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How Second-Wave Feminism Forgot the Single Woman

Rachel F. Moran*

I cannot imagine a feminist evolution leading to radical change in the private/political realm of gender that is not rooted in the conviction that all women's lives are important; that the lives of men cannot be understood by burying the lives of women; and that to make visible the full meaning of women's experience, to reinterpret knowledge in terms of that experience, is now the most important task of thinking.1

America has always been a very married country. From early colonial times until quite recently, rates of marriage in our nation have been high—higher in fact than in Britain and western Europe.2 Only in 1960 did this pattern begin to change as American men and women married later or perhaps not at all.3 Because of the dominance of marriage in this country, permanently single people—whether male or female—have been not just statistical oddities but social conundrums. Their place in society typically has fluctuated between two extremes: invisible non-entity or stigmatized outsider. Throughout American history, long-term singles have struggled for a place in the social order that could allow them to be simply normal, that is, a numerical but not marginal minority.

This struggle has been particularly difficult because the permanently single have not been the cause célèbre of any major social

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3. Id. at 25-27.
movement. Lately, however, the picture has been changing, as ever larger numbers of individuals join the ranks of singledom, whether temporarily or permanently. Today, people are waiting longer to marry, are cohabiting instead of marrying, and are divorcing in substantial numbers once married. Although the ranks of the never-married remain small, their status could be altered by the swelling ranks of the divorced and widowed who can expect to self-identify as single for a significant part of their adult lives. As Peter J. Stein notes, the very diversity of the single population could make it difficult to launch a cohesive social movement, but “the ideology and goals of the women’s, men’s, and gay liberation movements are helping to lay the groundwork.”

In particular, “[t]heir common critique of conventional marriage and sex-role stereotyping has served to articulate and direct the general discontent of people who have felt ‘trapped’ in marriage.” Stein wrote these words in 1975, and he might be very surprised to learn that nearly thirty years later, the men’s movement remains obscure, and gays have become ardent proponents of conventional wedded bliss. Even the women’s liberation movement, which enabled females to opt out of marriage, has

5. Id. See also Yuval Merin, Equality for Same-Sex Couples: The Legal Recognition of Gay Partnerships in Europe and the United States 28-30, 40-50 (2002) (describing how civil rights and feminism contributed to the rise of the same-sex marriage movement and how gays in turn helped to rethink the traditional paradigm of marriage).
6. In describing the men’s movement as obscure, I mean to refer to organizations of men devoted to feminist practice, as Stein does, not groups of men dedicated to resurrecting traditional models of masculinity and manhood. See Tom Williamson, A History of the Men’s Movement, in Men Freeing Men: Exploding the Myth of the Traditional Male 308, 312-13 (Francis Baumli ed., 1985) (noting that feminist men “failed to develop cohesive organization and clear spokesmen for their movement,” and that Betty Friedan dubbed the men’s movement “the quiet movement”); Steven Botkin, In Search of the Men’s Movement, VALLEY MEN, Jan. 31, 1998, at 3 (describing how the National Organization for Men Against Sexism became “relatively invisible” due to internal political differences and how the Men’s Resource Center in Berkeley, California remains a unique resource); Herb Goldberg, Why Is the Men’s Movement Not “Happening”?, 3 TRANSITIONS 1, 1 (1983) (reporting a “frustrating sense” that the men’s movement has had far less impact than the women’s movement).

failed to give full recognition to single women as a distinct constituency with unique needs.

To understand how second-wave feminism forgot the single woman, I will trace the history of marriage and singlehood leading up to the resurgence of women's liberation in the 1960s. During the colonial years and the early years of the American republic, the demands of nation-building were so great that White women's civic virtue was largely defined by early marriage and high rates of childbearing. Young girls devoted themselves to preparing for their roles as wives and mothers, and few women chose to remain unmarried. Though anomalous, spinsters were not particularly threatening to the social order, precisely because their numbers were trivial. In fact, the most common example of a mature single woman was the widow, whose lack of a husband was a matter of chance rather than choice.

With urbanization and industrialization, women found new opportunities for wage labor as well as new perils in marriage. Throughout the late 1800s and early 1900s, Americans delayed marriage, though most eventually did tie the knot. As the number of "bachelor girls" in big cities grew, they became a social problem and not just an insignificant group of unmarried eccentrics. In response to these changes, middle-class White women worked to redefine marriage, establish norms of sexual decency, and control fertility. To establish their moral authority, these women drew on their status as wives and mothers. Recognizing that their social reform efforts were stymied by a lack of political clout, first-wave feminists supplemented claims of women's moral superiority with demands for equal rights. Although women pressed for some changes in marriage and property law, the movement ultimately focused on universal suffrage. Single women played a critical role in mobilizing for the vote, yet leading suffragists deflected criticism by emphasizing that they themselves were happily married. Ironically, when suffragists won the vote, their efforts to organize as women around distinctive gender-related issues fell apart. Perhaps women had pinned too many hopes on individual political rights, underestimating the tremendous power of sisterhood as a reform strategy.

The decline of first-wave feminism coincided with diminishing ranks of single women. Beginning in the late 1800s, the age at first marriage for White men and women decreased, so that by 1960, the averages were comparable to those in the colonial period.8 As a result,
when second-wave feminism emerged, it relied on White, middle-class women who were mostly married as its core constituency. Mature single women, who had been the backbone of first-wave feminism, did not occupy a similarly central place in the women’s liberation movement of the 1960s and 1970s. For this reason, second-wave feminism largely forgot the single woman as it found ways to enable married women to “have it all.” Leading feminists emphasized economic and reproductive autonomy for women, changes that could benefit both single and married women. Even so, the second-wave feminist reform agenda often emphasized the importance of enabling women to balance marriage, motherhood, and work, an approach that implied that singlehood was a mere way station on the way to a committed relationship. Having been neglected as an identifiable constituency, single women today vote at lower rates than married women do. The missed opportunity to mobilize unmarried females has seriously impeded progressive reform efforts.

In this paper, I will focus on liberal, rather than radical, second-wave feminism. Liberal feminism has been the dominant discourse in pressing for law and policy reforms. By drawing on a rhetoric of equality and entitlement, liberal feminists have lobbied successfully for changes in education, employment, and reproductive rights. At the same time, liberal feminists often have presumed that women will marry and have children, so that the central dilemma to be addressed is how to reconcile work and family responsibilities. By emphasizing liberal feminism, I do not mean to diminish the significance of other feminist contributions. Nor do I mean to imply that alternative versions of feminism have done a superior job of addressing single women’s needs. In fact, I suspect that despite the proliferation of feminist theory and practice, single women remain shortchanged in the analysis. That, however, is a subject that I reserve for another day.

In telling the history of how second-wave feminism forgot the single woman, I will emphasize the experience of middle-class, White women. Traditional marriage in the United States primarily has been the province of these women. Historically, slave marriages and Native American marriages did not receive the same legal recognition and protection that middle-class, White marriages did.9 Even when non-Whites achieved formal equality, conventional marriage was a luxury that few of them could afford.10 Women of color, especially Black

women, had to develop alternative strategies that addressed not only their economic but also their emotional needs.\(^\text{11}\)

White, middle-class respectability was defined in relation to the unorthodox practices of the non-White and poor.\(^\text{12}\) As a result, when first-wave and second-wave feminists sought to redefine the boundaries of women’s possibility and virtue, they were informed almost entirely by the experiences of middle-class, White women. By drawing on these experiences, liberal feminists benefited from the moral authority and respect that conventional marriage and motherhood conferred upon women. Other authors already have noted how White, middle-class women dominated second-wave feminism in ways that excluded women of color.\(^\text{13}\) Lesbians also have protested their marginalization by a movement that privileged marriage and motherhood. Indeed, lesbians often found refuge in a separatist rhetoric of radical feminism.\(^\text{14}\) These limitations have prompted some young women, especially women of color, to proclaim a third wave of feminism that is sensitive to the full range of individual female experiences. The third wave’s focus on continued to rely on informal family arrangements rather than legal marriages because of the expense associated with formalizing unions and the legitimacy that had been accorded to committed cohabiting slave couples when marriage was unavailable to them).

\(^{11}\) See, e.g., Saxton, supra note 9, at 196-201, 226-27 (stating that in nineteenth century St. Louis, slave mothers taught their daughters that “[t]he most thrilling dream... was freedom, not marriage” and prepared them to be self-reliant and independent; free Black women had to cultivate work strategies and extended support networks because marriage provided no guarantee of protection or survival).

\(^{12}\) Rachel F. Moran, Interracial Intimacy: The Regulation of Race and Romance 68-75 (2001); Saxton, supra note 9, at 40-47, 121-31, 183-87, 196-201, 207-11, 224-36, 277-80, 299-301.


\(^{14}\) Carol Anne Douglas, Love and Politics: Radical Feminist and Lesbian Theories 217-18, 252-55, 263-65, 267-68 (1990); Barbara Ryan, Feminism and the Women’s Movement: Dynamics of Change in Social Movement, Ideology and Activism 49-50 (1992); Denise Thompson, Radical Feminism Today 13-15 (2001); Jeanne Cordova, Radical Feminism? Dyke Separatism?, in Radical Feminism: A Documentary Reader 358 (Barbara A. Crow ed., 2000). But cf. Alice Echols, Daring to Be Bad: Radical Feminism in America 1967-1975, at 220 (1989) (arguing that while radical feminists did not fall prey to NOW’s “paranoia” about lesbianism because they had never aspired to respectability, the issue was nevertheless divisive for them); Imelda Whelehan, Modern Feminist Thought: From the Second Wave to ‘Post-Feminism’ 90-98 (1995) (noting not only lesbians’ estrangement from mainstream feminism, but also their need to differentiate themselves from radical feminists).
personal narratives and cultural criticism has sometimes hampered efforts to shape a political agenda, though activists have worked to identify common issues and build coalitions.\(^{15}\)

By contrast, the neglect of single women remains largely invisible, although this omission arguably springs from the same tendency to privilege marriage and motherhood. The women's movement has embraced political and economic individualism, commitments that have benefited single women even when reforms were motivated by a desire to free wives from their husbands' authority. By drawing on liberal democratic theory, the first wave of feminism successfully won the right to vote for women. Women were empowered to express an individual political identity. Similarly, the second wave of feminism invoked a paradigm of economic rights to demand equality for women on the job. Again, the objective was to empower women as individuals. They would be able to develop their skills, actualize themselves through productive work, and gain appropriate rewards and recognition as a result.

At the same time, though, feminists have never come to grips with the possibility of emotional individualism. They have insisted on their fundamental difference from and even superiority to men. This claim of difference draws on women's connectedness, their capacity to build relationships, nurture loved ones, and empathize with others. At its core, this relational paradigm turns heavily on the historical responsibility to preserve a healthy home life as wives and mothers. Despite the possibility that political and economic individualism can transform women's emotional make-up and ethical values, feminists have been reluctant to relinquish the advantage that women's unique role as the guardian of domestic life confers. In short, second-wave feminists have insisted on being both the same and different, equal and superior.

Women of color and lesbians have not had the same opportunities to claim moral authority based on traditional marriage and motherhood.

15. JENNIFER BAUMGARDNER & AMY RICHARDS, MANIFESTA: YOUNG WOMEN, FEMINISM, AND THE FUTURE 48 (paperback ed. 2000) ("To a degree, the lack of a Third Wave feminist terminology keeps us from building a potent movement, which is why we need to connect our pro-woman ethics to a political vision."); Rebecca Walker, Being Real: An Introduction, in TO BE REAL: TELLING THE TRUTH AND CHANGING THE FACE OF FEMINISM, at xxix, xxxvi (Rebecca Walker ed., 1995) ("I wanted . . . to break down notions of what a feminist is, to show that there are an infinite number of moments and experiences that make up female empowerment."); Leslie Heywood & Jennifer Drake, Introduction, in THIRD WAVE AGENDA: BEING FEMINIST, DOING FEMINISM 1, 2 (Leslie Heywood & Jennifer Drake, eds., 1997) (describing third-wave feminist writings as "autobiographical and experiential"); because "[they rely] on personal anecdote for their definitional and argumentative strategies," they "rarely provide[] consistent analysis of the larger culture that has helped shape and produce those experiences"). A full description of third-wave feminism and its implications for single women is beyond the scope of this paper.

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Black women, in particular, have faced serious barriers to finding a husband, and lesbians have been legally prohibited from marrying in the United States. Heterosexual White, middle-class women who choose to remain single also have foregone the legitimation of their personal and ethical bona fides through marriage. In forging alternative networks of intimacy, these women have moved beyond political and economic individualism to embrace emotional individualism. They have rejected the presumptive superiority of conventional marriage and motherhood and found other ways to build a sense of connectedness. Insofar as feminists equate female difference and moral superiority with women’s domestic role, they have a blind spot about women who live outside the boundaries of a traditional home life, whether these women identify themselves by race, sexual orientation, or unmarried status. Here, I will focus on single women as a way to begin thinking about alternative lifestyles and to invigorate the concept of emotional individualism in feminist discourse.

I. THE RISE OF THE AMERICAN REPUBLIC: THE PRECARIOUS LIVES OF SINGLE WOMEN

During the colonial era, marriage and family comprehensively defined a woman’s life chances. A wife was expected to subordinate herself to her husband’s legal and political identity, to engage in productive activities that would accrue to her husband’s benefit, and to focus her emotional energies on satisfying her husband’s needs. In other words, women were dependent on their husbands in all respects: politically, economically, and emotionally. There were few viable alternatives because “marriage was the natural and desirable role for white women, and their economic subordination assured the colonists that most women would follow this path.”16 Indeed, Benjamin Franklin observed in 1755 that “marriages in America are more general and more generally early, than in Europe,” a point that he linked to the rapid expansion of a sparse population in the colonies.17 Available statistics bear out his observation. Among White women, marriages occurred early, were nearly universal, and produced substantial numbers of

17. WILSON H. GRABILL, CLYDE V. KISER, & PASCAL K. WHELPTON, SOC. SCI. RESEARCH COUNCIL & U.S. DEP’T OF COMMERCE, THE FERTILITY OF AMERICAN WOMEN 5-6 (1958) (citing Benjamin Franklin’s discussion of “Tables of the proportion of Marriages to Births, of Deaths to Births, of Marriages to the number of inhabitants, &c.”).
children. Single females were anomalous though hardly non-existent. Their ranks included young women awaiting marriage, widows, and a tiny number of never-married women. Of these groups, widows provided the dominant image of the single woman. Unlike young girls, widows were mature adults no longer automatically under a father's control. Unlike the never married, widows could be found in substantial numbers. A handful of wealthy widows posed an especially significant challenge to the social order because they sometimes competed successfully in the male-dominated world of business.

Marital status defined women's worth, and men explicitly described married women as superior to single women. The law adopted this distinction, dividing women into the categories of *feme covert* and *feme sole*. For women, marriage carried with it "a stunning array of status-defining legal restrictions" that kept them from conveying or devising property, entering into contracts, and bringing legal actions. The law presumed that a woman's "legal identity was 'covered' by that of her husband, [so] . . . that he could perform those legal roles on her behalf if he so chose." The legal definition of women rested so heavily on their marital status that the *feme sole* received "scant attention" on the assumption that she was "exceptional" and "stood outside of the bounds of legal regulation." Because marriage was the normative model for women, even unmarried women's rights were defined in "the muddled terrain of marriage's shadow."

