

# MARRIED COUPLES IN THE MIDDLE AGES? THE CASE OF THE DEVIL'S ADVOCATE

Jan Rüdiger

## 1. Stating the case

I have assigned myself an uncomfortable position to take. The devil certainly makes a hard case and probably an ungrateful defendant. I am consoling myself with the knowledge that the role of the Devil's Advocate is, or used to be until fairly recently, an essential one in a canonisation process. And while the subject of our conference – medieval marriage – hardly needs a process to enter into a canon, the simile allows me at least to retain the position of one of us. I have no desire to pose as an iconoclast.

That said, I find it intriguing that the role of the Devil's Advocate presupposes complicity with opposing counsel. The idea is that the person who, in a Roman Catholic canonisation process, argues *against* sanctity actually, personally agrees with everyone else present that the saint-to-be really ought to be a saint and only takes his role as a matter of argument. I am about to argue the case against the idea that Marriage and the Married Couple were universal phenomena in the Western Middle Ages. I am not sure that I myself am taking that stance only for the sake of the argument. So I ask you to consider the case with an open mind, while I too am prepared to be convinced. The devil, after all, has lost many cases at the Vatican.

I should like first to present my case as a hypothesis; then argue it on some very few examples; then rehearse the argument; then invite comment and adverse examples. My own examples are only by way of illustration; after all, the strength of an argument is not that you can find evidence to

87

Jan Rüdiger

support it but that you can find no evidence to contradict it. I am aware that any such evidence, as it might be supplied in later debate on this hypothesis, will affect its tenability.

My hypothesis is that 'the married couple' was an outlandish and rare concept in the social practices of Western European lay societies, all milieux, until the twelfth or thirteenth century, according to region. I understand 'marriage' as a formally contracted, potentially sexual, exclusive union of one man and one woman of some intended durability – viz., in the sense it is commonly used. By 'social practices' I mean less the occurrence of events, such as a feast or a ceremony, denoting 'marriage', than its supposed consequence, the establishment of a lasting two-person partnership – the 'married couple', usually thought to be at the core of medieval households. I should like to suggest that at the core (if that is a meaningful simile at all) there was a person – usually a man – entertaining social relationships with a number of men and women around him, some more and some less dependent and/or subordinate, making up the household or primary social group, and that many of the man–woman relationships thus constituted had, or were presumed to have, a sexual side to them. In short, medieval Europe was a largely polygynous society.

## 2. Marriage in medieval history<sup>1</sup>

Scholarship, otherwise widely divergent in premises and outlook, is overwhelmingly in favour of considering monogamous marriage to be one of the consistent features of the last two millennia or so of European history. A wealth of studies in the legal tradition, from the mid-nineteenth century on, have repeatedly underlined the importance of formally contracted marriage, whatever form it took at different points, to central areas of society: the conception of legitimate offspring; intergenerational transmission of goods, material and immaterial; the organisation of the household; the forging of alliances between kin groups (and creation of other liens of parentage); and questions of honour and shame, decency and (in infringement) immorality.<sup>2</sup> In short, there seems to be no doubt that

1. Part of what follows is an extended and reworked version of the argument presented in an earlier Danish-language publication: J. Rüdiger, 'Ægteskab – fædtes det? Jon Lopstussons kvinder', in H. J. Orning, K. Esmark and L. Hermanson (eds.), *Gaver, ritualer, konflikter. Et rensningshistorisk perspektiv på nordisk middelalder* (Oslo: 2010), 77–105. That article also provides a case study to illustrate the argument.

2. For a useful summary of the trends in research 'twenty-five years after the Goody thesis', see B. Jussen, 'Perspektiven der Verwandtschaftsforschung fünfundsiebzig Jahre nach Jack Goody's "Entwicklung von Ehe und Familie in Europa"', in K.-H. Spiels (ed.), *Die Familie in der Gesellschaft des Mittelalters*. Vorträge und

88

Europeans have for a very long time made marriage a key concept of a number of discourses, and innumerable instances of practice.

The rise of historical research inspired by ethnology has been a stimulating challenge to the older tradition of legal history, with its focus on institutions and its privileging of normative sources. Many assumptions about the pertinence of prescripts have been lastingly corrected; indeed the idea of 'legal anthropology' is to add an ethnologically informed focus on practice to the older focus on written law, and to try to get a glimpse of how seemingly anarchical practice expressed, indeed created, an order of its own. It is not surprising that studies of the ninth through twelfth centuries, a period previously labelled 'feudal anarchy', were the field in which medieval historians first, and perhaps with most impact, tried out approaches borrowed from ethnology and social anthropology. Marc Bloch's *premier âge féodal* became the arena for the most innovative research in the 1970s and 80s. Ethnologist Jack Goody's influential *The Development of the Family and Marriage in Europe* (1983) and historian Georges Duby's study of marriage in feudal France, *Le chevalier, la femme et le prêtre* (1981), proved to be enormously consequential to further studies of medieval societies with an *Annales* slant. Goody's main thesis is that the Church brought about some fundamental changes from late Antiquity onwards, accentuating the already significant difference between, on the one side, Europe and the Mediterranean, and on the other side, many other societies, such as sub-Saharan Africa. Consequently, Christian Europe departed yet more sharply from a situation that, seen in a supra-regional context, was already markedly particular.<sup>3</sup> Goody highlights four areas in the field of kinship structures in which the Church worked fundamental changes: the suppression of endogamy (relationships contracted within the same group, such as cousins intermarrying); the suppression of the levirate (a widow marrying a close relative, for example a brother, of her deceased husband) which had been fairly common in Antiquity as well as being a requirement of Mosaic Law; the disappearance of adoption; and the discouragement of polygynous practices ('concubinage') in favour of permanent monogamous relationships.

Georges Duby's great theme was the clash between two models of marriage, the 'lay' and the 'clerical' one.<sup>4</sup> During the course of the eleventh

century, clerics began to enforce a new and radical remodelling of marriage, which according to the new doctrine was to be a union of souls, echoing the marriage of Christ to his Church, and bearing the same hallmarks of voluntariness and permanence. Consent of the two persons involved, man and woman, was sufficient; although a public contraction of marriage was desirable in order to keep things tidy and avoid all the pitfalls of clandestinity, at the end of the day *consensus facit nuptiam*; the declaration of wills of man and woman alone made a marriage valid and permanent. This threatened, according to Duby, a well-established lay model of marriage, which was one of the main instruments for social groups (heavily organised along kinship lines as they were) to conclude alliances, settle disputes, or both. Duby and other historians working in the field have provided numerous impressive examples of individual fates that took a dramatic turn when the two models clashed.<sup>5</sup>

For all their obvious dissimilarities in approach and outlook, there is one thing Duby and Goody have in common: whatever form it takes ('lay' or 'clerical' for instance), the ubiquity of marriage as such is taken for granted. For Duby, the entire kinship system, indeed 'the whole society' is based on marriage, described as 'the cornerstone of social structure'.<sup>6</sup> Goody the ethnologist, in trying to refute some of the more radical historicisations of *mentalité*, goes so far as to claim that 'a conjugal relationship which is defined by relatively exclusive sexual and marital rights' is a practically universal phenomenon,<sup>7</sup> and that in pre-modern Europe, 'at the core of the network of kin relationships there was always a conjugal pair who formed the basis of a nuclear family or household'.<sup>8</sup> Historians of the Middle Ages seem on the whole to follow this powerful double example, however much they otherwise might disagree with Duby or Goody (or both). Hans-Werner Goetz, in his widely disseminated *Leben im Mittelalter* (1986), roundly declares: 'Gründungsmoment und Grundlage der

3. J. Goody, *The Development of the Family and Marriage in Europe* (Cambridge: 1983), cf. in a similar vein J. Goody, *The European Family: An Historical and Anthropological Essay* (Oxford: 2000).  
4. G. Duby, *Le chevalier, la femme et le prêtre. Le mariage dans la France féodale* (Paris: 1981), as well as several other works by the same author; cf. G. Duby, *Mâle moyen âge. De l'amour et autres essais* (Paris: 1988); G. Duby, *Dames du douzième siècle*, 3 vols (Paris: 1995-1996). Duby's views are also apparent in the relevant volumes of two influential general histories, both of which he co-edited,

G. Duby (ed.), *Histoire de la vie privée 2: De l'Europe féodale à la Renaissance* (Paris: 1985), and G. Duby, 'Il modello cortese', in C. Klapisch-Zuber (ed.), *Storia delle donne in Occidente 2: Il medioevo* (Rome and Bari: 1990), 310-29. All of these works have been translated into several other European languages.  
5. Duby, *Chevalier*, 142-50; Duby, *Mâle moyen âge*, 50-73; Duby, *Dames*, vol. 1, passim.  
6. Duby, *Chevalier*, 23: 'la clé de voûte de l'édifice social'.  
7. Goody, *European Family*, 4.  
8. *Ibid.*, 59. Cf. similar views in D. Barthelemy, 'La vie privée dans les maisons aristocratiques de la France féodale', *Histoire de la vie privée 2*, 96-162; C. Brooke, *The Medieval Idea of Marriage* (Oxford: 1989); L. Betzig, 'Medieval Monogamy', *Journal of Family History* 20 (1995), 181-215; L. Otis-Cour, *List und Liebe. Geschichte der Paarbeziehungen im Mittelalter* (Frankfurt am Main: 2000); D. d'Arvey, *Medieval Marriage: Symbolism and Society* (London: 2005), allowing for the discursive nature of the concept of marriage.

