

Same-sex marriage advocacy celebrates and promotes marriage, abandons all those punished by marriage systems, and tells us that while we shouldn't get in the way of your wedding, we certainly can't expect any solidarity from you.

III. Against inclusion

Same sex marriage advocacy has been harmful just like other political strategies that seek inclusion in a violent state apparatus– such as the fight for gay and lesbian military service. Inclusion strategies like these valorize the things they seek inclusion in. Same-sex marriage advocacy has lined up with right wing family values rhetoric and policy to undo the work of our movements to gradually dismantle marriage and separate access to key necessities from marital status. It has aligned with conservative pro-marriage ideas about romance, children, families and care that support the attacks on social welfare programs and most severely harm low-income mothers of color. It has rescued marriage from Left critique and made straight and gay people on the Left forget what our movements have taught us about state regulation of families and gender.

Inclusion arguments also require their advocates to divide their constituencies by producing narratives about how "we deserve to be included." This has meant producing a world of representations of gay and lesbian couples who are monogamous, upper class, tax-paying, obedient consumers. The stories have to focus on those who have something to lose from not being able to marry–the white European immigrants America should want, the couples who want to boost our economy with expensive weddings, the people with

wealth to pass on when they die. The promotion of this image of queer life and queer people as "rights deserving" couples who meet America's racial, class and moral norms participates in the relentless demonizing of all those cast out of the charmed circle–especially all the queer and trans people facing criminalization for poverty, participation in the sex trade, homelessness, and all those who will not reap the rewards of legal marriage.

We have been told that same-sex marriage is a grassroots movement, but this is not the case. The decision to produce the giant machine of same-sex marriage advocacy that crowds out from public view all the other anti-homophobic and anti-transphobic grassroots work happening in the US came from the top. The world of well-resourced gay rights organizations and the few wealthy foundations and donors who fund them is tiny–the gay 1%. Its agenda is made behind closed doors, and queer and trans 99%-ers only get to be reactive to these strategies, as their lives and demands are framed by corporate media and the gay elite. Some eat it up, others talk back, but ultimately, we get no say. Perhaps if the same-sex marriage advocacy story is good for anything, it's as a great illustration of the power of philanthropy to shape a movement. We have seen what some say started at street rebellions against police violence at the Stonewall Inn and Compton's Cafeteria turn into advocacy for prosecution and partnership with police. We have seen a movement birthed during and because of the radical politics of anti-war and decolonization resistance of the 1960's and 70's become focused on the right to serve in the US military. And we have seen the eclipse of queer, feminist, anti-racist and decolonial critiques of government regulation of sexuality and family norms evolve into a demand to get married under the law. It is stunning to watch, in such a short period, the rebranding of institutions of state violence as sites of freedom and equality. As the same-sex marriage fight draws to a close in the coming years and conditions remain brutal for queer and trans people without wealth, immigration status or health care, it is vitally important that we support and expand the racial and economic justice centered queer and trans activism that has never seen marriage as an answer.

Featured Image: Queer Liberation March from Bryant Park to Washington Square Park in New York City, New York on Sunday, June 27, 2021. Ash Ponders for UUSC (CC).