Consistent with this emphasis on marriage and family, women became "notable" for managing household affairs. Just as women's

19. I exclude here a small number of married women who were legally separated from their husbands but did not divorce because of significant legal obstacles. These women may have confronted similar challenges while living independently of a husband, yet technically remaining married. In any event, historical research suggests that very few women fell into this category. See Carl N. Degler, At Odds: Women and the Family in America from the Revolution to the Present 165-66 (1980). I also do not address the occasional legal reference to married spinsters in English law, a ploy designed to protect husbands from punishment for their wives' crimes. See Carol Z. Wiener, Is a Spinster an Unmarried Woman?, 20 AM. J. LEGAL HIST. 27, 29 (1976).
22. Id. at 1654-55.
23. Id. at 1655.
24. Id. at 1656.
25. Norton, supra note 20, at 4-5.
legal identity was defined in relation to marriage, their economic worth was assessed in relation to domestic productivity. Young, single women were viewed as temporarily unmarried while preparing to enter the ranks of the *feme covert*. Widows were expected to marshal their resources to remain self-supporting (though not excessively prosperous) after a husband's death. Never-married women, the most suspect of single females, had to engage in work that resembled the domestic activities of a married woman, and they were expected to safeguard their sexuality to preserve norms that limited reproduction to married women. In short, "household production and the near-certainty of marriage for women made a virtue out of domestic skill."\(^{26}\)

Wives were expected to submit themselves to a husband's will and authority. In New England and the Chesapeake, the most prized trait in a woman was obedience.\(^{27}\) Puritans praised silent wives, who submerged themselves in their husbands' identities and depended on them for spiritual guidance.\(^{28}\) Sadly, this emotional effacement and isolation exacted a terrible toll on some women, who suffered from deep melancholia and even committed suicide.\(^{29}\) In eighteenth-century Virginia, "[e]vidence about happy unions [came] mainly from husbands."\(^{30}\) An obedient and submissive wife "could make a husband comfortable without experiencing pleasure herself."\(^{31}\) A bad marriage could force Virginia wives into "a hellish servitude" every bit as crushing as the melancholia experienced by Puritan women.\(^{32}\) Despite these drawbacks, marriage seemed to be the only option for most women.

### A. Unmarried Daughters and Preparation for Marriage and Motherhood

Females who had yet to be married did not substantially shape the image of the single woman. Given the early age of first marriage, these girls were simply too young to have a husband and typically lived under the care, protection, and authority of their fathers. In both New England and the Chesapeake, girls were not considered capable of acting effectively on their own behalf. Instead, a girl's father dominated her

\(^{26}\) *Kessler-Harris*, *supra* note 16, at 4.
\(^{27}\) *Saxton*, *supra* note 9, at 51-52, 135.
\(^{28}\) *Id.* at 51-57.
\(^{29}\) *Id.* at 57-60.
\(^{30}\) *Id.* at 147.
\(^{31}\) *Id.* at 148.
\(^{32}\) *Id.*
life, including the decision of greatest importance to her: whom she would marry. In eighteenth-century Virginia, girls married young, sometimes as early as twelve. Girls between twelve and sixteen were automatically disinherited if they married without a father’s consent. In both the North and the South, a girl could object to a mate who was distasteful to her. Yet, romantic preference was less important than the practical advantage that might follow from a good match. Love might come later if a young wife was lucky. In short, a daughter’s emotional needs were largely secondary to the imperative of her father’s wishes.

Single girls were expected to contribute to a household run by their fathers and to engage in domestic activities that would prepare them for marriage. Although female contributions to the household economy were not highly valued, women ultimately expected to get their main psychological rewards from their roles as wives and mothers. Many young women performed the time-consuming and tedious task of spinning, which gave rise to the term “spinster” to refer to an unmarried female and “the distaff side” to refer to all women. To leaven the monotony of spinning, women often worked in groups, and the task became symbolic of both femininity and sisterhood. In some cases, spinning at home became a stepping stone to wage labor, as girls made cloth or worked as seamstresses. In addition, a few daughters were lucky enough to learn skilled crafts from their fathers. Even girls who left home to work did not assume a strong independent identity because as female servants, they were subject to the control of their masters. Young women might work a few years before marrying, and employers often complained about the “‘Giddy Headed Girls’” who changed jobs frequently.

33. Id. at 47-49, 135.
34. Id. at 132.
35. See ANNE S. LOMBARD, MAKING MANHOOD: GROWING UP MALE IN COLONIAL NEW ENGLAND 63-64 (2003); SAXTON, supra note 9, at 135 (discussing the practical reasons for a woman's choice of a husband).
37. Id. at 39.
38. Id. at 15.
39. Id. at 17-20.
40. Id. at 18.
42. NORTON, supra note 20, at 23; see also KESSLER-HARRIS, supra note 16, at 14.
B. Widows and the Legacy of Marriage

The widow was the paradigmatic example of the single woman during the colonial era. Because women did not remarry quickly after a husband's death, widows represented a substantial segment, perhaps as much as one-tenth, of the White female population in the last half of the eighteenth century in the United States.\textsuperscript{43} The life chances of widows were defined in relation to marriage. Dower, "the core of the wife's entitlement under the old common law system,"\textsuperscript{44} generally guaranteed the widow a life interest in one-third of her late husband's real, but not personal, property.\textsuperscript{45} Dower was designed to prevent dependent women and children from sinking into poverty and becoming burdens on the state after male heads of household died.\textsuperscript{46} Unfortunately, dower often failed to achieve these purposes, leaving many widows in eighteenth and early nineteenth century America in a precarious financial state.\textsuperscript{47}

With the exception of Southern women who helped their husbands manage large estates, few widows had much experience in running a business. Even so, some wealthy widows enjoyed unparalleled opportunities to achieve financial independence. Because of their inexperience, newly bereaved widows had to learn quickly lest they be duped by unscrupulous debtors or creditors. Widows gained newfound confidence as they became adept at managing property. When and if they remarried, they often insisted on an antenuptial agreement that guaranteed them "active use" of their possessions, including their late husband's property.\textsuperscript{48} Some widows were remarkably successful, converting land inherited from husbands or fathers into substantial fortunes. Indeed, the specter of female success outside of marriage or domestic service threatened the image of women as essentially subservient and dependent. Despite their business acumen, even propertied women lacked political voice. So, when disgruntled men turned to the legislative process to divest "maids" of their ability to hold land, women had to defend their interests by relying on influential male friends and relatives.\textsuperscript{49}

\textsuperscript{43} Id. at 132-33. \\
\textsuperscript{44} SUSAN STAVES, MARRIED WOMEN'S SEPARATE PROPERTY IN ENGLAND, 1660-1833, at 5 (1990). \\
\textsuperscript{45} NORTON, supra note 20, at 137; Dubler, supra note 20, at 1660. \\
\textsuperscript{46} NORTON, supra note 20, at 137; Dubler, supra note 20, at 1667-68. \\
\textsuperscript{47} NORTON, supra note 20, at 137; Dubler, supra note 20, at 1662. \\
\textsuperscript{48} NORTON, supra note 20, at 135 (internal quotation marks omitted). \\
\textsuperscript{49} See KESSLER-HARRIS, supra note 16, at 11.
Financial success gave widows new emotional power as well. In Puritan New England, men were not considered manly while they were courting a woman. Their sense of emasculation could be especially acute when they sought the hand of an independent female who could reject them. In 1720, the merchant Samuel Sewall was at the peak of his professional success. After outliving two wives, he began to court an attractive, wealthy widow named Katherine Winthrop. Being "forced to conform to the desires of a woman" left Sewall feeling both vulnerable and less than manly. When Winthrop ultimately rejected him, he rationalized the romantic failure by insisting that she had made unreasonable demands that would have put him in debtors' prison. Sewall's characterization of Winthrop as greedy and heartless reflected a general "hostility toward widows and other women who would not be governed by men, perhaps expressing men's antipathy toward the kinds of independent women who failed to conform to their image of the ideal wife."

Although some affluent widows enjoyed newfound autonomy and self-sufficiency, most found themselves in dire financial straits. Needy widows joined the ranks of a few never-married women and wives of poor men; together, these working women made up less than ten percent of the female population, even in urban areas with a greater supply of jobs than rural communities. As war and migration decimated the ranks of eligible men and husbands, an increasing number of women found themselves alone and unable to remarry. By 1765, for example, Massachusetts had only 90.3 adult White males for every 100 adult White females. Poor widows often sought out wage labor that was an extension of their domestic functions as wives; this work included sewing, housekeeping, teaching, nursing, and selling food or clothing. Unfortunately, many were unable to find positions that paid enough to sustain them and their children. Without land, capital, or skills, women—especially those with children—faced starvation and homelessness.

Despite their demonstrable commitment to marriage and motherhood, widows faced deep social hostility. In New England, where

50. LOMBARD, supra note 35, at 64.
51. Id. at 64-66.
52. Id. at 65.
53. Id. at 5.
54. NORTON, supra note 20, at 137.
56. NORTON, supra note 20, at 137-38.
the number of poor and dispossessed was greatest, townships defended themselves by keeping needy women and children out or warning them that no public charity was available. The upshot was that “New England witnessed the cruel anomaly of the widow forced to move from town to town in search of a place where she and her brood could find some means of sustenance.”\(^{57}\) To address this growing social problem, the city of Boston established workhouses for widows, but many of the women objected to the degradation, humiliation, and isolation they suffered. City officials then proposed a manufactory where widows and their children “who are now in great measure idle” could spin cloth.\(^{58}\) Despite women’s objections that long workdays left no time for maternal duties, other colonies followed suit as businesses offered to solve the problem of “otherwise useless, if not burdensome, women and children” in exchange for public subsidies for their manufacturing enterprises.\(^{59}\) Without husbands to defend them, widows lacked any political voice and could not participate in collective decisions that affected their families’ chances of survival. These women and children had no way to counter allegations of idleness, nor could they demand that their own emotional needs for intimacy be taken seriously when they had neither husbands nor fathers to satisfy.

C. Spinsters as Social Anomalies

In an emerging nation eager to build its sparse population, permanent singlehood was a suspect status. Whether male or female, the unmarried were seen as irresponsible individuals who threatened the social order. As the most anomalous single females in colonial times, mature, never-married women played a largely symbolic role in defining singlehood. They were the rare examples used to define failed womanhood and to discipline other females into being good wives and mothers. The stigma of singlehood was not limited to women. In Puritan New England, males achieved full manhood only when they could earn a living, marry, and support a family.\(^{60}\) Townships feared that sexually wayward, single men would fail to support women and children, imposing extra burdens on the rest of the community. Concerns about the interrupted masculinity of single men led the founders of the United

\(^{57}\) KESSLER-HARRIS, supra note 16, at 17.
\(^{58}\) Id. (internal quotation marks and citation omitted).
\(^{59}\) Id. at 18 (internal quotation marks and citation omitted).
\(^{60}\) LOMBARD, supra note 35, at 98.
States to wonder whether unmarried males had the maturity and temperament to handle the responsibilities of freedom.\textsuperscript{61}

To preserve the social order, New England colonies banned "solitary living." As a result, single men and women had to live with relatives or become servants or apprentices in another household.\textsuperscript{62} Whether living at home or apprenticed to other households, single women performed traditional domestic tasks, such as housekeeping, child care, and nursing of the sick and elderly.\textsuperscript{63} In this way, regardless of marital status, they could live under the authority of a male head of household, do productive work that would contribute to his advancement, and rely on his representation in public meetings. Bans on solitary living were enforceable in New England, where the numbers of adult men and women were approximately equal. In the Chesapeake, though, men substantially outnumbered women, and many settlers arrived as single migrants.\textsuperscript{64} Both the transience of the population and its gender imbalance hampered efforts to mandate traditional family forms.

Despite social and legal pressure to conform to a family model, some single women lived on their own. Like widows, mature, never-married women lacked any political voice, and they faced an urgent need to become economically self-sufficient. A few never-married women, who had no male siblings, inherited property upon their fathers' death and built substantial fortunes.\textsuperscript{65} A handful of exceptional women acquired property on their own and even gained access to traditionally male professions such as law.\textsuperscript{66} Some never-married women were fortunate enough to gain training in a trade that prepared them to support themselves. These trades often were extensions of the domestic role, and among the most lucrative was midwifery with its strong link to the imperative of successful reproduction.\textsuperscript{67} These self-sufficient women were the exception, however. With neither capital nor marketable skills, most unmarried women without family support found themselves in dire


\textsuperscript{62} \textbf{JOHN D'EMILIO \\& ESTELLE B. FREEDMAN, INTIMATE MATTERS: A HISTORY OF \textit{SEXUALITY IN AMERICA} 16 (1988); Kann, supra note 61, at 13; Laipson, supra note 61, at 19.}

\textsuperscript{63} \textit{NORTON, supra note 20, at 41; KESSLER-HARRIS, supra note 16, at 8.}

\textsuperscript{64} \textit{D'EMILIO \\& FREEDMAN, supra note 62, at 10-11.}

\textsuperscript{65} \textit{KESSLER-HARRIS, supra note 16, at 11-12.}

\textsuperscript{66} \textit{id. at 10-11, 15.}

\textsuperscript{67} \textit{NORTON, supra note 20, at 139-40; LAUREL THATCHER ULRICH, A MIDWIFE'S TALE: THE LIFE OF MARTHA BALLARD, BASED ON HER DIARY, 1785-1812, at 64 (paperback ed. 1990) ("Midwives were the best paid of all the female healers . . . ").
poverty.\textsuperscript{68} Indeed, their neediness was so commonplace that it became part of the stereotype of a spinster in the eighteenth century.\textsuperscript{69} Rather than acknowledge that women had no way to prepare for life on their own, officials blamed unmarried females for being idle, lacking a sense of industry, and becoming an unnecessary drain on townships.\textsuperscript{70}

Even a modicum of financial security did not wholly dispel the stigma of being a spinster.\textsuperscript{71} The decision to remain unmarried still made a woman emotionally and socially suspect. Rebecca Dickinson, for example, was a dressmaker who was born in 1738 in Hatfield, Massachusetts and remained there until her death in 1815. She lived with her parents, and after their death, she refused to move in with a sibling, preferring to keep her own home. In spite of this unusual choice, Dickinson seemed to enjoy a lively social life among the privileged in her community.\textsuperscript{72} For all her success in living on her own, though, Dickinson expressed a deep ambivalence about her single status. Indeed, Dickinson at one time bemoaned her plight when she recognized that "god only knows there is no Person in the world who loves Company more than me but it is gods will or i am quite ununder Surely it is more than i can do to Submit to it."\textsuperscript{73} Dickinson recorded a particularly unsettling conversation with "[a] woman who had been exceeding Prosprous in the world [who] asked me whether i was not Sorry that i Did not marry when i was young."\textsuperscript{74} She described herself as "thunderstruck" by the question and retorted that "my affairs might be in a worse situation."\textsuperscript{75} Yet, privately in her journal, she described the moment as "one of my youthful Days Carryed into old age" and reflected that "to see an old maid after fifty is a Sight that would make any woman wonder."\textsuperscript{76} Clearly, Dickinson's decision to remain unmarried was not redeemed by her success as a dressmaker. She remained an object of pity bordering perilously on scorn.

\textsuperscript{68} KESSLER-HARRIS, supra note 16, at 16.
\textsuperscript{69} See generally Marla R. Miller, "My Part Alone": The World of Rebecca Dickinson, 1787-1802, 71 NEW ENG. Q. 341 (1998).
\textsuperscript{70} KESSLER-HARRIS, supra note 16, at 16-17.
\textsuperscript{71} NORTON, supra note 20, at 41-42; Miller, supra note 69, at 361-62.
\textsuperscript{72} See Miller, supra note 69, at 354, 360.
\textsuperscript{73} Id. at 361.
\textsuperscript{74} Id. at 371.
\textsuperscript{75} Id.
\textsuperscript{76} Id.
D. Single Women as Sexual Threats

Single women not only disrupted the pattern of economic dependency on men but also threatened the sexual order. The colonies applied formal and informal pressure to keep sex and procreation within the confines of marriage. Laws of adultery, fornication, and bastardy were designed to preserve the sanctity of sex within marriage. Eventually, most colonies adopted the death penalty for adultery, but it applied only when a married woman engaged in extramarital intercourse. If a single woman had sex with either a married or single man, the couple was subject to the lesser crime of fornication. Although colonists seldom were executed for adultery, the differential penalty sent a symbolic message that male control of female sexuality in marriage was of paramount concern. Because of balanced gender ratios and the pervasiveness of settled families, New England authorities could police sexual practices more vigilantly than their counterparts in the Chesapeake. Women were scarce in the South, so authorities sometimes turned a blind eye to female indiscretions. In spite of this leniency, in both the North and South, women were more likely to face prosecution and conviction than men, in large part because pregnancy provided ready evidence of a woman's misconduct. In fact, due to the large number of single servant women in the Chesapeake, the rate of prosecution for bastardy was higher there than in New England.