Familie bildete die Ehe.<sup>9</sup> The social history of women was (and is) customarily organised along the themes of life stages and the leeways and opportunities they offered women, featuring at least a prominent chapter on marriage in its different forms.<sup>10</sup> Marriage looms less large in the social history of men in the Middle Ages, which is normally organised much along the lines of the life stages as defined by individual prowess and social power: child, youth, adulthood, old age. Yet in this narrative too, marriage has its fixed place; it marks the passage from youth into adulthood – a transition nowhere described more compellingly than by Georges Duby himself, in his account of the life of William Marshall, the celebrated twelfth-century erstwhile fortune hunter who went on to become regent of England.<sup>11</sup> William Marshall's desperate hanging around in the ante-rooms at the new King Richard Lionheart's court trying to find out whether the young king would make good the promise of his ageing father to hand over to William a bride, and the wealth and status that came with her, marks a high point of Duby's narrative and warns even the most sceptical mind that marriage could certainly make or break a man.

In the face of this overwhelming evidence, Duby's setting marriage as a serious matter off against pre- and extra-marital dalliances which young and not-so-young members of the military elite allowed themselves with pretty women of the peasantry, or indeed their own households, seems quite obviously convincing. A similar dichotomy, and the tendency to pass over those other women rather sweepingly, is pervasive in almost all research. The fact that medieval husbands, especially among the military elites, behaved in anything but a strictly monogamous fashion is freely admitted. Yet nothing much is made of this fact, which is glossed over nonchalantly in most works, as though there was nothing surprising about it. '[M]en of wealth often kept women of inferior social status as concubines', writes James Brundage in his standard work on medieval sexuality and society, 'feeling that it was less scandalous and more convenient to retain attractive young women as companions than to marry them.'<sup>12</sup> The idea is that sexual attractiveness (on the part of the woman) and lust or sexual prowess (on the part of the man) are the self-evident, indeed more or less the only possible reasons for all non-marital relationships, and therefore practically an anthropological constant: men just are like that, and if they happen to be

well-placed to do so they indulge in sporting with 'the prey', as Duby somewhat uncharitably calls women in the chivalrous society.<sup>13</sup>

### 3. The semantics of the couple

Like the dichotomy itself, the different characteristics of marriage and non-marital relationships have a long intellectual tradition. 'I have myself experienced the distance between duly contracted marriage, which is an agreement entered into for the sake of generating offspring, and a relationship based on lust' (*pactum libidinosi amoris*) reads the 'confession' of St Augustine of Hippo from around A.D. 400<sup>14</sup>, in what was to become arguably the most influential text for the medieval history of man-to-woman relationships. Augustine repeatedly establishes his dichotomy: 'I was then not so much a friend of marriage but a slave of my lust' ('non amator coniugii sed libidinis servus eram'),<sup>15</sup> is how he describes his earlier life, when he was living together with a series of women in wait for his betrothed bride to come of age. The Augustine tradition thus associated marriage, itself legitimised by St Paul as the proper way of dealing with sexual desire ('burning'), with the worthy causes of secular society – specifically the generation of legitimate offspring – and posited it against *libidinosus amor*, lust and lasciviousness, which necessarily went with concubines. What had been different forms of contractual relationships in Roman society and law,<sup>16</sup> separated by degrees of formality and social recognition but not normally by different moral valorisations, became the governing dichotomy in the semantics of man-to-woman relationships. 'Aliud est uxor, aliud concubina', as Pope Gregory the Great had it: one thing is a wife, another one a concubine. The idea is pervasive in medieval writing on the topic. *Concubina* became a passepartout word, to be used in quite varying circumstances, from royal women in contested relationships to churchmen's wives in the anti-'Nicolaist' movement of eleventh-century church reformers for celibacy among the secular clergy to downright prostitutes. The common denominator for this use, spanning as it did a wide range of different relationships (covering the whole society, in fact), was by the

9. H.-W. Goetz, *Leben im Mittelalter vom 7. bis zum 13. Jahrhundert* (München: 1986), 39.
10. Cf. E. Emen, *Frauen im Mittelalter* (München: 1984), beginning with two chapters on the position of women in law and in marriage respectively before the chronological part starts with the Merovingians, as though those were quasi-timeless basic conditions for women's lives.
11. G. Duby, *Gaillaume le Maréchal ou le meilleur chevalier du monde* (Paris: 1984).
12. J. L. Brundage, *Law, Sex and Christian Society in Medieval Europe* (Chicago and London: 1987), 297.

13. Duby, *Mitte moyen âge*, 47.
14. Augustine, *Confessionum libri XIII*, ed. L. M. J. Verheijen, *Corpus Christianorum series latina* 27 (Turnhout: 1990), IV 2,2.
15. *Ibid.* 2,5.
16. H.-J. Becker, 'Die nichteheliche Lebensgemeinschaft (Konkubinat) in der Rechtsgeschichte', in G. Landwehr et al. (eds.), *Die nichteheliche Lebensgemeinschaft* (Göttingen: 1978), 13-18; P. Veigne, 'L'empire romain', *Histoire de la vie privée 1: De l'empire romain à l'an mil* (Paris: 1985), 19-224; S. Treggiari, *Iusti coniuges from the Time of Cicero to the Time of Ulpian* (Oxford: 1991).

eleventh century an almost purely moral one: 'Concubinage' was, in one way or another, imperfect and improper, and it was, as attested by St Augustine, basically libidinous.

The overwhelming evidence of the use of this dichotomy in medieval sources, most of which are imbued with the Patristic tradition, has (understandably) shaped modern perceptions of man-woman relationships. It is, however, necessary to discriminate between the different 'uses' of the terms and the dichotomy: in a word, the semantics. Their pervasiveness in quite a number of discourses, from moral theology and church law to political propaganda, is quite obvious and shrouds a little the fact that medieval authors themselves were quite aware of the fact that it could be difficult to trace the dichotomy down to actual social practice and apply it to individuals and their sexual relationships. St Augustine himself was nonplussed by observing that Scripture itself was unclear in the matter, since for instance the bondswomen with whom Abraham had children were interchangeably designated *uxor* and *concubina*. Sara, however, he noted with apparent relief, was only called *uxor*.<sup>17</sup> The redactors of church law felt equally unable to draw the line. As early as A.D. 400, the First Council of Toledo decreed that if a married man (the canon avoids a term for marriage and terms it 'a believer having a wife', 'uxorem habens fidelis') kept a concubine, he was to be excluded from communion. If, however, he kept the concubine instead of a wife ('pro uxore concubinam habet'), things were all right: 'as long as he contents himself with the relationship to one woman, either wife or concubine, as he prefers' ('tantum ut unus mulieris, aut uxoris aut concubinae, ut ei placuerit, sit coniunctione contentus').<sup>18</sup> The formula was repeated again and again in councils, and found its way almost unchanged into Gratian's *Decretum*, the most influential twelfth-century collection of Church law.<sup>19</sup> driving home the point that at the heart of Church teaching was not marriage, but monogamy: 'It is not allowed for a Christian to have even two women at the same time, let alone more.'<sup>20</sup> Under this premise, the legal mind was forced to admit that the boundary between marriage and non-marriage could indeed become blurred. If the necessary characteristics of the 'new', Reformation marriage – above all, mutual consent and permanence – were in place, then that 'makes her a

wife, even if Law calls her a concubine'.<sup>21</sup> These finer points of Church law were, however, lost in a well-established semantics of concubinage in common Church usage, though they did leave their mark on contemporary lawgiving, such as the Jutish Law from 1241, according to which a 'siegfred' (*sløkefrith*, the Danish equivalent of *concubina* for the purpose) was to be considered a wife when she had openly shared table and bed with a man for three years and was known to carry the keys of the house – pragmatic, visible signs of permanence and mutual consent as markers of 'marriage' by the standards of Church law.<sup>22</sup>

#### 4. Polygyny in the medieval North: an overview of scholarship

The notorious matter-of-factness of Merovingian and Carolingian polygyny appears to have been on its way out by the ninth century.<sup>23</sup> In the high Middle Ages, kings in all parts of Francia, as well as their English and Spanish counterparts, were only rarely (and exceptionally) seen in polygynous situations. While extra-marital unions of princes were to remain a recurrent feature of European history all through the Middle Ages and beyond (take the famous courtesans of Renaissance Italy and the powerful mistresses at the courts of the Valois and Bourbon kings in early modern France), bringing with them such emblematic figures as the 'royal bastard', these unions were quite a long way removed from the unabashed straightforwardness with which early medieval kings acquired their women. At least, that is the image conveyed by narrative sources and supported by documentary evidence from the Frankish part of the continent. It would maybe be more accurate to say that post-Carolingian societies became very reluctant to mention polygyny. This overall Frankland monogamism, which puts its mark on both 'clerical' and 'secular' sources, makes it quite difficult

17. Augustinus, *De Civitate Dei* 16,34, on Gen 25.  
18. I Tol c.17, quoted after G. C. Caselli, 'Concubina pro uxore. Osservazioni in merito al c. 17 del primo concilio di Toledo', *Rivista di Storia del Diritto Italiano* 37-38 (1964-1965), 163-211, at 182.  
19. *Decretum*, D.34 c.4: 'tamen ut unus mulieris, aut uxoris aut concubinae, sit coniunctione contentus'.  
20. *Decretum*, D.34 c.5: 'Christiano, non dicam plurimas, sed nec duas simul habere licitum est'.

21. *Decretum*, D.34, 'secunda pars: hanc coniugem facit affectus, concubinam vero lex nominat'.  
22. *Jyske Lov, tekst I: NKS 295 8*, ed. P. Skautrup, *Danmarks gamle Landkabslove med Kirkelove* 2 (København: 1933), 68-69 (l §27): 'Hva sun hauer sløkefrith i garth mæth sik, oc gangær openbarlich mæth ath souæ, oc hauer laas oc lykki, oc søker atæ oc dryk mæth openbarlich i thre wintær, hyn skal wæra athalknæ oc ræt hwsfrø. Cf. I. M. Jensen, 'Landkabslove som kilde til kvinders stilling i 1100-1200-tallet', *Kvinder i middelalderen* (København: 1982), 61-68; N. Damsholt, *Kvindetilbedet i dansk højmiddelalder* (København: 1985); T. Nors, 'Kampen om ægteskabet', *Den jyske Historiker* 42 (1987), 28-46.  
23. Cf. S. F. Wemple, *Women in Frankish Society: Marriage and the Cloister, 500-900* (Philadelphia: 1981); P. Stafford, *Queens, Concubines and Dowagers: The King's Wife in the Early Middle Ages* (London: 1983); D. Herlihy, *Opera muliebria: Women and Work in Medieval Europe* (New York: 1990); R. Le Jan, *Famille et pouvoir dans le monde franc (VIIe-Xe siècles). Essai d'anthropologie sociale* (Paris: 1995); A. Esmyol, *Geliebte oder Ehefrau? Konkubinen im frühen Mittelalter* (Köln: 2002).

to assess the extent of everyday elite polygyny in high medieval Europe, but one thing is clear: Outside of moral theology and invective, royal and aristocratic polygyny had ceased to be a matter of discourse.

As any reader of Saxo or the sagas knows, things are different in the North. Scandinavian historiography, both Latin and Norse, abounds with tales of kings who keep many women, serially or simultaneously.<sup>24</sup> Indeed, kings are so openly polygynous, and the fact that they are is related so complacently by the authors, that the question imposes itself: why?

Having done away with the idea, dear to eighteenth- and nineteenth-century essayists, of a progressive refinement of mores (or, with a negative slant, a progressive decline of sexual liberty), modern scholarship now assigns a prominent role in Viking society to traditional lay marriage. In fact, in studies of women in the Viking and Northern Middle Ages, marriage in its different forms is now placed just as centrally as it is in medieval women's studies in general.<sup>25</sup> The ubiquity of *frillur*<sup>26</sup> alongside 'proper'

24. For the image of women in the sagas, cf. E. Mundal, 'Kvinnebildet i nokre mellomaldergenerar. Eit oppisjonselt kvinesyn?' *Edda* 82 (1982), 341-71; E. Mundal, 'The Position of Women in Old Norse Society and the Basis for their Power', *NORA – Nordic Journal for Women's Studies* 1-2 (1994), 3-11; E. Mundal, 'Koretts påverka kristninga og kyrkja kjønnsrollemønstra?', in N. Lund (ed.), *Viking og Hvidekristi. Norden og Europa i den sene vikingetid og tidlige middelalder* (København: 2000), 41-58; A. S. Arnorsdóttir, *Kvinner og bergsmenn: Kvinnenes stilling i det islandske samfunnet på 1100- og 1200-tallet* (MA thesis, University of Bergen: 1990) [= *Konur og vígumenn. Stada kynjanna á Ísland á 12. og 13. öld* (Reykjavík: 1995)]; J. Jochens, 'Old Norse sources on Women', in J. T. Rosenthal (ed.), *Medieval Women and the Sources of Medieval History* (Athens, GA, and London: 1990), 155-88; J. Jochens, *Women in Old Norse Society* (Ithaca and London: 1995); J. Jochens, *Old Norse Images of Women* (Philadelphia: 1996); H. Kress, 'Gægur er þér í augum. Konur i sjómáli Íslendingasagna', in G. Karlsson and H. Þorklasson (eds.), *Yfir Íslandssáta. Afmælisrit til heidurs Magnús Stefánssyni* (Reykjavík: 1992), 77-94. Many works on women in the Viking and Middle Ages use the sagas to some extent; cf. J. Jesch, *Women in the Viking Age* (Woodbridge: 1991); B. Sawyer, *Kvinner och män i forn- och medeltida Skandinavien* (Trondheim: 1998 – 2<sup>nd</sup> edn.); B. Bantlien, *Å finne den rette. Kjærlighet, innavid og samfunn i norrøn middelalder* (Oslo: 2001). With a focus on Latin material from Scandinavia: B. Strand, *Kvinner och män i Gesta Danorum* (Göteborg: 1980); Danisholt, *Kvindebildet*; T. Nors, 'Saxos særheder', *Den Jyske Historiker* 41 (1987), 19-35.
25. Cf. L. Carlsson, 'Jag giver dig min dotter'. *Trolloving och äktenskap i den svenska kvinnans äldre historia*. Skrifter utgivna av Institut för Rättshistorisk Forskning, Rättshistorisk bibliotek 18-20, 2 vols (Stockholm: 1965-1972); E. Roesdahl, *The Vikings* (Harmondsworth: 1987), 59-61; J. Jochens, '"Med jäkvardi hennar sifhtar": Consent as Signifier in the Old Norse World', in A. E. Laiou (ed.), *Consent and Coercion to Sex and Marriage* (Washington DC: 1993), 271-89; Sawyer, *Kvinner och familj*, 38-40.
26. Old Norse *fríðla/frílla*, pl. -ur (modern Scandinavian *'frille(-a)'* is commonly rendered by 'concubine'. This may be accurate, especially in contexts marked by the 'Augustinian divide', whereas in other contexts we may think of the ethnological term 'co-wife'. An impressive study is A. Magnúsdóttir, *Frillur och fruor. Politik och samlevnad på Ísland 1120-1400* (Göteborg: 2001).

wives is then explained as either an ornamental elite phenomenon not really impinging on the core of the cellular household (which would correspond to Duby's or Brundage's view), or alternatively as a holdover from a Dark Age past, doomed to disappear in the long run.

This idea of a passage from an older society featuring (among other things) widespread polygyny to a new one where polygyny slowly but steadily disappeared is very much at the base of general views of the history of man-woman relationships in the North. As we can see, it follows the general European narrative described above, with a lag of three to four centuries, which again makes it nicely compatible with the 'Europeanisation' paradigm, the current version of progressivism. This approach is sometimes explicitly spelled out, but more often, and perhaps more effectively, it is conveyed by the use of such small words as 'still' or 'already', shaping as they do our ideas about social change. But what basis do we have to claim that polygyny was *still* a social fact in twelfth-century Scandinavia? Or that polygyny had anything to do at all with heathen society, for that matter? After all, most sources (and practically all of the narrative material) about the pre-Christian period belong to the twelfth and thirteenth centuries, when the heathen past was definitely past. This is Christian literature.

The perils of using sagas as sources for the time they purport to narrate has of course been a subject of scholarly debate for a century, and it is unnecessary to take it up here. I merely want to point out that unlike many political, economic and cultural features (royal power, law regions, landownership, cult organisation), sexual mores, including polygyny, seem to be regarded as surprisingly unproblematical in this sense. Norway's founder king Harald Finehair was a man with at least sixteen children; a man who according to the skald Þjóðólfr of Kvinesdalen had nine wives from all parts of Norway and dismissed them for the Jutish princess Ragnhild when he had the chance; a man indeed whose conquest of all Norway was prompted by the challenge issued by a Vestland chieftain's daughter whom he wasn't powerful enough to fetch to his bed: she said he could come back when he had managed to establish the kind of kingship that Gorm had built for himself in Denmark.<sup>27</sup> While the fact that the grand unifying figure of Norwegian national history was so openly polygynous was nasty enough as it was for Norwegian bourgeois sensibilities to stomach, at least he was safely removed into heathen times, and so was polygyny in general.