In the southern colonies, local officials worried that "[s]ingle women represented a potential liability to their masters and members of their parish because there was no way to ensure that they would bear children only within the context of marriage." Poor single women migrating alone or working as servants presented special dangers. Indentured single women in service for long periods often found it difficult to fend off advances from their masters and fellow workers. Precisely because there were so few English women available, Virginia officials strictly regulated marriage, and they sometimes used this power to force men to wed servant women whom they had impregnated. For

77. D'EMILIO & FREEDMAN, supra note 62, at 28.
79. Ramsey, supra note 78, at 212; see also D'EMILIO & FREEDMAN, supra note 62, at 27.
81. Ramsey, supra note 78, at 224.
example, after being convicted of fornication with his servant girl Alice West, Edward Grymes was barred from marrying any other woman without the governor's permission.\textsuperscript{83} Another master who reneged on a promise to marry his servant, Elizabeth, was ordered to take her to the altar or release her from servitude and pay her a fee.\textsuperscript{84} Still other men were forced to compensate the masters of maidservants whom they "inveigled" and impregnated.\textsuperscript{85} In other cases, however, the women were seen as undeserving and despicable. Stigmatized as "nausty creature[s]" and "wenches," they were associated with the lower classes, loose sexuality, and disease.\textsuperscript{86}

In addition to laws of adultery, fornication, and bastardy, members of the community used informal pressure to enforce norms of marital and sexual propriety. Puritan minister Cotton Mather warned his New England flock that extramarital sex could destroy them, and he decried women who displayed "sensual lusts, wantonness and impurity, boldness and rudeness, in Look, Word or Gesture."\textsuperscript{87} Especially in the tight-knit northern townships, community members monitored one another's sexual conduct. One man tore the door off the hinges of his neighbor's house to find out what he was up to with "the widow Stannard" at night. Another New England father, who failed to discharge the obligations of sexual surveillance, was charged as an accessory to fornication because he permitted his son to cohabit with an unmarried woman.\textsuperscript{88} Even in the southern colonies, informal pressure was brought to bear. One of the most important roles that ministers played in Virginia was regulating marriage. The very scarcity of English women made it imperative that they not squander their sexual favors and marital possibilities on fellow servants and ordinary freemen.\textsuperscript{89} Moreover, in a country in which young widows often outlived their husbands, marriage had to be monitored to ensure that females did not remarry immigrants of low social standing who would threaten traditional class distinctions.\textsuperscript{90} In the southern colonies, women themselves played a key role in policing sexual "honesty" through networks of gossip that could destroy another's reputation.\textsuperscript{91}

\textsuperscript{83} Id. at 94.
\textsuperscript{84} Id. at 94.
\textsuperscript{85} Id. at 93 (internal quotation marks omitted).
\textsuperscript{86} Id. at 99.
\textsuperscript{87} D'EMILIO & FREEDMAN, supra note 62, at 18.
\textsuperscript{88} Id. at 29.
\textsuperscript{89} BROWN, supra note 82, at 92.
\textsuperscript{90} Id.
\textsuperscript{91} Id. at 99-100.
Black and Native American women were generally seen as licentious and unfit for marriage in both Puritan New England and colonial Virginia. In fact, the moral rectitude of White women was reinforced by contrasting their sexual and marital practices with those of unenlightened, non-White women. The degradation and dehumanization of Blacks and Native Americans undoubtedly helped to enforce the supremacy of conventional marriage and family among Whites. At the same time, a preoccupation with the dangers of race mixing could divert some attention away from the sexual dangers associated with unmarried White women. For example, the Puritans prosecuted fornication with vigor, and it accounted for almost thirty-eight percent of all female crime. Women were charged at three times the rate that men were, and these prosecutions required single women to confess their sins. The moral fervor of these indictments grew when a single woman’s transgressions might force a marriage that violated social distinctions. Once interracial mixing became a concern, fornication became a private rather than public offense. As Martha Saxton explains, “At the same time that Puritans began to worry about interracial sex, they were losing interest in fornication. They no longer viewed the family as absolutely critical to the survival of the state.” Ironically, this shift in priorities left White women increasingly vulnerable to sexual victimization. So, the sexual threat that non-Whites posed became both the basis for a moral norm of chastity among White women and the reason for weakening their protection from exploitation by White men.

E. The American Revolution and the Status of Women

Largely deprived of economic, social, political, and sexual autonomy, colonial women often took for granted that marriage was not simply the best but the only option available to them. Yet, the rhetoric of the American Revolution coupled with the realities of wartime experience began to awaken women to new possibilities. Female mobilization proved vital to the war effort, helping to provide men in the

93. SAXTON, supra note 9, at 299, 301.
94. Id. at 36.
95. Id. at 36-37.
96. Id. at 39.
97. Id. at 43.
98. Id.
militia with food, clothing, wallets, and munitions. When fathers, brothers, husbands, and sons went off to fight, women were left to manage property, oversee households, and endure the hardships of rape, disease, and disruption. Forced to bear the consequences of conflict, women began to demand a voice in public debates about the country's future. Women expressed their political views in public, and they organized to generate funds for General George Washington's army. Patriot women went beyond mere words in communicating their views in public. They marched in processions, harassed loyalist women, and seized supplies from merchants suspected of hoarding. As a result, "[t]he war . . . dissolved some of the distinctions between masculine and feminine traits."

After the war, wives and daughters could not return to their previous condition of isolation and subordination in the family. Women continued to express an interest in public affairs, and they embraced a model of marriage that permitted them greater freedom to choose a spouse, delay marriage, and control their fertility. Some marriages became more egalitarian than before, and husbands as well as wives were seen as mutually responsible for making a union work. Women also pressed for improved education for their daughters in the 1780s and 1790s, sometimes drawing on revolutionary thought to justify the reforms. Indeed, republican academies were seen as a way to promote critically important civic virtue among women. Yet, efforts by women to vote in New Jersey in the late 1700s ultimately foundered when women and Blacks were wrongly scapegoated for fraud in an 1807 election. Following the war, the images of American womanhood grew increasingly restrictive, yet revolutionary experiences made it possible to conceive of previously unimaginable rights and freedoms. Summing up this mixed legacy, historian Mary Beth Norton observes that: "Republican womanhood eventually became Victorian womanhood, but at the same time the egalitarian rhetoric of the

99. NORTON, supra note 20, at 157.
100. Id. at 195.
101. Id. at 170-88.
102. Id. at 157.
103. Id. at 225.
104. Id. at 188-91, 228-34.
105. Id. at 234-35.
106. Id. at 263-72.
107. Id. at 191-93.
Revolution provided the women’s rights movement with its earliest vocabulary, and the republican academies produced its first leaders. 108

In sum, then, single women in the colonial era were anomalous, presumed to be eager for marriage or remarriage. Without political voice or economic skills, most women had little choice but to find a husband and submit themselves to his authority. The American Revolution “brought no widespread reform of legal codes, no universal enfranchisement of women, no public feminist movement.” 109 Yet, this lack of formal reform or even a reform movement does not mean that women’s status was left unchanged by the war. American women began to experiment with the possibility of political voice and to expand their conceptions of work opportunities. With the decimation of the male population, there was a newfound urgency in national calls for female industry and self-sufficiency. Indeed, the Revolution and its aftermath laid the foundation for improved education and access to the public domain, at least for White, middle-class women. Through it all, though, these women remained committed to the image of themselves as wives and mothers.

II. FIRST-WAVE FEMINISM: NEW ROLES FOR SINGLE WOMEN

The climate following the Revolutionary War ultimately helped to set the stage for remarkable changes in the status of White, middle-class women, including single women, that eventually took place from the mid-1800s till the early 1900s. As the United States underwent rapid industrialization and urbanization, women’s lives were transformed, and single women in particular faced new opportunities and dangers in America’s burgeoning cities. Young women postponed marriage, giving rise to the image of the “bachelor girl” who enjoyed a taste of the cosmopolitan life before settling down to marriage and family. Rates of divorce and separation continued to rise, adding to the ranks of women once married but now single. Faced with growing marital instability, reformers pressed for state legislation to protect women’s property rights during marriage and to enhance their fiscal security after a husband’s death. Despite these marital reforms, a growing number of middle-class, White women chose not to wed at all. They openly questioned the benefits of marriage and praised the alternative of “single blessedness.” The choice to flout conventional roles for women triggered alarmed reactions. In some states, legislatures feared that a surplus of single

108. Id. at 299.
109. Id. at xix.
women would lead to social instability, and eugenicists worried that the low fertility rates of White women would lead America to commit "race suicide."\textsuperscript{10}

Although documentation is sparse for the period from 1800 to 1880, available statistics "yield evidence for a rising age of marriage over the course of the nineteenth century."\textsuperscript{111} Moreover, after 1880, the age at first marriage for Whites increased steadily until it peaked in 1890 at 27.6 years for males and 23.6 years for females.\textsuperscript{112} Thereafter, the average age generally declined until 1960.\textsuperscript{113} Women in the United States continued to marry at a younger age than those in western Europe with the exception of France,\textsuperscript{114} but the number of American women who chose not to marry increased steadily from the end of the eighteenth to the beginning of the nineteenth century.\textsuperscript{115} While 7.3% of women born between 1835-38 remained single, 8% of those born between 1845-49 and 8.9% of those born between 1855-59 did so.\textsuperscript{116} As Lee Virginia Chambers-Schiller notes, "At its height, the trend represented some 11 percent of American women, those born between 1865 and 1875."\textsuperscript{117} The proportion of never-married individuals, both male and female, between ages forty-five and fifty-four continued to grow throughout the late 1800s and early 1900s, reaching its high point in 1930.\textsuperscript{118} The population of never-married women was especially large in New England. For example, in Massachusetts, 14.6% of women remained single in the 1830s, 16.9% in 1850, and 22.6% in 1879.\textsuperscript{119}

The upsurge in single women coincided with newfound demands for political, economic, and emotional independence. Single women formed the backbone of the suffrage movement, and they found their voice through a combination of education and work. As women pursued post-secondary schooling in unprecedented numbers, they turned to their


\textsuperscript{111.} Haines, supra note 2, at 34.

\textsuperscript{112.} Id. at 27.

\textsuperscript{113.} Id.

\textsuperscript{114.} Id. at 28-29.

\textsuperscript{115.} Lee Virginia Chambers-Schiller, Liberty, a Better Husband: Single Women in America: The Generations of 1780-1840, at 3 (1984); see also Degler, supra note 19, at 152.

\textsuperscript{116.} Id.

\textsuperscript{117.} Id.

\textsuperscript{118.} Haines, supra note 2, at 26-27.

\textsuperscript{119.} Chambers-Schiller, supra note 115, at 5 (compared to the national rates of 7.3% in 1830, 7.7% in 1850, and 10.9% in 1870).
female peers for support and intimacy. In a sex-segregated world, sisterhood became a powerful source of identity, and bonds forged at school often lasted a lifetime. These bonds formed the foundation for professional and political life, enabling women to venture into new occupations and to launch social reform movements. The result was a period of ferment that challenged received conventions about women more dramatically than ever before and perhaps ever since. With the rise of a heterosocial youth culture, the vigor of sisterly identity drained away and with it much of the force of first-wave feminism.

A. Sisterhood, Bachelor Girls, and Delinquent Daughters

The increasing age of first marriage for women meant that many more finished their education and worked before choosing a husband and having a family. During the late nineteenth and early twentieth century, family control over daughters weakened, as women began to leave home to live as lodgers, with sisters, or with female colleagues from work. Moving out of the home increased young women’s autonomy in several ways. Daughters were able to delay marriage, thereby controlling their fertility, and they assumed a primary role in selecting a husband. Women hoped for the “beau ideal” who would offer companionship and respect as well as financial security to a wife, yet they feared that this ideal was seldom realized. Young women sometimes suffered “marital trauma” when choosing a mate because of the serious hardships they faced if they misjudged a man’s character.

While living away from their families, young women empowered themselves by turning to one another for support. Their relationships built on traditional family ties, as women looked to sisters, cousins, or close female friends—all referred to as “sisters”—for intimacy and guidance. During this time, “[s]isterhood, like fraternity, was a term of crucial political, intellectual, and social significance, and gained its power from an idealized and romanticized sibling relationship.” The intensity of these relationships is apparent from correspondence and private diaries of the time. In the mid-1800s, Harriot Hunt wrote of her sister Sarah: “My love for my sister had become stronger. She was now

120. CHRISTINE STANSELL, CITY OF WOMEN: SEX AND CLASS IN NEW YORK, 1789-1860, at 83-85 (1986).
121. CHAMBERS-SCHILLER, supra note 115, at 38, 41.
122. Id. at 128. On occasion, close ties developed between a sister and her brothers, rather than among sisters. See Mary Kelley, A Woman Alone: Catharine Maria Sedgwick’s Spinsterhood in Nineteenth-Century America, 51 NEW ENG. Q. 209, 213-25 (1978).
These attachments were not limited to biological kin, nor even to single women. At about the same time, a young unmarried woman, Sarah Edgerton, carried on a correspondence with Mrs. Luella J.B. Case of Lowell, Massachusetts. In their letters, the two women spoke of themselves as "'kindred spirits'" whose intimacy surpassed even that found in marriage.\(^1\)\(^2\) As Mrs. Case wrote, "'A nice couple of voyagers we would make.... We would brush away all the noisy mosquitoes with our handkerchiefs, and, if now and then, a wasp exhibited his disposition to break the peace of our commonwealth, we would give him such a blow as would teach him better manners for the future.'"\(^3\)\(^4\) Elsewhere in her letters, there is evidence that Mrs. Case "may have had a specific 'wasp' in mind," that is, her husband, a man she often characterized as an impediment to the literary ambitions she shared with Sarah.\(^5\)

According to Carroll Smith-Rosenberg, women formed these close bonds to one another because they lived in a world that rigidly divided the world along gender lines. As she explains, "late eighteenth- and most nineteenth-century Americans assumed the existence of a world composed of distinctly male and female spheres, spheres determined by the immutable laws of God and nature."\(^6\) As a result, the contact between men and women was stilted and formal, and in a sexually segregated world, women found solace in one another's company.\(^7\) Although kinship relations were at the core of sisterhood, White, middle-class daughters often developed close friendships when they went away to female boarding schools.\(^8\) These young women felt a deep and spontaneous love for their classmates that they expressed in diaries, poems, and letters, sentiments that contrasted with their more formal descriptions of male suitors. Compare, for example, Sarah Ripley's reference to "the unexpected intelligence of the arrival of a friend in Boston," that is, her fiancé of several years, to her friend Eunice

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123. Chambers-Schiller, supra note 115, at 132 (internal quotation marks omitted). See generally Degler, supra note 19, at 144-51 (describing the close bonds women had with female family members and friends); Carroll Smith-Rosenberg, The Female World of Love and Ritual: Relations Between Women in Nineteenth-Century America, 1 Signs 1 (1975).
125. Id. at 36.
126. Id.
128. Id. at 9-10; see also Martha Vicinus, Independent Women: Work and Community for Single Women, 1850-1920, at 34-36 (1985) (describing a similar pattern of female friendships in Great Britain during this period).
129. Smith-Rosenberg, supra note 123, at 11-12, 17-20.
Callendar's decision, at about the same time, to carve her initials and Sarah's into a favorite tree along with a pledge of eternal love—an act that Sarah reportedly welcomed. 130 These intense female friendships were typically seen as preparation for companionate marriage, but the bonds often lasted long after the women became wives. In the early 1830s, Eliza Schlatter wrote to her friend, Sophie DuPont: "I wish I could be with you present in the body as well as the mind & heart—I would turn your good husband out of bed—and snuggle into you and we would have a long talk like old times in Pine St." 131 These intimate, intense female relationships did not survive into the twentieth century, in part because the ideology of separate spheres and the cult of domesticity that sustained them began to disappear. 132

At the turn of the century, young unattached women living in the cities became increasingly visible. A magazine columnist in 1907 remarked on the large number of urban women living in a "'swarm of singularity.'" 133 The bachelor girl and her more exotic cousin, the bohemian, became the object of speculation in the popular press, and the commentary ranged from a sense of glamorous possibility to social threat. 134 To explain the singular swarm of city women, Juliet Wilbor Tompkins in Why Women Don't Marry wrote that: "they are very happy in the middle twenties . . . with their battle cry of freedom! To their ignorance, life offers an enchanting array of possibilities. They see ahead of them a dozen paths and have but contemptuous pity for the woman of the past who knew one dull highway." 135 According to popular accounts of the time, the key to a bachelor girl's happiness lay in knowing "when the party is over" and the time had come to settle down. 136 Otherwise, she faced the daunting prospect of permanent singlehood. Yet, a male reporter observed in 1906 that

[The plain fact is that the bachelor and . . . bohemian girl [are] merely single women of small means living in the city in order that [they] may work. . . . That she stays in her single state is largely due to the fact

130. Id. at 20, 25.
131. Id. at 26.
132. Id. at 27; Degler, supra note 19, at 149-51.
134. Id. at 108-12.
135. Id. at 112 (quoting Juliet Wilbor Tompkins, Why Women Don't Marry (1907)).
136. Id. at 110.
that possible men are just as scarce in the domain of the bachelor girl as in the life of the domestic.  