Moral judgements may have changed during the past four decades or so, as our own society has become less and less monogamous (and

27. Snorri Sturluson, *Hemskringla*, ed. B. Aðalbjarnarson, 3 vols, *Íslensk fornnrni* 26-28 (Reykjavík: 1941-1951); *Haralds saga hárfagra* chs. 3-4, 9, 20.

Christian), but the chronological equation in which polygyny=heathen and monogamy=Christian is by and large still held to be valid. Now, while there is no doubt that monogamy was indeed a Christian project, we do not know whether polygyny was specifically linked to pre-Christian society – except in the minds of theologians, for whom polygyny and polytheism were indicative of one another.<sup>28</sup> As regards social practice, we are simply in no position to judge whether, say, the lands of future Denmark or Norway were markedly polygynous in the eighth century. The few indications we have, such as the famous observation of Ibn Fadlān about Norse travellers fondling their slave girls in public,<sup>29</sup> in fact do point to forms of ostentatious elite polygyny, but it is precisely the forms, and not polygyny in itself (current in both Muslim and Frankish as well as Byzantine higher circles), that arouses the interest of the Arab observers. Famous quotes often repeated in research, such as Dudo of Saint-Quentin's tale of how Nordic polygyny led to overpopulation and hence to the Viking expansion,<sup>30</sup> are of course more valuable as evidence for ideas about the correspondence of barbarism, unbridled sensuality and unbridled violence current in ninth-century Frankish intellectual milieux, plus knowledge of the learned *veginia gentium* imagery, than for actual sociography of early Viking Scandinavia. It is a different matter with Adam of Bremen, who is quite aware of the social context of resource polygyny: 'Every one of them has, according to his faculties, two, three or even more women at once'.<sup>31</sup> So at least for the eleventh century, we can be fairly confident about elite polygyny – but here again, we learn nothing much about the social context. Rune stones, which frequently show us women in a position to erect memorials for their men, cannot tell us what kind of relationship ('marriage'?) the woman and man in question had, how it was contracted, and whether it was an exclusive one. The evidence from the sagas is completely puzzling for anyone who looks for a chronological order in sexual relations. While not quite as formidable

28. Key references are 1 Kings 11 (Solomon's wives introducing idolatry), Hos. 1 and Ezra 23 (fornication) and the New Testament analogy 'bride=Church' (for which, see above).
29. *Ibn Fadlān's Reisebericht*, ed. A. Zeki Validi Toğan, Abhandlungen für die Kunde des Morgenlandes 24/3 (Leipzig: 1939), ch. 83; cf. R. M. Karras, *Slavery and Society in Medieval Scandinavia* (New Haven and London: 1988), R. M. Karras, 'Conubinage and slavery in the Viking Age', *Scandinavian Studies* 62 (1990), 141–62.
30. Dudo of Saint-Quentin, *De moribus et actis primorum Normannie ducum*, ed. J. Lair, *Mémoires de la Société des Antiquaires de Normandie* 23 (Caen: 1865), I 1: 'Ilae namque gentes, petulant nimum luxu exardescentes, feminasque quamplurimas singulari turpitudine stuprantes commiscendo, illic soboles innumeros obscena illiciti conubii commixione patrando generant.'
31. Adam of Bremen, *Gesta Hammaburgensis ecclesiae pontificum*, ed. B. Schmeidler, *Monumenta Germaniae Historica in usum scholarum* (Hannover and Leipzig: 1917), IV 21 (on Sveonia/Svealand): 'quisque secundum facultatem suorum virum das aut tres et amplius simul habet.'

as insatiable Harald Finehair, polygynous kings are very much in evidence all through the kings' sagas (in the case of *Heimskringla*, right down to Magnus Erlingsson, *kvinnemadr mikill* ('a big one for women')).<sup>32</sup> The more overtly partisan works such as *Sverris saga* or *Hákonar saga Hákonarsonar* are more reticent and only mention them at any length if absolutely unavoidable – as in the case of the birth of those two kings, both of them born out of temporary and clearly extra-marital unions. In the sagas of Icelanders, which are primarily set in the ninth through eleventh centuries and where one would consequently expect a great deal of polygyny, it is curiously all but absent: There is only a handful of *frillar*, mostly in the context of the story of their sons, against a background of nicely cellular couples. In contrast, the contemporary sagas (narrations about current or recent events in thirteenth-century Iceland) abound with relationships to *frillar*, most of them recounted quite incidentally and matter-of-factly.<sup>33</sup> The overall impression is that (1) we can more or less safely assume the existence of elite polygyny in the Viking Age but do not know anything more precisely about it, and (2) elite polygyny certainly was a living social fact in twelfth- and thirteenth-century Scandinavia, and we know quite a lot about it – indeed, thanks to the sagas' loquacity, more than about polygyny in any other part of high medieval Europe.<sup>34</sup>

So what place is there for marriage in a generally polygynous system? There can be many different ones. In present-day Europe, marriage coexists quite well with both polygynous and polyandrous practices. Normally, their incidence will fit into a life-stage model: Young unmarried men and women are (at any rate according to the image our culture likes to project of itself through novels, films, and TV serials) the most likely to experiment with a fairly quick succession of relationships, or with conducting them simultaneously, without excluding the possibility – and above all, the ideal – of a stable, monogamous relationship. Romantic love, as 'invented' in the

32. *Heimskringla - Magnúss saga Erlingssonar*, ch. 37. Cf. Bandlien, *Á finne den reite*, 53, on the derogatory use of the term 'women's man', akin to 'drunkard', both of which are used in the older *Sverris saga* to describe the same king Magnús, the enemy of the eponymous hero Sverrir. But in *Heimskringla* Snorri uses the word in the *epilógos* to sum up a king after his death in a clearly non-critical sense. Putting aside the question of a possibly intended inversion of the older verdict by Snorri, that master of oblique criticism, it appears that a penchant for women and drink was in itself neither a positive nor a negative quality, the assessment depending on the mastery of the self in indulging in either.
33. See A. Magnúsdóttir, *Frillar och frilar. Politik och samlevnad på Island 1120-1400* (Göteborg: 2001), for detailed analyses.
34. I develop these ideas more fully in my Habilitationsschrift J. Rudiger, *Der König und seine Frauen. Polygamie und politische Kultur in Europa (9.-13. Jahrhundert)* (Humboldt University, Berlin: 2006), German edition to be published by Akademie-Verlag, Berlin, English translation in preparation with Brill, Leiden.

twelfth century<sup>35</sup> and given its present shape in the decades after 1800, remains the mentalitarian standard model of human relationship (alongside its concomitant form, the core family), with two notable recent changes: it need no longer be a heterosexual one; and marriage is no longer required. On the other hand, if it *is* contracted, marriage normally presupposes romantic love. So strong is the hold of a sensibility that is strongly Romantic, but ultimately stems from the revolutionary twelfth-century change in Church teaching that brought about the principle of marriage by consent, that we culturally ('instinctively?') disapprove of marriage contracted for non-romantic reasons, such as social advancement or material improvement. A good part of the present-day debate about 'forced marriages' among immigrants is influenced by the idea that any marriage not based on mutual consent is plainly wrong. All in all, we know from our own experience that a society can perfectly well practice, and accept, polygyny/andry and at the same time practice, and promote, monogamy. (The speciality of present-day society would be that monogamy has become somewhat removed from marriage, given that 'affairs' are now much more easily condoned than they were a few decades earlier, while romantic love remains solidly monogamous, and 'unfaithfulness' is considered a terminal felony in love – indeed, it still evokes much the same vocabulary as medieval writers would use for both secular felony and religious apostasy). To sum up: Over the past millennium and a half, and even at times when marriage was less optional than it is today and more of the social and economic status depended on marital status, polygynous behaviour – if not polyandry, definitely more stigmatised until quite recently – was widespread, generally known, and culturally negotiated. From countless detailed or generalising mentions of *concubinae*, *fillur*, *cytes*, *barragans*, *soignants* (to name but a few terms<sup>36</sup>) we know that it was no different in the Middle Ages. Of course, the place of marriage in this system varied greatly over space, time, and social milieu.

## 5. The social semantics of polygyny

The claim that marriage can (and normally does) exist in a polygynous context calls for a word about terminology. Marriage is, as pointed out above, one of the forms that sexual relations can take in a society which practises both monogyny and polygyny. It is important not to mix up mono-/polygamy (being married to one/many), and mono-/polygyny (having

relationships with one/many women).<sup>37</sup> There is a widespread use in scholarly literature of polygyny as one of the two forms polygamy can take (namely, for a man to be married to more than one woman, as opposed to its notional counterpart polyandry, for a woman to be married to more than one man).<sup>38</sup> I suggest that this use should be avoided, however, because it leaves no space for the socially relevant plurality of sexual relationships which we do not see as marriages. The term 'polygyny' would effectively be unfit for any medieval or modern European context, since Christian Europe so emphatically rejects multiple marriages (bigamy and on up), so 'polygyny' in the sense of 'marriage to several wives at once' would be a contradiction in terms.

Instead, by 'polygyny' I mean a state where a man entertains socially relevant sexual relationships with several women, actually or notionally at the same time ('simultaneous' as opposed to 'serial' polygyny). A 'socially relevant' relationship is one that observers removed from the actual context in time or space find important enough to take note of. (For medieval history, this part of the definition is redundant because if we know about a relationship at all in any detail, this already proves it was considered relevant, since it was observed, related, and recorded.) The advantage of this definition is that it can do without the arbitrary imposition of minimum requirements for a relationship to be included, such as a certain duration, certain formal features such as a ceremony, the transfer of goods, or even sexual consummation – we neither can nor need prove that the partners actually slept together if we concentrate on the surrounding society's opinion that they may have.

This definition is quite at variance for instance with the one proposed in the new edition of *Reallexikon der germanischen Altertumskunde*, which does operate by such minimum requirements.<sup>39</sup> It is, however, essential not

35. Cf. Stendhal, *De l'amour* (Paris: 1822), ch. 51, who was possibly the first in a long line of moderns to argue this.  
36. Latin, Norse, Anglo-Saxon, Castilian, and French respectively.

37. Polyandry (for a woman to have relationships with several men) did not exist as a commonly approved practice in the Medieval West, although it did haunt the (male?) imagination.  
38. Cf. M. Clunies Ross, 'Concubinage in Anglo-Saxon England', *Past and Present* 108 (1985), 3-34; P. Bretschneider, *Polygyny: A Cross-Cultural Study* (Uppsala: 1995). Clunies Ross and Karras, 'Concubinage', prefer to use the term 'polycoty' (from 'cotus') to denote multiple sexual relationships. I prefer 'polygyny' (-andry), however, because here the emphasis is on the social, not the sexual nature of the relationship. Indeed, it is not necessary for such relationships to be effective that they actually have a sexual side to them, but only that people think they may have.  
39. H. Reichert, s.v. 'Nebenfrau', *Reallexikon der Germanischen Altertumskunde* 21 (Berlin and New York: 2002), 18: 'Der Begriff Nebenfrau bezeichnet Frauen in polygynen Eheformen von Gesellschaften, in denen die Rechtsordnung gestattet, daß ein Mann neben einer Hauptfrau gleichzeitig eine oder mehrere weitere Bindungen von geringerem Rechtsstatus oder gleichrangige Ehen nebeneinander einget. Dadurch unterscheidet sich die Polygynie einerseits von Konkubinen, das sind Einehen mit geringeren Regelungen als das Matrimonium, insbesondere

to let any arbitrary exclusions dim perceptions. A relationship can be important, its consequences considerable for the two persons involved and a lot of others besides, even if (to take a crass example) it only lasts for some moments, as in the case of King Sigurd Munn who on his itinerary through Norway sometime around 1140 enjoyed the hospitality of a farmer, allowing himself to include in the hospitality a slavegirl grinding corn whose song had attracted him.<sup>40</sup> In this case, the relation had considerable political ramifications, because the boy born out of this very short-lived union was adopted by one of the contending factions as their pretender to kingship, and did indeed hold the throne for a brief spell as Håkon Herdebrei ('the broad-shouldered', r. 1157/61–1162). His foster-father the farmer and his foster-brothers the farmer's sons rose to (and fell from) power with him. Now it would of course be possible to appraise the political relevance of the king's taking advantage of the slavegirl without considering it in terms of polygyny. After all, the custom, generally accepted in Norway and to a lesser extent in Denmark, that a son generated by a king had a claim to kingship regardless of who the mother was (the *Gebaltsrecht* of earlier German legal history)<sup>41</sup>, meant that in the medieval North, every sexual relationship of a king could produce a possible pretender. However, the relationship itself, brief though it was, had a wider-reaching social effect quite apart from the fact that a son was born from it. Taking a woman off the household as his mate while on *veitsla* – one of the visits on the never-ending itinerary through the kingdom by which a high medieval king asserted his rule and subjects' hospitality was mandatory, whether willingly

40. im Scheidungs- und Erbrecht (Lebensgemeinschaften), andererseits von kurzfristigem Wechselseiden oder illegalen sexuellen Beziehungen während einer Ehe. Reichert goes on to admit that by this definition, '[d]as Ausmaß der echten Polygynie ist ungewiß' because neither ecclesiastical sources nor chronicles differentiate neatly between the different forms of relationship. I prefer to view this less as a failure on the part of medieval authors to live up to modern standards of legalism than an accurate image of distinctions that were blurred at the time.

41. *Heimskringla - Haraldssona saga*, ch. 18. 'Sex hospitality' is a frequent theme in medieval literature; see Emma, *Franen*, 41, and A. Guereau-Jalbert, *Index des motifs narratifs dans les romans arthuriens français en vers (XIIe-XIIIe siècles)*. Publications romanes et françaises 202 (Genève: 1992), motif T281, for examples. Its classical formulation is in Gregory of Tours, *Libri historiarum* X, ed. R. Buchner, 2 vols (Darmstadt: 1977–5<sup>th</sup> edn), V, 20: 'disregarding the descent of the women, they consider as kings' sons [all children] generated by kings' ('prelemnitis nunc genitibus feminarum, regis vocitantur liberi, qui de regibus fuerant procreati'); cf. E. Hoffmann, *Königszerhebung und Thronfolgerecht in Dänemark bis zum Ausgang des Mittelalters* (Berlin and New York: 1976), J. Jochens, 'The Politics of Reproduction: Medieval Norwegian Kingship', *American Historical Review* 92 (1987), 327–49. Such kings, which it would evidently be meaningless to call 'illegitimate' because they clearly were not, are frequent in eleventh- to thirteenth-century Norway, and in Denmark up to the mid-twelfth century.

extended or not<sup>42</sup> – was part of this assertion. How in individual cases the king enacted his claim, and how the household reacted, was one of the crucial moments in which royal power was negotiated.<sup>43</sup> So the relationship was part of royal polygyny; it came with a political surplus and must be seen as part of the actions with which a king and his followers acted out 'power'. There is no reason to exclude it from the overall picture just because it was, in itself, just a short (and probably, on the part of the woman, forced) sexual act: it did have a modifying effect on social relations.

## 6. 'Main' and other women: The evidence of the law books

Having made this point about polygyny and its political relevance, I return to marriage and the question of its place within the system. That place must be quite removed from the kind of relationship King Sigurd Munn had with the slavegirl. In effect, if we imagine different kinds of man-to-woman relationships along a scale of social standing, they would be very much at opposite ends of the scale. There can hardly be a less respectable way of having a relationship with a woman than the one Sigurd Munn had in the mill-house, whereas full formal marriage is about the 'highest', most solemn form society knows.

Now this is my very point: In most medieval lay societies up until the mid-thirteenth century, full formal marriage is a purely relational maximum. The only meaningful way of using the term 'marriage' in the description of a society is, as we have done above for 'polygynous relationship', to do away with set criteria. If they were applied, we would find ourselves using labels like 'imperfect marriage', 'nearly full marriage', and similar expressions. Instead, the question is rather an ethnological one: Does a given society hold the idea that along the scale of possible forms of man-woman relations, there is one type of relationship, high up on the scale, which is considered the absolute maximum?

Our own society does; you cannot be anything more than married. (You can combine civil and church marriage, of course, but once you are married in either form, you cannot be more than that.) Imperial Roman society did too, though by degrees; there were several forms of recognised

42. For Norway especially, see the recent study by H. J. Orning, *Unpredictability and Presence: Norwegian Kingship in the High Middle Ages*. The Northern World 38 (Leiden: 2008). But Western European kingship was not all that dissimilar up until at least the thirteenth century. In fact, throughout Latin Europe, the end of elite polygyny as a feature of political culture and the centralisation, local and institutional, of princely power more or less coincide.

43. See Rüdiger, *Der König und seine Frauen*, for a discussion of instances.

legal marriage which varied according to required forms, cultic rites, economic consequences and dissolubility. According to scholarship, the medieval North did, as well: beside and beyond polygynous behaviour, with slavegirls or with classly *friljár* of long standing, there was a secular model of marriage, involving the passage of the woman into a new kinship structure (without complete dissolution of previous bonds), requiring the consent of a number of adult males, the transfer of goods, and (less tangibly) a shift in social relationships between two kin groups. There is no need to go out of one's way to find evidence for it. The two most prestigious source types from the high Middle Ages, the sagas (especially, as pointed out above, the sagas of Icelanders) and the regional laws (*landskapslovene*), appear to deal with 'secular marriage' at some length.<sup>44</sup> Or do they? The laws make a harder case than the historical narratives because they pretend to contain hard-and-fast rules, while the saga style generally shuns clear-cut terminology. For instance, if I am not mistaken, there is no single term applied to the relationship of such classic 'married couples' as, say, Egill and Ásgerð in *Egils saga*, or Njál and Bergþóra in *Njáls saga*.<sup>45</sup> Conversely, a first glance at the Elder Gulathing Law from western Norway, which may in part date back at least to the mid-twelfth century but which in its known form is not much older than 1200,<sup>46</sup> shows

44. Cf. Bandlien, *Å finne den rette: Jochens. Women. I. Holtan, Ekteskap, frillelemed og hor i norsk høgmiddelalder* (Oslo: 1996).