In fact, the image of the bachelor girl at the turn of the century has seldom been linked to the changing nature of bachelorhood for men. Only after the Civil War did bachelorhood come to be a respectable status. Urbanization and industrialization made men considerably more mobile than they had been in small, rural communities, and the bonds of marriage and family grew increasingly tenuous. It has been estimated that by the middle of the nineteenth century, twenty to forty percent of urban-dwelling men under the age of thirty-five were unmarried. In Manhattan, by the turn of the century, between one-third and one-half of men over the age of fifteen were single. An industry grew up to serve this substantial population of men living on their own. Affluent White bachelors could live in men’s clubs or apartment houses designed especially for them, and they could purchase the domestic services that a wife would provide. One man described life in his New York club as a bachelor’s paradise: “Each member is as much at home as if he were in his own castle; the building . . . is kept with the same neatness, exactness, and comfort as a private dwelling. Every member is a master, without any of the cares or troubles of a master.” Magazines began to feature the comforts of bachelor living as single men embarked on home decorating and entertaining. With women going to work and men making homes for themselves, the traditional boundaries between masculine and feminine occupations began to break down. Lest bachelors be feminized, domestic activities themselves became gendered. For instance, chafing-dish cookery became all the rage among young men and women at the turn of the century; however, for women, this cooking was preparation for marriage, while for men, it was a substitute for marriage and an opportunity to take a star turn as a chef.

Taken together, the lives of bachelor girls and bachelors broke down some gender distinctions, yet at the same time they ironically accentuated the significance of heterosexual courtship and marriage,
ultimately diminishing opportunities for sisterhood among young women. This trend can be seen most clearly in the evolution of leisure pursuits, first among working-class girls and later among their middle-class counterparts. As family control over daughters weakened, young single women in the cities helped to create a youth culture of sexual and commercial pleasures.\footnote{144} In this culture, "[s]exuality was often the ticket of admission—the key to social pleasure, the coin of heterosexual exchange."\footnote{145} Working-class daughters who went "walking out" with their boyfriends regularly offered premarital sex as a token of betrothal before marriage. Yet, a man’s promise to marry in exchange for sex was hard to enforce in impersonal cities in which family and community members exercised little influence over sexual and marital choice.\footnote{146} Seduction and betrayal touched many families’ lives, and young women sometimes found that casual sex for treats on a date turned into prostitution.\footnote{147} By characterizing sexual experimentation as female adolescent rebellion, the public outcry diverted attention from the wage system, male misconduct, and "the ordinary and sometimes cruel nature of erotic experience between the sexes."\footnote{148} This model of female rebellion permitted disgruntled parents to turn to the juvenile justice system to control wayward daughters who defied their authority.\footnote{149} Predominantly working class, these parents, whether native-born Whites, Blacks, or immigrants, wanted reformatories to force girls to stay home at night, choose boyfriends and fiancés acceptable to the family, and contribute their wages to the household.\footnote{150}

Commercial businesses sprang up to meet the demands of a new urban youth culture. Dance halls, amusement parks, and movie houses all catered to young men and women with pocket money, looking for a good time free of parental restraint.\footnote{151} As Kathy Peiss observes, within

\footnote{144} STANSELL, supra note 120, at 83.
\footnote{145} Id. at 86.
\footnote{146} Id. at 87-88; see also KATHY PEISS, CHEAP AMUSEMENTS: WORKING WOMEN AND LEISURE IN TURN-OF-THE-CENTURY NEW YORK 54-55 (1986).
\footnote{147} STANSELL, supra note 120, at 87, 171-91.
\footnote{148} Id. at 190.
\footnote{151} PEISS, supra note 146, at 88-162.
these leisurely pastimes, "an ideology took shape that fused notions of female autonomy and pleasure with heterosexual relationships and consumerism. This formulation, which ultimately limited female possibilities and power, increasingly defined the cultural construction of gender in the twentieth century."\textsuperscript{152} The rise of a working-class youth culture posed a direct threat to bourgeois values, particularly the traditional role for women that confined them to a separate world largely segregated from men.\textsuperscript{153} During the Gilded Age, middle-class reformers worked to police sexual hygiene and create healthy recreational outlets for working-class women, but these efforts foundered on class antagonisms. Working women ridiculed calls for sisterhood as sentimental nonsense,\textsuperscript{154} and ultimately, middle-class reform efforts succumbed to the allure of consumerism and heterosexual flirtation. As Peiss concludes:

For the middle class, women's leisure in the Victorian era had been associated with education, uplift, and sisterly bonds; by the 1920's, it was decisively linked to social freedom, freer sexuality, and mixed-sex fun. Reformers were seen as hopelessly out-of-date by the younger generation, their criticism of heterosocial commercial culture irrelevant.\textsuperscript{155}

\textbf{B. Once Married, Now Not: Divorce, Widowhood, and the Reform of Marriage}

As young women were dissolving the bonds of sisterhood and looking to men for fun and adventure, they faced increasing dangers in marriage. Without tight-knit communities to monitor a prospective bridegroom's merits, women increasingly found themselves at the mercy of men who had misrepresented themselves and then moved on to their next unsuspecting victim. What legal historian Lawrence Friedman has called "crimes of mobility" skyrocketed at the turn of the century, and these crimes included seduction and bigamy.\textsuperscript{156} Ironically, just as the dangers of sexual exploitation were growing, legislatures passed "heartbalm" statutes that abrogated the common law tort of seduction.\textsuperscript{157}
A product of earlier demands for reform by White, middle-class women, actions for seduction had protected women harmed by false promises of marriage. In doing away with these protections, legislators drew on emerging images of female sexual autonomy to depict plaintiffs as opportunistic gold diggers rather than innocent victims of male trickery.¹⁵⁸

Just as women were compromised by a false promise of marriage, they could face ruin if they married the wrong man. To protect wives from these abuses, states expanded married women’s right to sue and to make decisions about their separate property and wages.¹⁵⁹ Despite these marital reforms, the number of divorces skyrocketed. Between 1870 and 1880, the divorce rate grew at one and a half times the rate of the general population, and by the 1890s, the rate grew almost three times faster than the population.¹⁶⁰ Women disproportionately petitioned to end unsatisfactory marriages. In the late 1860s, women filed nearly two out of three petitions for divorce, and this proportion continued to grow. Women overwhelmingly cited cruelty, desertion, drunkenness, and neglect as grounds for dissolving their marriages. By contrast, men were much more likely than women to cite adultery as a ground for divorce.¹⁶¹ As Carl N. Degler observes, “Men’s sexual loyalty was much less important to women than responsible family behavior.”¹⁶²

Because of rising divorce rates, widows no longer dominated the ranks of women who once were married. Far from being treated like single women, widows came to enjoy protections because of demands for equitable treatment of wives, whether marriages dissolved due to death or divorce. As a result, marital reforms were extended to include changes in dower. During the nineteenth century, the law of dower was gradually dismantled so that by 1935, only a few states continued to use the doctrine.¹⁶³ The standard account of dower reform focuses on concerns that it interfered with the free and unencumbered transfer of


¹⁶⁰. DEGLER, supra note 19, at 166.

¹⁶¹. Id. at 168-69.

¹⁶². Id. at 169.

¹⁶³. Dubler, supra note 20, at 1669.
real property. As Ariela R. Dubler puts it, "[l]egal change occurred, in this account, because men wanted to develop their land." Yet, women actively pressed for changes in the common law doctrine of dower. Women’s rights advocates pointed to the unequal treatment of the sexes in inheritance law, a disparity that derived from “larger structures of inequality and subordination.” At the same time, reformers relied on traditional norms of domesticity. In practice, dower could leave an unfortunate widow dispossessed, thereby violating the privacy and the sanctity of the home she had made for her late husband. In pressing for change, women’s rights activists pointed out that husbands could act in less than “husbandly” ways. Dower reforms sent a mixed message about women’s independence. The changes reflected a newfound sense of female agency and autonomy, yet they also turned on persistent fears about women’s vulnerability to abuse by an unreliable husband.

C. Single Blessedness, the New Woman, and the Tyranny of Science

During the late 1800s and early 1900s, there was a substantial increase in the number of permanently single women. Women enjoyed newfound autonomy because they had unprecedented opportunities to pursue higher education and a career. The first female academies appeared in the mid-1700s, and they proliferated throughout the country after 1815, especially in New England. During this time, the nature of education for women changed to prepare them for more than housewifery. Anne Firor Scott argues that several factors contributed to this transformation. The demands of nationhood meant that women needed to be trained for their civic republican duties as well as for marriage and motherhood. At the same time, the country’s westward expansion drew men toward opportunities on the frontier, leaving women without mates. Finally, industrialization made the traditional female role in domestic production increasingly obsolete, and

164. Id. at 1669-71.
165. Id. at 1671.
166. Id. at 1675-78.
167. Id. at 1678-81.
168. Id. at 1682.
169. Haines, supra note 2, at 26; see also R. Burr Litchfield, Single People in the Nineteenth-Century City: A Comparative Perspective on Occupations and Living Situations, 3 CONTINUITY & CHANGE 83, 84-85, 97 (1988) (reporting that between 1875 and 1880, eleven percent of Irish women and nine percent of native-born women aged forty-five to fifty-four in Providence, Rhode Island were never married, while nearly all Irish men had married).
170. Anne Firor Scott, What, Then, is the American: This New Woman?, 65 J. AM. HIST. 679, 681 (1978).
education helped to prepare women for participation in the labor market.  

Women enjoyed unprecedented professional opportunities during the last half of the nineteenth century. During the 1860s through the early 1880s, women could choose either to marry or to teach. Shortly thereafter, between 1885 and 1910, women were able to pursue social work, clerical work, medicine, and university teaching. Moreover, the rate of pay for elementary and secondary teachers improved during this time. With these new options came "the highest rates of unmarried women in American history." During the late 1800s, the proportion of female college graduates who married began to decline steadily, and this pattern did not reverse itself until the early 1900s. Among graduates of the 1890s, between fifty to sixty percent married. This marital pattern diverged from that of other women during the late 1800s, and "[c]ollege-educated women’s nuptiality did not converge to that of all women until the second and third decades of the twentieth century." Newfound economic independence prompted women to decline marriage at a level that remains unique in American history:  

The cohort of women born between 1865 and 1874 "married later and less frequently than any group before or since." A considerable proportion of these never-marrying women followed professional careers as teachers, writers, artists, social reformers, or political activists. In 1890 over half of all women doctors were single. Of those women earning Ph.D.'s between 1877 and 1924, three-quarters remained unmarried. And the 1920 Census revealed that only 12 percent of all professional women were married.  

Growing economic opportunities gave women the wherewithal to stay single, while a shift in the ideology of romantic love and marriage helped to legitimate that choice. The rules of courtship changed, and an  

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171. Id. at 682; see also Micaela di Leonardo, Warrior Virgins and Boston Marriages: Spinsterhood in History and Culture, 5 FEMINIST ISSUES 47, 50 (1985) (describing how the rise of industrialization "both undermined women’s home-based cloth production and provided an inducement for unmarried women to migrate to urban areas to do industrial labor").  
173. di Leonardo, supra note 171, at 50-51 (citation omitted).  
175. Cookingham, supra note 172, at 352.  
176. Id.  
177. di Leonardo, supra note 171, at 50-51 (citation omitted).
ideal of companionate marriage emerged among middle-class Whites. This ideology empowered women not just to choose a spouse but to refrain from marrying altogether. While mutuality was the ideal, "[m]en and women alike recognized that women paid a higher price for the satisfaction of wedded life." As Patricia A. Palmieri explains:

> An excess of single women may have forced the rules of courtship to become increasingly idealized but not abandoned: a “fruitless” search for a “perfect union” provided many women with an escape clause—few marriages are perfect—while seeming to maintain the searchers’ overall belief in and submission to the ideology [of marriage]. Moreover, because there were more of them, single women could turn to each other for camaraderie and emotional support, building a social structure that competed with the marriage mart.

College experiences often shaped graduates’ later life choices, as they turned to networks of alumnae and professional women to support the pursuit of a career. These networks provided a substitute for traditional forms of marital and family intimacy. Some reformers lived in all-female settlement houses, while others chose a “Boston marriage.” Reflecting the high rate of never-married women in New England, a Boston marriage “was a late nineteenth-century term referring to the lengthy, sometimes lifelong, loving association and coresidence of two women, both usually middle- or upper-class.” These unions were widely accepted in part because they were presumed to be sexless but intimate friendships, a presumption that has since been hotly debated by historians.