45. Translation can be misleading, since they frequently use the vocabulary of marriage where the original is much less explicit. The saga vocabulary includes the use of verbs such as *taka*, 'take' and *fá*, 'receive', which are used for all kinds of man-to-woman relationships (and, of course, all sorts of transmission of goods). The translators' tendency to interpret the more solemn and high-status relationships as marriages and the dictionaries' tendency to gloss them accordingly can sometimes form an argumentative circle. To give just one famous example: In the heroic speech accounting for her decision to stay with Njál as he is about to be burnt inside his farmstead by his enemies (ch. 130 of *Njáls saga*), Bergþóra says: 'ek var ung gefin Njáli', (literally: 'young was I given to Njál'). These two are often seen as a model saga married couple; the major dictionaries interpret the expression 'to give (*gefá*) a woman to a man' as the sagas' term for marriage (cf. W. Baetke, *Wörterbuch zur altnordischen Prosaliteratur* (Berlin: 1965) s.v.; R. Cleashy and G. Vigfusson, *An Icelandic-English Dictionary* (Oxford: 1874), s.v.; J. Fritzer, *Ordbog over det gamle norske Sprog* (Oslo: 1863-1896), s.v. I have come across only one word which appears to denote the inception of a specific sort of relationship akin to marriage: the reciprocal verb *haldgast* (*gwnnast*; in *Jyske Lov* I §12 and *passim*), which, as it is derived from *kvenna*, 'woman', is thus 'to get oneself with woman'. There does not seem to be a noun denoting the ensuing relationship (as opposed to the event) corresponding to *coniugium* etc.

46. It is doubtful whether any parts of the laws go back to the earlier eleventh century, as they claim. The first fragments are from ca. 1200; the main body is attested by the earlier thirteenth century. Especially when discussing single words and phrases as opposed to general content, it will be wise to be very careful in dating any part of the laws to much before 1200 unless there is evidence for it. Cf. K. Venås, 'Kvinn og mann i Gulatingslova. Etter en idé av Lis Jacobsen', in B. Eithun et al. (eds.), *Festskrift til Finn Høednebo 29. desember 1989* (Oslo: 1989), 285-303; M.

two things: (1) there is a clear difference between marriage and other relationships, and (2) the difference corresponds to the 'Augustinian' dichotomy, adapted to the living conditions of West Norwegian farmsteads where the head of the household has free access to the bodies of his dependant women. The 'lay' model of marriage according to Duby is easily recognised in the Gulathing stipulation against bigamy: 'Every man shall own [only] one woman, whom he has bought with brideprice and settlement' ('vátur skal hver einn kona eiga, þa er hann hever mundi keypt oc malaga').<sup>47</sup> The paragraph also bans multiple sexual relationships in the household: 'If a man has his slave woman alongside his wife/woman' ('ef maðr hever ambótt sína við sína konu').<sup>48</sup> The wording is quite close to the corresponding passages in Canon law: 'If a believer who has a wife [also] has a concubine [...] ('si quis habens uxorem fidelis concubinam habet...)], and so is the sanction: public penitence for the man, to which the Gulathing Law adds payment of 12 øre to the bishop. The Frostating Law of Trøndelag even has the expression *gera brillaup* ('do the bride's run', meaning marriage in modern Scandinavian) for the ceremony that marks the difference between the two relationships. Interestingly enough, however, this occurs in a paragraph about the respective inheritance rights of children born to a couple before they 'made the bride's run' and those born afterwards. The Frostating Law's answer is: no difference.<sup>49</sup> So at closer inspection, the categorical distinction becomes blurred and tends to vanish in a haze. The same goes for terminology. The Danish and Swedish laws use words like 'slegfred' (*slægkefrihed*), clearly a vernacular term, where Church Law has *concubina*, but *uxor* is rendered by 'main woman' or 'eminent woman' (*apalkona*)<sup>50</sup> – as though there were others besides her as a rule. Other sexual relations ('hverja sem hann hefir við konu sína',

Rindal, 'Dei norske mellomalderlovene', in M. Rindal (ed.), *Skriftlige kjelder til kunnskap om nordisk mellomalder* (Oslo: 1995), 7-20; R. Røssstad, *Å veim tungum. Om sliil og slihvortasjon i norrønt lovniál* (Oslo: 1997); K. Helle, 'Lov og rett i middelalderen', in E. Mundal and I. Øye (eds.), *Norm og praksis i middelalderensmfinnet* (Bergen: 1999), 7-22; L. I. Hansen, "'Eten" i de eldste landskapslovene – realitet, konstruksjon og strategi', *ibid.*, 23-55; B. Sawyer, 'Son skal taka arv eter far sin', *ibid.*, 56-79; and generally E. Sjöholm, *Sveriges medeltidslagar. Europeisk rättstradition i politisk omvandling* (Lund: 1988).

47. Elder Gulathing Law § 25; corresponding expression in Frostating Law III 13. The Gulathing Law continues with a reprisal of Canon law stipulations on bigamy: 'If a man has taken two women 'with brideprice and settlement', he must discharge the one he has 'bought' last.

48. *Ibid.* The word for the bondswoman living in the house is *armelja*, 'hearth-co-woman' or 'the rival by the fireside' (if 'rival' she is, which in a polygynous setting need not be the case).

49. Elder Frostating Law III 11.

50. *Apalkona* and its variants are also in frequent in other law books: cf. Law of Jutland I 27; Scanian Law III 16; East Gautish Law AB 13; Valdemars Law of Zealand, Arvebogen og Ordbodeniál I 18.

'whatever other woman he has besides his wife') are frowned upon but taken for granted. The impression is that although the 'Augustinian dichotomy' is mirrored in the law books, the mirror's frame has a polygyinous gliding to it. At any rate, the earlier laws are by and large untouched by the more revolutionary innovations of recent church teaching.<sup>51</sup>

All over the relevant chapters of the law book one finds the contrast between seemingly clear-cut terms and blurred practical applications. On one hand, the law books confine the dichotomy to include the offspring of marital vs. non-marital unions by designating a child as *skilgetinn*, 'properly conceived', literally 'conceived in a way that makes a difference' (this is also the word used by Magnus Erlingsson in his abortive attempt to strengthen his weak claim to kingship by introducing a strict law of legitimate succession in Norway around 1163<sup>52</sup>) and opposing this to *laungetinn*, 'secretly or improperly conceived', and by coining a terminology of 'corner-children' and 'bush-children' (*hornungir, þrísungir*) for children born of the illicit union of a free man and an unfree woman or vice versa. But beyond all these legalistic niceties, when it comes down to the decisive question of the inheritance rights of children from different kinds of union, the categories melt away before the eye of the beholder. First, there is ample occasion for these children to be accepted on equal terms in the kin group: the co-optation into the group goes by the name of *ættleðning* ('kin-leading'). Secondly, despite an impressive attempt at introducing quite a rigmarole of ostensibly ancient rituals with Old Testament overtones – including, in one version, the cutting of a ceremonial shoe of ox hide into which the participants must step one by one (cf. Ruth 4:7) – what it boils down to is that the father, seconded by the other powerful males of the kin group, is quite free to co-opt whomever of his sons he pleases. The concept is not unlike the French *laudatio parentum*, the (normally but not invariably) formal right of the male relatives to give their assent to the more vital forms of alienation of property: it allows ample space for individual manoeuvring while at the same time arranging for safeguarding the interests of those with whom group solidarity goes deepest. As a result, any son born out of any union could become fully equal with the sons born of a 'marriage' – a fact which effectively countermands any stipulation about the illegitimacy of having 'other women alongside the main one'. What remains is a differentiation of degrees. Some children are

51. Though the affectation of ignorance can be a powerful strategy of social rhetorics, aiming at a situation where what seemingly is ignored can in fact safely be ignored.

52. Guiding Law 1. Magnus's claim was dubious since while his mother was a king's daughter, his father was not of royal birth. Female descent, though not unheard of (the most famous case being the eleventh-century Danish king Svend Estridsen), seems to have put any claimant at a disadvantage.

born with the proverbial silver spoon in their mouths, others have a more precarious status, and it is up to the big men in the kin group to decide whether or not to include them as peers.<sup>53</sup> This differentiation of degrees corresponds to what was said above about the differences in status of the relationships a man might have with different women. The point is that even the law books, which otherwise mouth the 'Augustinian dichotomy', will not draw a categorical line. There are women who are joined to their men with much solemnity, and who for a number of reasons (among them the self-assurance that comes with form) would be hard to sidestep. And there are others. But there is no dividing line between one kind and the others. What remains is a gradation in formality – the one described by the laws, and hinted at in the sagas.

## 7. 'Retrospect marriage'

But what about inheritance? One of the most important facets of 'marriage' as opposed to other sexual unions is that it is supposed to confer 'legitimacy' and therefore inheritance rights upon the children born of such a union.<sup>54</sup> Law books are on the whole more widely concerned with children and inheritance than with the union of the parents themselves. And while here, too, closer inspection reveals that 'illegitimate children' are not nearly as categorically excluded from inheritance as it would at first seem, I am willing to concede that 'illegitimacy' would constitute, if nothing else, a serious handicap when it came to inheritance prospects. But I strongly suspect that actual practice allowed for much more leeway on the part of the men and women concerned than law book regulation would have it. Here I must ask my readers and colleagues to further the discussion by checking the following argument against their own source material, as I have done on the basis of my limited acquaintance with Nordic and West Frankland evidence. Mine is in fact a plausibility argument: How probable is it that long before the advent of the institutionalised state, any given society will allow its manoeuvring space for on-the-spot decisions to be circumscribed by decisions made several decades earlier?

53. There is a moving tale in *Vatnsdæla saga* (ch. 42) about how far a boy would go to make his father, in whose house he is openly living, publicly acknowledge paternity and thereby admit him into the inner circle of the kin group. At his father's instigation, he picks up an axe and kills a guest. 'Now he himself has introduced himself into our kin', says the father, commenting on the *ættleðning* process.

54. In fact, this point was put forward during the discussion of this paper at the Carlsberg Academy conference in the afternoon session of 4 May 2011. In the following I supply a paragraph or so summing up my counter-argument.

The traditional argument can be summed up as follows: 'Children born of a marriage have exclusive, or at least greater, rights to inheritance than children born of concubines, etc.' But given the general uncertainty as to what precisely made it possible to say of any two people that they were married, except for general consent on the part of the surrounding society that this was indeed the case, I suspect that in many cases, the question ran rather the other way around: 'Children seen to make successful exclusive, or greater, claims to inheritance must be legitimate – and therefore, if anyone is interested, their parents must have been married.'

This is a caricatural way of putting it, I grant. But at the same time I feel it does carry conviction. Competition for inheritance, both material and immaterial, must have been among the most important issues in the agonistic warrior societies of the early and high medieval West. In the absence of any transpersonal, overarching, generally accepted and powerful set of laws (such as those provided by late medieval and modern legislators), able-minded and -bodied sons cannot always have been content with stepping back into the 'rank and file' just because it was generally assumed that their own parents had been united by less of a public ceremony than their siblings' parents. Quite apart from the question of how far the memory of whether 'marriage' rites had actually taken place can have been transmitted over several decades without being altered by dynamic re-fashioning, the idea that everyone just accepted marital legitimacy even if it hit themselves and their interests hard rather makes ninth- or eleventh-century power brokers look a little too meek.

I suspect<sup>55</sup> that competition was more acerbated and more open than that. Did Charlemagne really exclude his 'illegitimate' sons, born of 'concubines', from inheritance and focus on the 'legitimate' offspring only? Or did he focus on the prospectively most successful offspring, making them 'legitimate' by the fact that he pointed them out as his heirs (while being forced to revise his decisions occasionally)? Did one son inherit the power of an Icelandic chieftain (Jón Loptsson, † 1197) more or less undivided because his mother was married to his father, whereas he himself (Semund Jónsson, † 1222) in his turn left his power divided between four or five sons because he never contracted marriage but only had sons with concubines? Or was it the other way around: In one generation, there was a clear winner in the power struggle after Jón's death, so status was conferred on Semund and his mother (incidentally not a high-born woman at all), whereas in a deadlock, none of Semund's sons could make a claim to sole legitimacy, and therefore, none of the mothers could lay claim to having been 'married' to the father?<sup>56</sup> In many cases, 'silver-spoon' sons will have

been the prospectively most successful candidates anyway, simply because they were better related and possibly had been brought up close to power in the first place. It was less easy to sidestep a king's grandson than a peasant's one. But that is a difference of degrees, just as in the argument rehearsed above about high-born and well-related woman finding it easier to claim control of the household ('key and locks').

This view can be referred to by the neologism of 'retrospect marriage': The course of events, ongoing practice, successful competition on the part of the women and their children, and windfalls such as sudden reversals of alliance (making formerly high-end relationships obsolete, or vice versa), could at any given moment result in changing ideas about who was on top. The moment the father died was payday, and whatever situation was then current would to a considerable extent determine the settlement – after which the question of erstwhile 'legitimacy', unless contested in a protracted power struggle, would quickly cease to be of much practical relevance. Often things would have been over in a matter of days or weeks. If these events were then recorded in a Latin mode, the Augustinian idiom would apply, thereby clothing lay elite practice in the language of monogamism (*uxor/concubina*) with the benefit of hindsight. And I agree that in the long run, especially in west central Europe after the eleventh century, the idiom was to prove a powerful modifier of practice. But up until then, concepts of monogamism and the ensuing forms of discourse were perhaps the main difference between the *umm-walād* ('the [ruling] son's mother'), that towering figure of the tenth- and eleventh-century courts of Muslim al-Andalus, and the successful mothers in the Christian parts of the West. Like other legal forms, marriage was less a state than an event, or rather, a long story of uncertain outcome.

As Dominique Barthélemy has reminded us, 'a right is less an abstract concept than a series of concrete manifestations, occasional but regular. This is why the political system does not reveal itself truthfully in an image immobilised at a given moment; it consists of sequences, of a succession of characteristic situations, duly memorised by the contemporaries.'<sup>57</sup> When a dispute over succession is settled by recourse to a law's differentiation between a 'slegfred' and an 'adelkone', or when a man and a woman appear in a church to do public penitence and pay their 12 *øre* to the priest, marriage exists – there and then. When King Harald Hardrada (the 'Hard-Ruler'), on returning from his Byzantine career, establishes Þóra, the sister of several of his most valued Norwegian allies, in his household alongside the Novgorod king's daughter Elizabeth, and in due course treats his sons

55. For evidence see Rüdiger, *Der König und seine Frauen* and Rüdiger, *Ægteskab*.

56. For a full discussion, see Rüdiger, *Ægteskab*.

57. D. Barthélemy, 'Les comtes, les sires et les 'nobles de châteaux' dans la Touraine du XIe siècle', in E. Momiet (ed.), *Campagnes médiévales: L'homme et son espace. Etudes offertes à Robert Fossier* (Paris: 1995), 439-53, at 447 [my translation].

by her as his heirs, then marriage does not exist. When King Olav 'Skötkonung' in Svealand behaves in a similar way but clerics such as Adam of Bremen take exception, and maybe influence the concubine's son's chances of success as a ruler, then marriage exists – insofar as opposition to the ruler is based on advocacy of the Augustinian dichotomy.<sup>58</sup> Only a comprehensive assessment of the sources can give us an indication of which 'truth', at any given moment in any regional or social context, was more influential. But the evidence given does not really allow us to uphold the assumption that monogamous marriage – the married couple – was a universal and perennial phenomenon without alternatives. I rather suspect it was a fairly novel introduction into medieval societies which, along with other novelties of the central Middle Ages, went on to carry the day.

## 8. Summary of the argument

May I sum up my case: Scholarship leaves no doubt that Europeans have for a very long time made marriage a key concept as well as a key social practice. Much attention has been given, and continues to be given, to different *concepts* of marriage. Evolutionary models have by and large given way to views stressing innovation and conflict, intellectual debate and social strategies. But to my knowledge – though here of course I may be wrong – the debate has always focused on the *changes* brought about by theology, church legislation, Canon and secular law, and their respective reception and acceptance by different parts of the medieval West. Marriage by consent, indissolubility and the various stages of incest legislation are seen as the most contentious issues. Explicitly stated or by implication, then, it is assumed that pre-reform or 'secular' marriage differed from the reformist model in these respects, viz. that it was a matter for social groups – two kinship groups or 'families', whatever that means in any given context – to arrange; that it often went with transfer or exchange of property; that it could be dissolved by means such as repudiation or separation; and that endogamy from the second degree onwards was widely acceptable. Before and beside that, other sexual relationships could and did occur; they were of no significance socially apart from the unrest that 'bastards' might introduce into succession.

I have a suspicion that St Augustine, glorying in the chastisement of his own *pacum libidinosi amoris* and setting it off against duly contracted

Roman marriage, has much to answer for this view. No doubt the Church, prompted by St Paul and ultimately Adam and Eve, has always championed monogamy. But I believe that the radical fusion of monogamy and marriage that created so much unrest in the High Middle Ages did not mean *change* but in fact the *introduction* of marriage as a special, exclusive relationship forming a couple.