The acceptance of Boston marriages in turn reflected changing public images of spinsterhood. In antebellum America, a cult of single blessedness emerged that accorded never-married women a position of moral superiority rooted in the Protestant faith. As Lee Virginia Chambers-Schiller notes:

> As developed from 1810 to 1860, the central tenet of single blessedness noted the transitory nature of “domestic bliss” and encouraged the search for eternal happiness through the adoption of a “higher calling” than marriage. Whether moral or intellectual in nature, such a vocation was considered “thrice blessed”: blessed to the

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179. Id. at 248.
180. Palmieri, supra note 174, at 604.
181. di Leonardo, supra note 171, at 51.
182. Id. at 51-52.
individual because it guarded the integrity of her soul; blessed of God because through it she committed her life to His work; and blessed to those for whom her efforts ensured a better life.\textsuperscript{183}

In addition to dedicating herself to a noble cause, the never-married woman was expected to remain celibate, preferring spiritual to carnal love.\textsuperscript{184} Proposals to institutionalize the Cult of Single Blessedness as a nondenominational church did not succeed,\textsuperscript{185} but this sea change in attitudes toward singlehood helped to set the stage for utopian communes that adopted celibacy on theological grounds.\textsuperscript{186} For instance, women were disproportionately attracted to the Shaker movement, which not only preached sexual abstinence but insisted that “both feelings of superiority and possessiveness by men, and of inferiority and submissiveness by women must be overcome to achieve salvation.”\textsuperscript{187}

After 1870, American women continued to speak favorably about the single life as an alternative to marriage. As one commentator observed in 1888, “The words ‘old maid’ have recently been shorn of their terrifying power; they have been revered in contrast with the words ‘unhappy wives.’”\textsuperscript{188} Without apology, women wrote of their decision to remain single as superior to “an uncongenial union.”\textsuperscript{189} By the 1890s, these never-married females constituted the “New Woman” who alternately intrigued and alarmed commentators. As historians Ruth Freeman and Patricia Klaus observe:

Daughters of middle-class families and often better educated than their mothers, they looked for new ways to give meaning to their lives. Without the church to structure and limit their nondomestic activities, and with job opportunities opening up for them, single women could

\textsuperscript{183} Chambers-Schiller, supra note 115, at 18 (endnote omitted).
\textsuperscript{184} Id. at 20-22.
\textsuperscript{185} Id. at 23-24.
\textsuperscript{187} Campbell, supra note 186, at 27. On average, women outnumbered men two to one in Shaker communities, and women in their childbearing years were especially likely to join in larger numbers than men of the same age. Id. at 28. Though the data are scarce, men and women seem to have participated in equal numbers in the free love movement, which sought to abolish marriage because it enslaved women. John C. Spurlock, A Masculine View of Women’s Freedom: Free Love in the Nineteenth Century, 69 INT’L SOC. SCI. REV. 34, 36 (1994). However, men dominated the movement’s leadership. Id. at 36-37.
\textsuperscript{188} Junius Henry Browne, To Marry or Not to Marry, 6 FORUM 432-42 (1888).
\textsuperscript{189} Ruth Freeman & Patricia Klaus, Blessed or Not? The New Spinster in England and the United States in the Late Nineteenth and Early Twentieth Centuries, 9 J. FAM. HIST. 394, 398 (1984).
reject the gentility of their mothers and try moving in unfamiliar directions.\textsuperscript{190}

Although these privileged daughters were few in number, they created the image of the "New Woman" and served as a role model for other single women.\textsuperscript{191} A reporter summed up their taste for independence in a 1928 poem:

I have a good job;  
I earn a good living;  
I am contented and happy;  
Why be encumbered?\textsuperscript{192}

Even with a newfound respect for spinsters, single women continued to worry about growing old alone, and some expressed ambivalence about their failure to marry.\textsuperscript{193} As Freeman and Klaus conclude:

Spinsterhood had the patina of a feminist critique of marriage, but it was those who expressed misgivings about what they missed by not marrying who would set the feminist agenda of the future . . . by insisting that individuals and institutions adapt to allow women, like men, to have it all.\textsuperscript{194}

Despite greater acceptance of the "New Woman," the increasing visibility of single women sparked deep anxieties. Some feared that the concentration of never-married females in urban areas would lead to social instability and unrest. To solve the woman problem, policymakers urged that "surplus" females be exported to the frontier, where they could marry pioneers and build the nation.\textsuperscript{195} Growing numbers of single, middle-class White women prompted President Theodore Roosevelt and other leading figures to raise the specter of "race suicide." They feared that the country's racial demographics would be distorted if working-class immigrant women bore large numbers of children, while

\textsuperscript{190} Id. at 400.  
\textsuperscript{191} Id. at 402-03.  
\textsuperscript{192} Katherine Bennet Davis, Why They Failed to Marry, 156 HARPER'S MAGAZINE 460-69 (1928).  
\textsuperscript{193} Freeman & Klaus, supra note 189, at 404-09.  
\textsuperscript{194} Id. at 409.  
\textsuperscript{195} CHAMBERS-SCHILLER, supra note 115, at 32-33; TUULA GORDON, SINGLE WOMEN: ON THE MARGINS? 9-10 (1994). These proposals are similar to England's efforts to encourage "genteel spinsters" to emigrate during the Victorian era. See A. JAMES HAMMERTON, EMIGRANT GENTLEWOMEN: GENTEE POVERTY AND FEMALE EMIGRATION, 1830-1914, at 105-06 (1979); RITA S. KRANIDIS, THE VICTORIAN SPINNER AND COLONIAL EMIGRATION: CONTESTED SUBJECTS 20-21, 23-24, 29, 36-42 (1999); VICINUS, supra note 128, at 3-4.
affluent White women remained single and childless or married late and had few, if any, offspring.196

The real undoing of the "New Woman" came, however, when Freudian psychology and the rise of the sexologists converted passionlessness from a virtue to a vice.197 Sheila Jeffreys argues persuasively that the "sexual revolution" of the 1920s used science to glorify motherhood and attack spinsters.198 Frigidity became "a potent weapon to worry women into enthusiastic participation in the sexological prescription."199 Under this new scientific regime, a woman's decision to turn her back on marriage and motherhood was necessarily pathological man-hating rather than evidence of moral superiority. This link between singlehood and antipathy to men became so culturally entrenched that it would later infect the rhetoric of liberal second-wave feminism.

D. First-Wave Feminism: From Women's Organization and Social Reform to Suffrage

Dramatic changes in women's lives during the late 1800s and early 1900s set the stage for their unprecedented political mobilization. The segregated world of women created bonds of sisterhood, networks of intimacy and support, that laid the foundation for a feminist consciousness.200 As Estelle Freedman has astutely pointed out, these close ties "did not automatically constitute a political strategy" because they could have led women to be content with their traditional status.201 Instead, newly college-educated women used female networks to participate in the public sphere. From the 1870s to the 1920s, women turned to separate clubs and organizations to implement a reform

196. HIGHAM, supra note 110, at 147; Lindsay, supra note 110, at 566-68.
197. Indeed, Jill Conway reports the bewilderment of single women like Jane Addams and Lillian Wald who had been lauded for their selflessness and then confronted Freudian claims of pathology at the end of their lives. Jill Conway, Women Reformers and American Culture, 1870-1930, 5 J. SOC. HIST. 164, 175 (1971).
199. Id. at 5.
201. Estelle Freedman, Separatism as Strategy: Female Institution Building and American Feminism, 1870-1930, 5 FEMINIST STUD. 512, 513 (1979). This observation is supported by historical work demonstrating that some women's benevolent organizations never challenged the status quo of gender relations, while others grew increasingly activist. Anne Boylan, Women in Groups: An Analysis of Women's Benevolent Organizations in New York and Boston, 1797-1840, 71 J. AM. HIST. 497, 509-15 (1984).
agenda. These female institutions relied heavily on women's special sensibilities as wives and mothers to legitimate their demands. Dominated by women who emphasized service to needy mothers and children, the settlement house movement offers a prime example of this strategy. According to Mary P. Ryan, the movement built on maternal sentiments that "were further sifted and leavened until they became an entirely new variety of social reform."202 Although middle-class, White women did a great deal of female institution-building; Black women and working-class women also used this strategy to address their unique problems.203 In each case, these reform efforts were rooted in women's domestic experience. Their claim to moral superiority and policy insight derived from their special knowledge as homemakers who nurtured husbands and children.

The first generation of women college graduates went on to support the suffrage movement. In doing so, these first-wave feminists drew on networks of friends and professional associates developed in separate female institutions.204 These sources of support were vital in sustaining the suffrage campaign when other coalitions failed to materialize. The push for the vote began in 1848 and lasted for seventy-five years.205 Many suffrage leaders first became activists in the abolitionist movement, and they drew analogies between the conditions of women and slaves.206 Nevertheless, in the aftermath of the Civil War, Republican leaders made clear that efforts to gain the vote for Black men would not be expanded to include women, Black or White.207 After this setback, suffragists concluded that they must build an independent political base of women:

[W]e thoroughly comprehended for the first time and saw as never before, that only from woman's standpoint could the battle be successfully fought, and victory secured... Our liberal men counseled us to silence during the [Civil W]ar, and we were silent on our own wrongs; they counseled us again to silence in Kansas and New York [where state campaigns for suffrage were waged], lest we

203. Freedman, supra note 201, at 517-20.
204. Id. at 518-19.
206. Id. at 31-32.
207. Id. at 57-61. Although suffragists, attempted to capitalize on the ironies of excluding Black women from the vote, the latter never occupied positions of authority or prominence within the suffrage movement. Id. at 67-71.
should defeat "negro suffrage," and threatened if we were not, we might fight the battle alone. We chose the latter, and were defeated. But standing alone we learned our power; we repudiated man's counsels forevermore; and solemnly vowed that there should never be another season of silence until woman had the same rights everywhere on this green earth, as man.208

The suffragists attempted unsuccess fully to build coalitions with the labor movement, particularly with working women. Here, the alliance foundered on class differences. Although suffragists and working-class trade unionists agreed that economic discrimination against women must be eradicated, they disagreed about whether the right to vote offered a solution to workplace inequality.209 Rather than prioritize suffrage, trade unionists wanted to emphasize the sexual division of labor and to demand equal pay, equal training, admission to apprenticeships, and the right to equal work.210 Neither side could fully appreciate the other's position, and when this alliance came to naught, suffragists returned to their core constituency of middle-class, White women.211

In the United States as in England, single women were disproportionately represented in the suffrage movement.212 According to Sheila Jeffreys, "Spinsters provided the backbone of the feminist movement in the late nineteenth and early twentieth century," a point often overlooked by contemporary feminists.213 In this country, the movement's leadership was dominated by married women, and Susan B. Anthony was the only well-known, first-generation leader who remained single. Two others, Lucy Stone and Antoinette Brown, had sworn an oath not to marry, but both eventually did late in life.214 Suffragists themselves understood the toll that marriage and motherhood took on their ability to mobilize for change. Anthony, as a single woman, shouldered much of the burden of travel and political work. Indeed, when Elizabeth Cady Stanton had not heard from Anthony for awhile, she wrote "Where are you Susan and what are you doing?...Are you dead or married?"215

208. II HISTORY OF WOMAN SUFFRAGE 267-68 (Elizabeth Cady Stanton et al. eds., 1881).
209. DUBoIS, supra note 205, at 134-35.
210. Id. at 138-39.
211. Id. at 160-61; KESSLER-HARRIS, supra note 16, at 95-97.
212. Freeman & Klaus, supra note 189, at 402.
213. Jeffreys, supra note 198, at 86.
214. See DUBoIS, supra note 205, at 28.
215. Letter from Elizabeth Cady Stanton to Susan B. Anthony (January 1856) (Autograph Collection, on file with Vassar College Library), quoted in DUBoIS, supra note 205, at 28.

http://scholarlycommons.law.hofstra.edu/hlr/vol33/iss1/5
The dominance of married women leaders in the American suffrage movement arguably affected its ideological positions and strategies. The Seneca Falls Declaration of Sentiments of 1848 called for access to education and property ownership as well as political rights. Although single women were core constituents of the suffrage movement, first-wave feminists found it easier to reform marriage than to gain the vote. Leading suffragists successfully supported divorce reforms that enabled women to escape the degradation of abusive marriages. Moreover, they demanded economic rights for married women. In New York, for instance, women’s advocates pressed the state legislature to adopt a Married Women’s Property Act. In 1857, legislators complied, passing a bill that largely eliminated the constraints that hampered the *feme covert* in financial matters. Two years later, the *New York Times* commented favorably on the reform, which established the “legal protection and fair play to which women are justly entitled,” and distinguished it from “the claims to a share of political power which the extreme advocates of Women’s Rights are fond of advancing.” The success of economic reform in New York did not pave the way for suffrage, as advocates discovered when they unsuccessfully sought the vote there in 1867.

Eventually, women activists came to believe that their future depended on obtaining the franchise. In England, where single women were a more salient constituency than in the United States, a militant wing of suffragists engaged in dramatic and sometimes violent demonstrations. In America, the radical faction of the suffrage movement merged into the moderate wing until the militant Alice Paul revived parades, mass demonstrations, hunger strikes and arrests to force suffrage back on the national agenda. Suffragists eventually succeeded in obtaining a constitutional amendment granting women the right to

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217. *Id.* at 515-26.
218. *See* DEGLER, *supra* note 19, at 175.
219. DUBOIS, *supra* note 205, at 42. These bills typically allowed married women to own property, *inherit a husband’s estate free of debt, to sue and make contracts, to write a will, and to act as a single woman if deserted by a husband.* However, the laws did not wholly dismantle coverture because a husband could still control his wife’s household labor and often her wages. *See* Chused, *supra* note 159, at 1403 n.235.
220. DUBOIS, *supra* note 205, at 46 (internal quotation marks omitted).
221. *Id.* at 66.
222. VICINUS, *supra* note 128, at 253-68.
vote in 1920.\textsuperscript{224} Ironically, the success of the suffrage campaign did not embolden women to take on new political challenges to advance their cause. By adopting a model of individual rights holders, suffragists wrongly presumed that women naturally shared a common agenda and voice, despite profound differences of class and race. As Estelle Freedman argues, "the rhetoric of equality that became popular among men and women . . . just after the passage of the Suffrage Amendment in 1920 subverted the women's movement by denying the need for continued feminist organization."\textsuperscript{225} As women pushed for integration into predominantly male institutions, they neglected the female networks that had enabled them to succeed in the first place. According to Freedman, "the decline of feminism in the 1920s can be attributed in part to the devaluation of women's culture in general and of separate female institutions in particular."\textsuperscript{226} It would take four decades for feminism to recover from this mistaken faith in the natural affinity of women and to once again mobilize female activists as a force for change.

The turn of the century was an unprecedented time of ferment and change in defining the political, economic, and emotional lives of women. White, middle-class females enjoyed unprecedented access to higher education, and they found new opportunities for satisfying work. Having left the home to enter the paid labor force, women began to demand equality in the realm of law, property, and politics. Emboldened as never before, suffragists endured a long and difficult campaign for the vote. With a growing sense of personal agency came a willingness to question traditional assumptions about marriage and family. Ironically, this power to imagine an alternative way of life derived in part from ongoing segregation of the sexes. As the ideology of separate spheres broke down and young women turned to the pleasures of a heterosocial culture, the capacity to critique conjugal bliss declined. The single woman once again became a social oddity.

\textsuperscript{224} Freedman, supra note 201, at 521.
\textsuperscript{225} Id. at 521; see also Jeffreys, supra note 198, at 147 (arguing that in England, the politics of the militant suffrage movement gave way to "a form of equal rights feminism which offered no direct challenge to men's dominance").
\textsuperscript{226} Freedman, supra note 201, at 524.
III. SECOND-WAVE FEMINISM AND THE SINGLE WOMAN: UNEXPECTED BENEFITS, UNFULFILLED PROMISES

After the heady successes of the late 1800s and early 1900s, American women once again immersed themselves in marriage and motherhood. The average age at first marriage peaked at the end of the nineteenth century and then slowly declined until World War II. After the War, the decline accelerated, and by 1960, the age at marriage reached a low "reminiscent of the colonial period for women and even lower for men."227 The pattern for never-married individuals aged forty-five to fifty-four followed a similar trajectory with a twenty- to thirty-year lag. The number of never-married persons was highest in 1930 and lowest in 1980.228 By 1980, the level of permanently single people was as low or lower than in the antebellum era.229 As a result, when second-wave feminism began in the early 1960s, it was a direct response to these conditions of early and pervasive marriage. Single women played little, if any, role in the ideological vision of the most influential, liberal wing of the movement.

In contrast to first-wave feminists who ultimately embraced political individualism through the quest for universal suffrage, liberal second-wave feminists made economic individualism the centerpiece of their reform efforts. Contemporary feminists insisted on improved access to education, equal rights in the workplace, and comparable access to government benefits and private credit. At the same time, liberal reformers presumed that women would marry and have children, forcing them to juggle a career and responsibilities at home. To enable women to have it all, second-wave feminists pressed for increased control over reproduction, maternity leave, and government support for child care. These policy initiatives often advanced the interests of single as well as married women. For instance, regardless of marital status, women benefited from anti-discrimination laws and the ability to make choices about reproduction. Despite these shared gains, single women remained a relatively invisible constituency systematically overshadowed by the "superwoman" with a career and a family. Some women rebelled against these traditional presumptions about women's lives, but their critiques tended to focus on the racially exclusionary impact or heterosexist implications of liberal feminist ideology. There was little or no discussion of singlehood as a forgotten category.

227. Haines, supra note 2, at 17, 27.
228. Id. at 27.
229. See id. at 26, fig.4.
A. Mainstream Feminism, Marginalized Single Women

With the publication of *The Feminine Mystique*, Betty Friedan "pulled the trigger on history" and galvanized second-wave feminism. Her analysis set the stage for liberal feminists' focus on combining career, marriage, and family. Eventually, Friedan would work through the National Organization for Women (NOW) to realize her reform aspirations. Friedan's account centered on the suburban housewife with the "problem that has no name." The analysis began with statistics on marriage, childbirth, and higher education for women:

By the end of the nineteen-fifties, the average marriage age of women in America dropped to 20, and was still dropping, into the teens. Fourteen million girls were engaged by 17. The proportion of women attending college in comparison with men dropped from 47 per cent in 1920 to 35 per cent in 1958. A century earlier, women had fought for higher education; now girls went to college to get a husband. By the mid-fifties, 60 per cent dropped out of college to marry, or because they were afraid too much education would be a marriage bar. . . .

Then American girls began getting married in high school. . . .

By the end of the fifties, the United States birthrate was overtaking India's. . . . Statisticians were especially astounded at the fantastic increase in the number of babies among college women.

Friedan argued that early marriage and subsequent isolation as suburban housewives deprived American women of the chance to fulfill their potential. Focused on the plight of women who married too soon and made the status of wife and mother their whole identity, Friedan had little to say about the single female, whether a young woman who delayed marriage, a widow or divorcee, or a never-married mature woman. Although single women had been the backbone of first-wave feminism, Friedan insisted that many of its leaders were in fact happily married:

It is a strangely unquestioned perversion of history that the passion and fire of the feminist movement came from man-hating, embittered, sex-

232. FRIEDAN, supra note 230, at 19.
233. Id. at 16.
234. Id. at 299-320.
starved spinsters, from castrating, unsexed non-women who burned with such envy for the male organ that they wanted to take it away from all men, or destroy them, demanding rights only because they lacked the power to love as women. Mary Wollstonecraft, Angelina Grimké, Ernestine Rose, Margaret Fuller, Elizabeth Cady Stanton, Julia Ward Howe, Margaret Sanger all loved, were loved, and married; many seem to have been as passionate in their relations with lover and husband, in an age when passion in women was as forbidden as intelligence. . . .

Of course, Susan B. Anthony could not be wholly ignored in this account. According to Friedan, "of all the nineteenth-century feminist leaders, [Anthony] was the only one resembling the myth. She felt betrayed when the others started to marry and have babies. But despite the chip on her shoulder, she was no bitter spinster with a cat." Friedan did not assume that Anthony chose a life of activism over marriage; instead, she "turned away from marriage" because of "fortune or bitter experience." In particular, Anthony was "[p]ainfully insecure and self-conscious about her looks" because of a crossed eye, critical mother, and beautiful older sister. Elizabeth Blackwell, another first-wave feminist, did not suffer the same problems that purportedly trapped Anthony in spinsterhood, yet she chose to remain single and to become a doctor. Friedan describes Blackwell as "[l]onely and racked with self-doubt" while leading a sober, almost joyless, life.

The little Friedan had to say about contemporary single women often defined them wholly in relation to marriage. In her view, "American women who are single, widowed, or divorced do not cease even after fifty their frenzied, desperate search for a man." While married women were dissatisfied with their marriages, "the unmarried ones [were] suffering from anxiety and, finally, depression," although "[s]trangely, a number of psychiatrists stated that, in their experience, unmarried women patients were happier than married ones." Despite this aside about the potential for fulfilling lives among single women, Friedan's new life plan for women presumed that they would marry and have children. In Friedan's vision of a feminist utopia, family life would

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235. Id. at 82.
236. Id. at 92.
237. Id. at 82.
238. Id. at 95.
239. Id. at 96.
240. Id. at 25.
241. Id.
be combined with higher education and meaningful work.\textsuperscript{242} In part, this would be accomplished by allowing career women to delegate the drudgery of housework and child care to others, presumably less privileged than they.\textsuperscript{243} Indeed, when asked how successful women could balance their responsibilities, Friedan urged them to get a maid.\textsuperscript{244}

Friedan’s emphasis on work and family was reflected in the founding of NOW. She later claimed that she “dreamed up N.O.W. on the spur of the moment”\textsuperscript{245} when women activists were thwarted by governmental inertia and indifference.\textsuperscript{246} According to Friedan, everyone agreed that NOW’s main purpose would be “to take action to bring women into full participation in the mainstream of American society now, assuming all the privileges and responsibilities thereof in truly equal partnership with men.”\textsuperscript{247} When NOW was incorporated in 1966, its charter elaborated on this goal: “We do not accept the traditional assumption that a woman has to choose between marriage and motherhood, on the one hand, and serious participation in industry or the professions on the other...”\textsuperscript{248} The statement of purpose went on to declare that: “We believe that a true partnership between the sexes demands a different concept of marriage, an equitable sharing of the responsibilities of home and children and of the economic burdens of their support.”\textsuperscript{249} In addition, NOW demanded “proper recognition” of “the economic and social value of homemaking and child-care.”\textsuperscript{250} One year later, NOW issued a Bill of Rights that called for, among other things, educational opportunity, job training, anti-discrimination laws in the workplace, maternity leave, tax breaks for home and child care costs, and child care centers.\textsuperscript{251} When the Bill of Rights was proposed, Friedan insisted: “The sex-role debate... cannot be avoided if equal opportunity

\begin{itemize}
\item \textsuperscript{242} \textit{Id.} at 338-78.
\item \textsuperscript{243} \textsc{Joan Williams, Unbending Gender: Why Family and Work Conflict and What to Do About It} 40-41 (2000).
\item \textsuperscript{244} \textit{Id.} at 44; see also Freedman, supra note 13, at 130.
\item \textsuperscript{245} Betty Friedan, \textit{N.O.W.—How It Began}, WOMEN SPEAKING \textit{4} (1967) [hereinafter Friedan, N.O.W.]. For Friedan’s description of how “an NAACP for women,” that is, NOW, took shape over a lunch at a conference on the status of women sponsored by the Johnson Administration, see Betty Friedan, \textsc{Life So Far} 173-75 (2000).
\item \textsuperscript{246} Hole & Levine, supra note 223, at 82-84.
\item \textsuperscript{247} Friedan, \textit{N.O.W.}, supra note 245, at 4.
\item \textsuperscript{248} Hole & Levine, supra note 223, at 85.
\item \textsuperscript{249} Id.
\item \textsuperscript{250} Id.
\item \textsuperscript{251} \textit{Id.} at 88. The Bill of Rights for Women also included demands for an Equal Rights Amendment and reproductive rights. These provisions, in contrast to those related to balancing work and family, were highly controversial. See id.
\end{itemize}
in employment, education and civil rights are ever to mean more than paper rights." 252 In Friedan’s view, so long as women remained primarily responsible for domestic tasks, they could not achieve full equality, no matter what their accomplishments in school and at work. 253

Yet, the interrogation of sex-role stereotypes went only so far. Young, radical women prepared manifestos calling on women to act as a class in fighting subordination and opposing male dominance. 254 These women believed that NOW could never achieve real equality because of its hierarchical structure and its commitment to building partnerships with men. 255 These radical groups saw women’s liberation as a revolutionary, not incremental, movement, and their critiques of love, marriage, motherhood, and heterosexuality went well beyond the inequitable distribution of housework and child care. 256 By defining the "personal as political," 257 radical feminists moved away from liberal feminism’s focus on individual rights, educational and economic access, and support for women’s domestic responsibilities. 258 Beverly Jones noted that one seeming indictment of “radical feminists [is that they] do not understand the desperate condition of women in general” because “few are married, or if married have no children.” 259 Jones went on to urge married and unmarried women to recognize their common oppression as a class because “[t]here is no personal escape, no personal salvation, no personal solution.” 260 Friedan herself had special contempt for the “man-hating faction” of “young radicals” who relied on “exhibitionist, down-with-men, down-with-marriage, down-with-childbearing rhetoric and actions.” 261 The radical challenge prompted

253. Id. at 89-90.
254. Id. at 90-91. For some examples of these manifestos, see Ti-Grace Atkinson, Radical Feminism, in RADICAL FEMINISM: A DOCUMENTARY READER 82, 83-86 (Barbara A. Crow ed., 2000); Valerie Solanas, SCUM (Society for Cutting Up Men) Manifesto, in RADICAL FEMINISM: A DOCUMENTARY READER, supra, at 201, 217.
255. HOLE & LEVINE, supra note 223, at 90.
256. Id. at 135-36, 144-45.
258. HOLE & LEVINE, supra note 223, at 137-39.
260. Id. at 36.
261. FRIEDAN, supra note 230, at 388-89.
Friedan to respond that women sought basic human rights, not privileges as a special class.\textsuperscript{262}

In fact, Friedan may have overestimated her differences with radical feminists when it came to relationships with men. According to sociologist E. Kay Trimberger, many radical feminist writers of the 1970s "were single, [but] they had no vision of single life."\textsuperscript{263} For instance, Shulamith Firestone turned from a critique of marriage to a vision of healthy love between two equals.\textsuperscript{264} She contrasted this vision with the plight of the single woman exploited by men and "consigned forever to the limbo of 'chicks'..."\textsuperscript{265} Like Friedan, Firestone's negative view of uncoupled women may have been shaped by her perceptions of first-wave feminists, whom she described as "giving their lives without reward—only to become the rather grim, embittered, but devoted spinster social workers of the stereotype."\textsuperscript{266} Whatever the real differences between liberal and radical feminists were when it came to the possibilities for finding love with men, Friedan enlisted the support of moderate and conservative members of NOW to unseat the man-haters. In doing so, she hoped to undo distorted and damaging images of the women's movement.\textsuperscript{267} Efforts to build coalitions among radical, moderate, and conservative feminists failed, and dissatisfied members left NOW to pursue oppositional, militant strategies.\textsuperscript{268}

By 1970, NOW found itself facing a new challenge. With the advent of the gay liberation movement, lesbians began to demand a visible role in the organization. Members like Friedan feared "the lavender menace"\textsuperscript{269} would create a misperception that NOW was a lesbian organization. When Aileen Hernandez, then NOW's President, said that the organization did "not prescribe a sexual preference test for applicants,"\textsuperscript{270} she was attacked by conservative members for drawing attention to the issue and by lesbian members for not speaking out

\begin{itemize}
  \item 265. \textit{Id.} at 26.
  \item 266. \textit{Id.} at 21.
  \item 267. See HOLE & LEVINE, \textit{supra} note 223, at 91.
  \item 268. \textit{Id.} at 92-93.
  \item 270. HOLE & LEVINE, \textit{supra} note 223, at 94.
\end{itemize}
strongly enough. Friedan herself spoke out decisively against "sexual politics" in the women's movement:

It seemed to me the women's movement had to get out of sexual politics. . . . I'm not sure what motivates those who viciously promulgate, or manipulate, man hate in the women's movement. Some of the disrupters seemed to come from extreme left groups, some seemed to be using the women's movement to proselytize lesbianism, others seemed to be honestly articulating the legitimate and too-long-buried rage of women into a rhetoric of sex/class warfare, which I consider to be based on a false analogy with obsolete or irrelevant ideologies of class warfare or race separatism. The man-haters were given publicity far out of proportion to their numbers in the movement because of the media's hunger for sensationalism. Many women in the movement go through a temporary period of great hostility to men when they first become conscious of their situation; when they start acting to change their situation, they outgrow what I call pseudo-radical infantilism. But that man-hating rhetoric increasingly disturbs most women in the movement, in addition to keeping many women out of the movement. 

Eventually, many lesbians concluded that organizations like NOW would always relegate them to the margins of the feminist movement to preserve a political base and policy influence. As a result, these women left to pursue collective action that made sexual orientation a central feature of feminist practice.

The fear of radical feminists and lesbians arguably hampered NOW's ability to embrace single women as a distinct constituency. Because NOW presumed that its core supporters were married or planning to marry, it may have been easy to conflate women who chose to remain single with man-haters who preached separatism. Kate Millett herself equated lesbianism with the autonomous functioning of women, thereby eliding the distinction between sexual orientation and emotional independence. Efforts to unseat the man-haters undermined liberal feminists' capacity to imagine alternative lifestyles. Organizations like NOW could not envision an agenda that would

271. Id.
273. Echols, supra note 14, at 213; Carol Anne Douglas, supra note 14, at 139-40; Judy White, Women Divided?, in Radical Feminism: A Documentary Reader, supra note 254, at 365-66; Jeanne Cordova, Radical Feminism? Dyke Separatism?, in Radical Feminism: A Documentary Reader, supra note 254, at 358, 361-63; Charlotte Bunch, Lesbians in Revolt, in Radical Feminism: A Documentary Reader, supra note 254, at 332, 335-36.
explicitly enable women to pursue satisfying lives outside the confines of a traditional couple. The result, ironically, was a tendency to commodify feminism as an attractive, even glamorous, pursuit in order to avoid scaring off potential female members and male policymakers alike. Reflecting the felt need to market feminism to the masses, Friedan reported her pride in a 1970 national demonstration in New York City when reporters "wrote that they had never seen such beautiful women as the proud, joyous marchers who joined together that day. For all women were beautiful on that day." Friedan concluded that "it suddenly became both political and glamorous to be a feminist."

If anyone epitomized the melding of the glamorous and the political, it was Gloria Steinem, the most prominent single woman in the second-wave feminist movement. Steinem was sexy enough to go undercover as a Playboy Bunny, writing an article that the magazine insisted had boosted its recruitment of Bunnies while helping Steinem to realize that "all women are Bunnies. Since feminism, I've finally stopped regretting that I wrote this article." Indeed, Steinem began her career as a journalist covering the women's movement before she actually became a feminist herself. She emerged as a media darling and movement leader at the 1970 demonstration, one of the first events in which she participated. Steinem, known for her long hair, miniskirts, and aviator glasses, became "the compromise the news media had been looking for, a feminist who looked like a fashion model."