My assumption is that prior to that, the dichotomy 'marriage/all other forms of sexual relationships', as formulated by St Augustine, much church law and most modern scholarship, was not a feature of Western societies. Society was not constructed around 'the couple'. It consisted of single men – and very rarely, women – presiding over a minimum of surplus resources with which to maintain other human beings. Often, that would in fact mean that a man kept one woman, and they would have children. But given the necessary resources, there might as well be several (or conversely, no) women to a man.<sup>59</sup>

If one affects ignorance of the subsequent history of marriage, and indeed its biblical and Roman antecedents, in the attempt to fake an anthropologist's view of medieval Western European subsistence economy farming or coastal societies with an agonistic warrior élite and no institutionalised forms of social mobility, then the question would be: How probable is it that of all resources and status markers, from cattle and farnsteads to ships and armour, only and precisely the 'exchange of women'<sup>60</sup> would be an exception to the rules of accumulation and distribution common to these societies? There is no apparent reason why men and women should fail to profit from the opportunities polygyny offers them, which may be condensed into five headings:<sup>61</sup>

- 1 – generation: the multiform chances of having offspring
- 2 – habits: quite apart from any considerations about what store is put by virility, in a society with a dearth of vital resources, polygyny is a status marker
- 3 – expression: man-to-woman-relationships can be made to express, according to context, alliance, domination, subjugation, or any blend of these
- 4 – agon: few other fields of competition are so easily 'read' by those in the face of whom men, or women, compete

59. For Carolingian peasant households, see the argument recently advanced by L. Kuchenbuch, "... mit Weib und Kind und...": Die Familien der Mediävistik zwischen den Verhältnissen und ihren Verwandten in Alteuropa, in K.-H. Spieß (ed.), *Die Familie in der Gesellschaft des Mittelalters*. Vorträge und Forschungen 71 (Ostfildern: 2009), 325-76.

60. To borrow the classic expression of Marcel Mauss, which has been the object of much criticism since, not all of it gender-motivated.

61. As developed in Rüdiger, *Der König und seine Frauen*.

58. The instances are in *Heimskringla - Haralds saga Sigurðarsonar*, chs. 17, 33; 51ff., and Adam of Bremen, *Gesta Hammaburgensis ecclesiae pontificum*, II 39, 59.

5 – performance: this is shaky ground, but there is reason to assume that while sexual union can be read ‘semantically’, as a sign of, say, subjugation (and don’t we modern Europeans know it), in many Early European contexts the identity of signifier and signified was much less arbitrary than that. Though the *hieros gamos* concept – the idea that the inception of a sexual relationship is not merely an expression of rule, but is tantamount to its coming into effect – is, as far as high medieval sources go, only explicit at any length in Irish narratives, we can glimpse intimations of it in other regions, from Scandinavia to the Mediterranean.

On all these counts, monogamy brings about a drastic reduction in flexibility and range of options. It is very possible that societies accept that reduction in favour of monogamy; late medieval and modern Europe has on the whole done just that. But it wants explanation, not presupposition. I am afraid the Devil’s Advocate would have to ask opposing counsel to explain his reasons for assuming that early Europe, too, practised a kind of monogamous marriage set apart from all other forms of sexual behaviour.

If we look at earlier Europe as a basically polygynous society, we are allowing for a multitude of social levels of man-to-woman relationships. Some of them are low-status, and some of them are high-status – that is the Gulating Law case of the woman ‘bought by agreement’. My point is that the status of these relationships is not determined by their form – that is, a high-status ‘wife’ has not high status because contrary to those bondswomen or occasional flings with the daughters of the peasantry she is ‘married’ to the man – but she is ‘married’, including ceremony and public visibility, because she has high status. Polygyny implies a range of relationships of different status and prestige. What we commonly regard as ‘lay marriage’ is the relational maximum: *adalkona*, the woman on top.

My argument against using the term ‘marriage’ for such a high-status union is twofold: first, there is no categorical difference between those relationships, though there can be considerable difference in status, and accordingly, in living conditions. Secondly, there is always only a relative status, no absolute maximum. There can always be a bigger haul. King Magnus Barefoot, who ruled in Norway for a brief but successful period in the late eleventh century, started with relationships to girls in his father’s *hird*, the itinerary companionship. On his father’s death, he was amongst the most successful contenders for succession and made good his domination of Trøndelag by acquiring two daughters of a local chieftain – whether by threat or alliance we cannot tell, but either way, the ‘expressive’ potential of these unions is clear. When he was firmly in control, he reached even further, and acquired a Swedish king’s daughter as part of a larger peace settlement.<sup>62</sup> We tend to look at that king’s daughter as King Magnus’s

62. This is his story as told by Snorri Sturluson in *Heimskringla* – *Magnuss saga*

‘wife’ and the others as ‘concubines’, but that is Augustinian parlance. She was simply the most prestigious one, and the one the king would have to place in the high seat at banquets. She could be fairly sure of her position because given the circumstances she would be hard to top. But it could always happen, as it did in the case, alluded to above, of Elizabeth/*Elisif*, the first royal spouse of Magnus’s grandfather, King Harald Hardrada († 1066), acquired by the then-promising young pretender with Byzantine wealth and experience to back him on making his bid for kingship in Norway. He was later caused to strike a deal with a faction of mighty Trøndelag chieftains, in the course of which he acquired one of their women. The sagas show both women on an equal footing, which makes modern scholarship view him as that rare bird, a Christian king and a bigamist. But he wasn’t, or not specifically; he was as polygynous as the rest of them, only in his case there was no one clear top woman on the relational scale.

The nearest thing to status difference within this polygynous continuum we can really see is the way the relationship was started. That’s the point about law expressions like Gulating *keypt með maldaga*, ‘bought on agreement’. As everywhere else in these extremely status-conscious face-to-face societies, the decisive operator was whether one was in a position to have one’s way.<sup>63</sup> For a man to have a woman taken away from one, or for a woman to be taken away, whether by plunder or bullying, was degrading, and settled the future status as low. To be acquired by agreement, and to have this agreement made public by ceremonies like the formalised *brúðlaup* and its many European counterparts, implied high status. There might be future situations where a still more prestigious woman might enter the household, but it was a good starting point for establishing oneself in a society where, for lack of formal and categorical

*bertanis*.

63. *Ráða* (modern ‘råde/-a’), ‘to have one’s way’ is probably the single most important term of Nordic political language in the Middle Ages; cf. J. Rüdiger, *Did Charlemagne Know Carolingian Kingship Theory?* (Stockholm: 2011). If a powerful man acquired a woman without her group/relatives’ consent (*ekht at frændarði*), then social relationships are quite impressively stated and were possibly altered by the fact, as happens in the case of a *frillak* (acquisition/robbery of a co-wife or ‘of a concubine’) told in *Egils saga*, chs. 7 and 32; cf. E. Ebel, *Der Konkubinät nach altnordischen Quellen. Philologische Studien zur sogenannten “Friedelehe”*. Ergänzungsbände zum Reallexikon der Germanischen Altertumskunde 8 (Berlin and New York: 1993), 30–62. It is not the fact that she was a *frilla* but that her acquisition was a power display which can be construed as ignominious. Characteristically, the saga’s account of the law suit ensuring over the inheritance of the erstwhile rapist is clearly in favour of the ‘ignominious’ daughter, who is in fact Egil’s high-minded ‘main wife’ Asgerð, a strong saga woman if ever there was one. Her own and her children’s characters bear witness to the legitimacy of her property claims.

hierarchy, competition among women was every bit as sharp as that among men.

To conclude, let me sketch the transition worked by the introduction of marriage into Western Europe around 1100. In a small part of the continent, mainly parts of Frankland, the endeavours of the Church to translate its theological ideal into social practice concurred with secular trends that went towards a 'vertebration', a fixation of status of women, with a view towards ensuring fixed succession. Far from being a clash between an older lay and a recently introduced clerical model of marriage, twelfth-century Frankland monogamism developed concurrently in a lay and a clerical mode, which tended to fuse, and did. The clash was between both types of monogamism on the one side, and open polygynous competition on the other side. The kings of France and Denmark used monogamism as a way of establishing clear-cut succession with considerable success. Other parts of Europe remained wary of the new ways for the time being. In early twelfth-century Norway, King Magnus Barefoot's several sons, none of them borne by his 'wife' the Swedish king's daughter, arranged for a surprisingly stable joint rule, while in Normandy and England, where the elite was now embracing monogamism, none of the surviving sons of King Henry I († 1130), able though they were, could succeed their father – not even Robert of Gloucester, the main power broker of his day. What stood in their way was the fact that Henry I had contracted one royal alliance, now justly considered 'marriage', which would have conferred the necessary legitimacy on the son who never lived to see the day, having gone down with the 'White Ship' in 1120. An unclear situation of legitimate succession and fifteen years of devastating factional war between the daughter and a male relative of Henry I were the result. The new model had come to stay. Within a century, it had introduced marriage to practically all of Europe.

Per Andersen / Kirsi Salonen /  
Helle Møller Sigh / Helle Vogt (Hg.):

*Law and Marriage in Medieval and Early Modern Times.  
Proceedings of the Eighth Carlsberg Conference  
on Medieval Legal History 2011.*

Copenhagen 2012.