Although Steinem was single, she was regularly seen in the company of high-profile men, and it was clear that she was unmarried by choice. Indeed, the media trumpeted the fact that she was a women's liberationist, although she did not have to be. Steinem was held up as

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275. FRIEDAN, supra note 230, at 391.
276. Id.
278. Id. at 69.
280. SUSAN J. DOUGLAS, WHERE THE GIRLS ARE: GROWING UP FEMALE WITH THE MASS MEDIA 230 (1994); MARCIA COHEN, THE SISTERHOOD: THE TRUE STORY OF THE WOMEN WHO CHANGED THE WORLD 25, 111, 217-19, 222-24, 321-22 (1988). As bell hooks explains, "Mainstream mass media has always chosen a straight woman to represent what the feminist movement stands for—the straighter the better. The more glamorous she is, the more her image can be used to appeal to men." BELL HOOKS, FEMINISM IS FOR EVERYBODY: PASSIONATE POLITICS 97 (2000).
282. Id. at 322.
a role model for other single women, but Betty Friedan remarked: "I guess it gave some comfort to the singles. . . . But really, Gloria was a phony. She always had a man. And I used to catch her hiding behind a *Vogue* magazine at Kenneth's, having her hair streaked."\(^{283}\) Steinem's status as a journalist and media icon made her a natural to take over *Ms.* magazine and offer "the increasingly reformist, lifestyle-oriented liberal feminism that would dominate [its] pages."\(^{284}\) She gave feminism a non-threatening face, and radical feminists attacked *Ms.* for emphasizing a "'pull-yourself-up-by-your-bootstraps' brand of feminism"\(^{285}\) that did not challenge systemic injustice. In fact, some critics alleged that *Ms.* was indistinguishable from women's advice magazines, at one point even featuring popular celebrities on its cover to attract readers.\(^{286}\)

Despite Steinem's prominent role in second-wave feminism, single women had to look elsewhere for an express recognition of their needs and interests. Ironically, her media-friendly image as an alluring, single woman sounded very much like the ideal advanced in Helen Gurley Brown's *Sex and the Single Girl.*\(^{287}\) While Steinem embodied singlehood through her lifestyle, Brown made the single girl the centerpiece of her writing, both in her book and in *Cosmopolitan* magazine. Brown's readers, like the bachelor girls of an earlier era, wanted to kick up their heels before they eventually settled down and got married. Brown's message reassured her readers that "feminism is safe for women who love men and sex, for women who want economic success, for women who wear makeup and buy clothes, and for women who want to use their resources to better their lives."\(^{288}\) Brown was willing to help single working women manipulate men for their personal advantage, but she did not idealize marriage. On the contrary, she wrote that the single years are "very precious . . . because that's when you have the time and

\(^{283}\) *Id.* at 334. In 1975, Steinem also faced accusations of phoniness from Redstockings, a radical feminist action group. The group issued a press release alleging that Steinem had been involved in a CIA front. At first, Steinem was too devastated to answer the charges, but Betty Friedan called on her to make a statement. Steinem later conceded that she knew that the CIA was funding the Independent Research Service, an organization that she helped to found; however, she insisted that she was never asked to gather information on those who participated. Later, Redstockings claimed that *Ms.* also had been infiltrated by the CIA, but these charges were never substantiated. *ECHOLS, supra* note 14, at 265-69.

\(^{284}\) *DOW, supra* note 279, at 29.


\(^{286}\) *DOW, supra* note 279, at 209.


\(^{288}\) *DOW, supra* note 279, at 212.
personal freedom for adventure," while getting married "is insurance for the worst years of your life. During the best years you don't need a husband." Like earlier efforts to capture the hard-won dollars of bachelor girls, "Brown's manifesto... was premised on an ethic of success, prosperity, and consumption." The successful single life was commodified, predicated on spending money on clothes, cosmetics, travel, leisure, and the comforts of home. Like the chafing dishes of yore, all of these products were infused with a newfound sexual significance, and they promoted not only heterosexual flirtation but eventually an opportune marriage for the savvy Cosmo girl.

In sum, liberal second-wave feminists set about promoting economic individualism, and they organized as a political bloc primarily to overcome official resistance to this agenda. In advancing educational and economic opportunities for women, advocates emphasized that work would be balanced with family responsibilities. As a result, women's careers would not be an impediment to becoming wives and mothers. Because a determined woman could have it all, the prospect of expanded options at work did not threaten the institution of marriage. If anything, liberal feminists like Betty Friedan believed that marriages would benefit because fulfilled females would build better home lives than women frustrated by "the problem that has no name."

Even prominent single women like Gloria Steinem did not prompt second-wave reformers to imagine alternatives to marriage and motherhood. Instead, Steinem became a kind of perpetual girlfriend, whose good looks and popularity were used to deflect fears that feminists were man-haters. As a result, liberal reformers offered a narrow vision of emotional independence premised on heterosexual relations, rather than on the capacity to live successfully on one's own. It was but a short leap from Friedan's glamorous, man-loving feminists to Helen Gurley Brown's Cosmo girls. Whether as members of NOW or readers of Cosmopolitan, single women remained trapped in assumptions that they would be sexually pleasing, marriage material.

B. The Single Woman's Second-Wave Dividend: Feminism and Financial Freedom

One of the great ironies of second-wave feminism is that it ignored single women as a distinct constituency while creating the conditions that increasingly enabled women to forego marriage. Liberal feminist

289. BROWN, supra note 287, at 4, 264.
290. D'EMILIO & FREEDMAN, supra note 62, at 304.
reforms enhanced women’s autonomy, regardless of marital status, in several ways. Perhaps most importantly, the feminist movement pushed for increased economic independence for women by enhancing their access to education and employment. Initially, the emphasis was on enabling a woman to separate herself from her role as wife and mother by working outside the home. Despite this early focus on married women, the reforms clearly improved single females’ opportunities to become financially self-sufficient, secure, and comfortable. True economic independence meant that women could delay marriage to go to college and then pursue a career. If they continued to work after marriage, they could divorce without fear of financial ruin. If a career woman wanted to devote herself to her work, she could forego marriage altogether and still live quite comfortably.

The seeds of women’s economic independence were sown in the classroom. Friedan’s call for women to seek higher education met with tremendous success. After litigation and lobbying to highlight the importance of educational access for women, their participation in colleges, universities, graduate programs, and professional schools crept steadily upward. In fact, women now outstrip men in pursuing higher education, leading some commentators to express alarm at the “war against boys” in the schools. Legal education provides an excellent example of these dramatic changes. Once law schools were largely an all-male preserve, but by 2002 nearly half of first-year law students were women. Women have now achieved and, in some schools, surpassed parity with men, leading journalists to wonder whether the legal profession is being “feminized.” The successful completion of higher education has prepared women for more than dead-end jobs as bachelor girls; if so inclined, female graduates can look forward to lifelong, satisfying professional careers in law and elsewhere.

In addition, liberal feminist reformers promoted equal access to jobs for men and women with equivalent qualifications. This anti-discrimination strategy is based on a norm of gender-neutral rights.
That is, if men and women are treated as individuals, gender generally should be irrelevant to hiring, promotion, and firing. Feminists also campaigned for equal pay for equal work, highlighting the fungibility of labor regardless of the worker’s gender. Although some lawsuits demand affirmative action for women, these gender-conscious preferences typically are seen as a short-term remedy for past discrimination based on demeaning and exclusionary female stereotypes. Some feminist scholars have criticized a rights-based approach to gender equality as assimilationist; that is, women can be equal only so long as they participate in the workplace on the same terms as men. Even so, these legal initiatives clearly have benefited concluding that “[e]conomic independence is still a crucial concern in the women’s movement push for equality.”.

295. DAVID L. KIRP, MARK G. YUDOF, & MARLENE STRONG FRANKS, GENDER JUSTICE 158 (1986) (“Courts have interpreted the equal employment opportunity legislation as narrowly concerned only with discrimination directly attributable to sex.”); DEBORAH L. RHODE, JUSTICE AND GENDER: SEX DISCRIMINATION AND THE LAW 96 (1989) (arguing that “courts ... too often asked only whether gender is relevant to the job as currently structured, not whether the job could reasonably be restructured to make gender irrelevant”).


297. See KIRP, YUDOF, & FRANKS, supra note 295, at 159-67 (noting that affirmative action for women was designed to overcome occupational segregation left unchanged by antidiscrimination laws but remains a highly controversial remedy when it imposes quotas on the distribution of men and women in particular jobs); Deborah L. Rhode, Occupational Inequality, 1988 DUKE L.J. 1207, 1225-26 (noting that affirmative action for women was used to supplement the anti-discrimination framework in specific industries such as government contracting).

298. CATHARINE A. MACKINNON, FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW 37 (1987) (noting gender neutrality benefits “mostly women who have been able to construct a biography that somewhat approximates the male norm.”); WILLIAMS, supra note 243, at 41 (explaining that liberal, second-wave feminists sought access for “women into market work on the terms traditionally available to men”); Christine Littleton, Does It Still Make Sense to Talk About “Women”?, 1 UCLA WOMEN’S L.J. 15, 51 (1991) (“ Pretending that gender neutrality will save women from a male-biased world is, and for the foreseeable future will be, sheer fantasy.”). Moreover, the gender-neutral approach has been criticized in particular areas like sexual harassment law because women are disproportionately victims and men are disproportionately aggressors, so the problem itself is not gender-neutral. See, e.g., Leslie M. Kerns, A Feminist Perspective: Why Feminists Should Give the Reasonable Woman Standard Another Chance, 10 COLUM. J. GENDER & L. 195, 196-99, 209-10, 219-21 (2001).
not just married but also single women, all of whom gained access to jobs and earning power that might otherwise have been denied them.

Even some workplace initiatives that began as female-specific accommodations have evolved into gender-neutral protections. Take, for example, maternity leave, which was designed to account for women’s unique role in giving birth to children. The women’s movement began by pressing for protection from discrimination based on pregnancy. In 1978, the Pregnancy Discrimination Act required that pregnant employees receive leave on terms comparable to those for workers with temporary disabilities. Feminists soon realized that employers could deny leave to expectant mothers if it was also unavailable to the temporarily disabled. As a result, feminist reformers lobbied long and hard for federal legislation mandating parental leave policies. Activists demanded gender-neutral provisions instead of “mere motherhood” bills. Still, the message was a mixed one. Amid calls for gender neutrality, NOW’s Legal Defense and Education Fund sent Mother’s Day cards to members of Congress, urging them to vote for parental leave legislation.

Eventually, the bill expanded to include not just parental leave but also caretaking leave and sick leave. Hoping to demonstrate the Act’s broad appeal, the General Accounting Office issued a report showing that “more than 800,000 men stand to benefit from the law each year” mainly due to the sick leave provisions. Advocates framed the legislation as “family-friendly” rather than feminist. In fact, members of Congress worried that the bill was losing “the aura of motherhood” that made it appealing.

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301. Id. at 105.


304. Id. at 43.
enacted in 1993, it allowed employees to take twelve weeks of unpaid leave to care for a child, tend to an ailing parent, or deal with their own illness. Although the Act left many employees unprotected and offered only a modest period of leave without pay, the provisions did allow single women to benefit, regardless of whether they became mothers. An unmarried, childless female worker could take time off to care for a parent or for herself. The Act continues to favor traditional families by recognizing caretaking obligations only for parents and children, but efforts to make the law gender-neutral led to coverage not just for 800,000 men a year but for single, childless women as well.

C. Single and Still Invisible: The Feminist Focus on Balancing Work and Family

Clearly, liberal second-wave feminists conferred significant benefits on single women, whether indirectly or inadvertently. Yet, the consequences of neglecting singlehood have been palpable for the women’s movement. In her book, The Second Stage, Betty Friedan noted that younger women were drifting away from the feminist promise of “having it all,” a promise that they found irrelevant or even destructive. Friedan once again blamed “fringe extremists who did not speak for the women’s movement” and “were an embarrassment we had to endure, to keep up that solid front of sisterhood.” In Friedan’s view, their “anti-man, anti-family, bra-burning image” triggered a backlash that turned feminism into a joke and stymied progress on its real agenda. Far from orienting herself to the issues facing unmarried females, Friedan continued to presume that feminism was for women with families. She pointed out that “the founding mothers of NOW in 1966 averaged more than two children apiece.”

While these founders epitomized feminism at its best for Friedan, she saw women who remained single and childless as evidence that the movement had been derailed from addressing the balance between work and family life. According to Friedan, never-married women were often

308. Id. at 22, 32-35, 79-80.
309. Id. at 45.
310. Id. at 47.
311. Id. at 46.
devastated by the failure to marry and have children. For example, she quoted “[a]n older woman in Ohio”:

I was the first woman in management here. I gave everything to the job. It was exciting at first, breaking in where women never were before. Now it’s just a job. But it’s the devastating loneliness that’s the worst. I can’t stand coming back to this apartment alone every night. I’d like a house, maybe a garden. Maybe I should have a kid, even without a father. At least then I’d have a family. There has to be some better way to live. A woman alone...

For women seeking validation of their choice to remain single, Friedan’s book surely came as a blow.

Not surprisingly, Friedan’s recommendations focused on ways to restructure work and family life to permit women to have it all. Of her recommendations for revitalizing the women’s movement, only two directly addressed the situation of single women. One related to the need for equality in divorce, which Friedan linked to the feminization of poverty. She noted that “the overwhelming majority of the truly poor in this country, regardless of race, religion or husband’s economic status, are women alone, and children in families headed by women.” By focusing on divorce reform as a solution, Friedan ignored the substantial number of never-married women living with or without children on the economic margins of society. In addition, Friedan pointed to the plight of older women who outlived their husbands, especially those who had always been housewives. She worried that their needs had never been included in the feminist agenda, and she called for “more independent and shared housing for older women now living alone in suburban houses they can’t afford to sell, or lonely furnished rooms.” By framing the policy concern in terms of widows, Friedan once again emphasized how marriage had failed to safeguard women’s welfare and neglected the condition of never-married elderly women and those who had long been divorced.

Friedan has not been alone in conceptualizing the issues this way. Second-wave feminists, like their first-wave forebears, have devoted themselves to improving women’s intimate relationships by focusing almost entirely on perfecting the institution of marriage. NOW’s by-laws

312. *Id.* at 20-21.
313. *Id.* at 359.
314. *Id.* at 363. Here, Friedan proved once again to be a visionary, as current efforts by elderly women to pool resources and share housing demonstrate. *See infra* notes 431-33 and accompanying text.
contain a Statement of Purpose that opposes discrimination based on marital status, but mostly, this commitment relates to ensuring that married women can pursue education and work while having their families. 315 The goal is to restructure employment and family life so that women can have it all. Sociologist Arlie Hochschild has analyzed "the second shift" for working women who return from their full-time jobs to do the bulk of the household chores. 316 This inequity, she argues, devalues women's work at the office and at home, and it corrodes the authenticity of a couple's love for one another. 317 The result is a wage gap on the job and rising divorce rates at home. 318 Hochschild calls for a "Marshall Plan for the Family" to mobilize women as a voting bloc. 319 Her solutions involve making labor policy truly pro-family by offering leave for fathers, job sharing, part-time work, and flex time. She argues for comparable worth legislation to close the gender gap in earnings, tax credits for developers who locate work sites closer to residential areas, and subsidies for daycare. 320

In her later work, Hochschild acknowledges that these economic reforms are insufficient to alter the dynamics of the gender gap. As she explains:

Any push for more flexible work time must confront a complex reality: many working families are both prisoners and architects of the time bind in which they find themselves. A . . . movement [to reorganize the workplace to expand the time available for family life] would have to explore the question of why working parents have yet to protest collectively the cramped quarters of the temporal "housing" in which they live. It would have to force a public reckoning about the private ways out of the time bind—emotional asceticism, the love affair with capitalism, the repeatedly postponed plans of the potential self—that only seem to worsen the situation. 321

Hochschild concludes that as women enter the paid labor force on the same terms as men, they find their intimate lives contracting through "emotional downsizing" that serves as "one defense against having to

317. Id. at 244-46, 252-56, 260-62.
318. Id. at 211-15, 254.
319. Id. at 268.
320. Id.
acknowledge the human costs of lost time at home." Rather than enhance women's emotional independence to choose their attachments, liberal feminist reforms arguably have trapped working mothers in a false self-sufficiency, a kind of "emotional asceticism." Moreover, without a vibrant, fulfilling image of single life, liberal feminism has not offered women an alternative vision of emotional independence outside of marriage.

In the quest to equalize the consequences of marriage, contemporary feminists have revisited divorce reform with mixed results. While first-wave feminists sought to liberalize the grounds for dissolving a marriage, second-wave activists have struggled to cope with the consequences of rising divorce rates for women. After a period of substantial increase, the divorce rate has held steady at about fifty percent. The stigma of divorce is now largely a thing of the past, and "no-fault" divorce suggests that marriages break up even when husbands and wives are blameless. Regardless of individual fault, however, marriage remains a deeply gendered institution, and divorce often replicates the inequities in access to wealth and earnings between men and women. Although the size of the gender gap after divorce is contested, there is general agreement that women suffer a decline in their standard of living when a marriage breaks up. Regardless of the rhetoric of no-fault divorce, the financial penalty imposed on ex-wives

322. Id. at 225, 229.
323. Id. at 229.
325. See MARY ANN GLENDON, ABORTION AND DIVORCE IN WESTERN LAW: AMERICAN FAILURES, EUROPEAN CHALLENGES 81 (1987) ("[T]he virtually universal understanding . . . is that the breakdown of a marriage is irretrievable if one spouse says it is."). But cf. James Herbie DiFonzo, Customized Marriage, 75 IND. L.J. 875, 884-88, 903-05 (2000) (contending that no-fault divorce laws originally were designed to reduce acrimony, improve the chances of reconciliation, and thereby reduce the divorce rate).
offers up a modern-day cautionary tale of the “fallen woman.” Women who fear the fiscal consequences of a marital dissolution may repress their emotional needs by “try[ing] to get warm inside an unequal marriage.”\textsuperscript{327} Once again, preserving the illusion of the egalitarian couple forces women into a strategy not of emotional independence but of self-abnegation and denial.

Feminism has failed to deliver a satisfying conception of life outside of marriage, even as women increasingly find themselves in this situation. The feminist focus on balancing work and family has cast doubt on the choices of women who remain unmarried. As E. Kay Trimberger notes, even successful, well-adjusted women who are single at midlife often wonder whether they are missing something and need a man to be happy.\textsuperscript{328} Trimberger contends that the search for a soul mate is such a pervasive feature of our culture that feminists have not escaped its influence.\textsuperscript{329} In her view,

the new cultural norm of coupling with a soul mate, and then becoming an egalitarian couple combining family and work—norms advocated by second wave feminism—seem[s] to be taking a heavier toll on the self-confidence of single women today than the older ideal—that career and conventional family life do not mix for women.\textsuperscript{330}

D. A Narrow Vision of Emotional Independence: Single Women and Reproductive Choice

In the area of reproductive choice, liberal second-wave feminists have identified a form of emotional independence, although it is narrowly circumscribed to encompass only potentially procreative sex with men. Prodded in part by the sexual revolution, activists have worked to give women greater control over reproduction, thereby expanding their options regarding marriage and family. The sexual liberation movement dramatically reduced the stigma of sexual alternatives to procreation in marriage. Extramarital sex is now commonplace, and individuals can choose to cohabit instead of marry without suffering significant social or legal penalties.\textsuperscript{331} The taint of

\begin{thebibliography}{99}
\bibitem{Hochschild327} Hochschild, \textit{supra} note 316, at 253.
\bibitem{Trimberger328} Trimberger, \textit{supra} note 263, at ch. 1, pp. 3-4.
\bibitem{Id.329} \textit{Id.} at ch. 1, p. 5.
\bibitem{Id.330} \textit{Id.} at ch. 1, p. 6.
\end{thebibliography}
Illegitimacy has largely disappeared, and single-parent households are no longer universally viewed with suspicion or disdain. Tolerance for same-sex relations also has increased, making gays and lesbians confident enough to demand the opportunity to marry on the same terms as heterosexual couples.

In the midst of this astonishing transformation in social values, feminists mainly have devoted themselves to ensuring that women can control their reproductive capacities. By pressing for access to contraception and abortion, activists want to give women the chance to pursue their sexual options without fear of unwanted pregnancy. The campaign for reproductive rights has turned on the unique role of women in bearing children, and at its inception, the focus was on married not single women. Over time, however, the right to choose evolved to confer substantial benefits on single women as well. Precisely because many unmarried women do not have partners to help support and care for children, control over reproduction may be especially critical.

Contraceptive choice first became respectable for married couples. In *Griswold v. Connecticut*, the United States Supreme Court recognized a right to privacy that protected a husband's and wife's decision to use contraception under a doctor's supervision. The Court emphasized the fundamental significance of marriage as "a coming together for better or for worse, hopefully enduring, and intimate to the degree of being sacred." In upholding a right to privacy, the Justices believed that they were preserving traditional social values in the "sacred precincts of marital bedrooms." As Elizabeth A. Reilly notes, by relying on the status of marriage, this approach "had not recognized the core of intimacy and moral respect, leaving singles vulnerable to State (describing the dramatic increase in cohabitation rates between 1977 and 1997); Suzanne M. Bianchi & Lynne M. Casper, *American Families*, 55 POPULATION BULLETIN (Dec. 2000), available at http://www.prb.org/Content/NavigationMenu/PRB/AboutPRB/Population_Bulletin2/American_Families.htm. (noting that the rates of cohabitation have stabilized during the 1990s).

332. Bianchi & Casper, *supra* note 331 (noting substantial increases in non-marital births, which peaked in 1994, and citing "a breakdown of social sanctions against out-of-wedlock childbearing").


335. 381 U.S. 479 (1965).

336. *Id.* at 486.

337. *Id.* at 485.
Having grounded privacy protections so centrally in marriage, the Court faced a dilemma seven years later when unmarried persons demanded contraceptive choice as well. To sidestep the difficulty, the Court analogized the sexual activity of singles to that of married couples. Reilly argues that: “Traditional values were accepted. Status, not intimacy, remained as the foundation for the protection of reproductive decision-making.”

Contraception has been identified with married couples, but abortion is primarily used by single women. Initially NOW approached the abortion issue with trepidation, fearing that it would divide and conquer the fledgling organization. As one NOW member Jean Faust recalled, “The professional women demanded we concentrate on economic goals—they were scared of harming the organization’s dignity with abortion and sex.” In 1967, when members of NOW were drafting a Bill of Rights for Women, they readily agreed to include a demand for unrestricted access to birth control information and devices. However, some participants balked at efforts to repeal abortion laws, and this fight dominated the debate over NOW’s platform. Opponents argued that abortion was not a women’s rights issue and would damage

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343. LAWRENCE LADER, ABORTION II: MAKING THE REVOLUTION 37 (1973); see also RUBIN, supra note 342, at 23 (“At first, NOW was afraid to touch the abortion issue, fearing, as had earlier women’s organizations, that its broader goals of legal and economic equality for women would be obscured by commotion over sexual taboos and the emotional issues involved in any question of sex and procreation.”).

344. LADER, supra note 343, at 37.
NOW's already fragile public image.\textsuperscript{345} According to Faust, "We were all blocked by traditional labels. We were afraid of being called 'loose women' if we included abortion in our platform."\textsuperscript{346} When the resolution on abortion passed, a number of dissenters resigned from NOW. As Judith Hole and Ellen Levine note, "NOW's position made it the first women's rights organization to put the civil libertarian argument for abortion into clear feminist terms—the right of a woman to control her own body."\textsuperscript{347} NOW's decision ultimately led to "a more rapid growth of the already existing but limited anti-abortion law movement,"\textsuperscript{348} which often is rooted in family values. By expanding the realm of reproductive choice, liberal second-wave feminists once again benefited single women while refraining from recognizing them as an express constituency.

Today, new frontiers in reproductive choice are emerging, and these developments once again test the boundaries between single and married women. Remarkable advances are being made that permit women to have children through artificial insemination, in vitro fertilization, sperm and egg donation, and surrogacy arrangements.\textsuperscript{349} Some physicians have considered these techniques a means of treating infertility in couples and have denied these services to single women.\textsuperscript{350} Whether single women should have equal access to reproductive technologies has been the subject of lively debates among biomedical ethicists. Some have argued that single women should be barred from receiving artificial insemination or in vitro fertilization because children fare best in a traditional household. Yet, others believe that there is insufficient evidence that single mothers will be inadequate parents simply because they lack a husband.\textsuperscript{351} In its Concepts and Definitions of Terms Used to Construct the Constitutional Equality Amendment ("CEA"), NOW mentions the unfairness of limiting artificial

\textsuperscript{345} HOLE & LEVINE, supra note 223, at 88-89.
\textsuperscript{346} LADER, supra note 343, at 36.
\textsuperscript{347} HOLE & LEVINE, supra note 223, at 89.
\textsuperscript{348} Id.
\textsuperscript{349} John A. Robertson, Procreative Liberty and Harm to Offspring in Assisted Reproduction, 30 AM. J.L & MED. 7, 7 n. 1 (2004).
\textsuperscript{351} Robertson, supra note 349, at 36-37.
insemination to married women. Even so, the organization remains focused on defending the right to abortion and has not assumed a high profile in the area of assisted reproductive technologies. Meanwhile, single women have had to "fly under the radar [screen] of state legislatures and physicians" by using artificial insemination at home.

In sum, liberal second-wave feminists mainly have emphasized economic independence. In doing so, they have enabled many women to become financially self-sufficient and remain single. Despite new possibilities for singlehood, activists have addressed women's intimate lives mostly in conjunction with marriage and motherhood. A great deal of attention has been paid to balancing work and family life, while little effort has been made to forge strong alternative visions of life as a single woman. As a result, both married and unmarried women have paid a significant emotional price. Wives have had to adopt strategies of downsizing and asceticism to cope with unequal marriages because single life is not a salient option. Meanwhile, never-married females question their prospects for achieving happiness and fulfillment outside of marriage. Rather than look at questions of emotional independence in broad terms, liberal reformers have emphasized reproductive choice, which once more defines women's lives in relation to their coupling with men.

IV. SINGLE WOMEN: FROM SURGING STATISTIC TO SOCIAL FORCE

The combination of growing financial independence, ready access to divorce, and increased sexual autonomy has produced an explosion in the growth of single women. Unmarried females today are a highly diverse population that includes bachelor girls, never-married mature women, divorcees, widows, and single mothers. Some cohabit with a partner, but many do not. Despite the substantial size of this population, it remains relatively invisible as a political constituency. Few have spoken directly to the needs of the unmarried, yet the proliferation of singles plainly challenges the tendency to devalue intimacy outside of the conventional family.

353. Lezin, supra note 350, at 193.
A. Making Single Women Without a Movement

Due in part to the women's movement and the sexual revolution, the demographics of marriage and singlehood in America have shifted dramatically. Today, approximately one out of every four American households is comprised of an adult living alone. In fact, more households now consist of a single person than of a traditional nuclear family. Unmarried women outnumber unmarried men in the United States. According to the 2000 Census, about 47 million adult women are single compared to approximately 39 million men. Of people over the age of eighteen, forty-five percent of females and forty percent of males are unmarried. These changes cannot be attributed simply to a decision to delay marriage, although this is an important factor. According to the latest census results, high proportions of middle-aged and older women are single. For example, among females aged thirty-five to thirty-nine, fourteen percent are never married, seventeen percent are divorced or separated, and one percent are widowed, for a total of thirty-two percent of all women in that age cohort. And, of females aged forty-five to fifty-four, nine percent are never married, twenty-one percent are divorced or separated, and three percent are widowed, for a total of thirty-three percent. Although divorce accounts for a substantial percentage of unmarried women, their single status is not simply temporary. Only half of divorced women report that they have remarried after five years, while seventy-five percent remarry within ten years.


355. Id. (illustrating in Figure 1 that married couples with children account for 24.1% of households, while single people account for 25.5%).

356. Id. (stating that women living alone represented 58% of one-person households in 2000 down from 67% in 1970).


Nor are singles simply replicating the paradigm of romantic love and joint parenting outside the confines of traditional marriage. Relatively few single people are cohabiting. While there are 47 million unmarried women, only 3.8 million couples identified themselves as “unmarried partners” in 2000. Even if this figure likely underestimates the total number of cohabiting couples, it does not come close to matching the number of single women.\textsuperscript{361} Childrearing also is taking place outside of conventional marriage. Single women are increasingly having children on their own. One of every three births in this country was to an unmarried mother in the twelve-month period preceding June 2002.\textsuperscript{362} Moreover, contrary to popular belief, unwed mothers are not primarily teenagers. In 1994, over two-thirds of the women who had children outside of marriage were over the age of 19.\textsuperscript{363} Of unwed mothers, only about half report cohabiting with the child’s father.\textsuperscript{364}

In short, singlehood has arrived, with or without a formal movement to recognize it.\textsuperscript{365} A female’s unmarried status is not a transient phenomenon. On the contrary, an American woman today can expect to be single for substantial portions of her adult life. Despite this reality, liberal feminists and major political parties alike have paid little attention to single women’s unique needs. In fact, when singlehood does get addressed, it is often portrayed negatively as a threat to family

\begin{footnotes}
\item[361] Fields & Casper, supra note 354, at 12. Other sources report higher figures for cohabiting couples based on the census data. Su-Jin Yim, Experts Advise Cohabiting Singles to Draw Up Formal Pacts, NEWHOUSE NEWS SERV., July 10, 2001 (stating that there were 5.5 million couples living together and categorizing “themselves as ‘unmarried partners’”); Cheryl Wetzstein, Cohabitation Levels Rising, Study Finds: 1 in 4 Such Women Plan to Stay Unwed, WASH. TIMES, Nov. 15, 2002, at A14 (stating that “[i]n 2000, [there were a] reported 4.7 million cohabiting households”).
\item[365] See PAT O’CONNOR, FRIENDSHIPS BETWEEN WOMEN: A CRITICAL REVIEW 90-91 (1992) (noting how the changing demographics of marriage and family have complicated the problems of defining the category of single women by challenging the tendency to equate this status with spinsterhood).
\end{footnotes}
values. The debate over single mothers, absent fathers, and welfare dependency offers a prime example. As Martha Fineman has pointed out, single mothers deviate from traditional family norms, openly engaging in sexuality outside of marriage. As a result, they are characterized as undeserving of public assistance and subject to intense official scrutiny if they do receive benefits. Indeed, the stereotypical single mother is a “welfare queen,” a low-income woman of color who has children out of wedlock to increase her monthly checks from the state. The policies that address single mothers reflect this marriage-centered orientation. Women are expected to become family breadwinners like men or to find a breadwinner and marry. Nowhere in the debate is there any consideration of how to build vital networks of support outside of marriage; rather, marriage is seen as the sole model for a functional family structure. With political treatment ranging from neglect to stigmatization, it should come as no surprise that single women are undermobilized as an electoral bloc. A recent survey of the 2000 election turnout shows that single women are “the largest demographic group of non-voters. Although single women comprise 46 percent of all eligible voters, only 42 percent of them are registered to vote. And of those registered, only 52 percent actually voted in 2000.” The low voter turnout among single women may have been decisive in the 2000 Presidential election: Only forty-three percent of single women voted as compared to sixty-two percent of married women. Single women are a huge untapped

367. Id. at 112-16, 178.
369. See FINEMAN, supra note 366, at 106-13; Albelda, supra note 368, at 70-73 (describing the harsh impact of welfare-to-work policies that focused on the personal shortcomings of women on welfare rather than the obstacles they face in a segregated labor market with low returns to workers with minimal skills); Robert Pear & David D. Kirkpatrick, Bush Plans $1.5 Billion Drive for Promotion of Marriage, N.Y. TIMES, Jan. 14, 2004, at A1 (describing President Bush’s healthy marriage initiative, which would promote marriage in poor neighborhoods to advance family stability and healthy child development).
370. For an example of this tendency to identify marriage as the sole solution to single mothers’ problems, see LINDA J. WAITE & MAGGIE GALLAGHER, THE CASE FOR MARRIAGE: WHY MARRIED PEOPLE ARE HAPPIER, HEALTHIER, AND BETTER OFF FINANCIALLY 124-140 (2000) (stating that arguments in favor of marriage tend to focus on the effects of divorce but also apply to single parents in general).
372. Id.
political resource, representing one out of every five potential voters. Even with their relatively low rates of political mobilization, these women account for forty-two percent of all registered women voters.\(^{373}\)

When asked why they do not register and vote, single women cite several reasons: lack of information, cynicism about the political process, and time constraints.\(^{374}\) A major reason for non-participation is that “[u]nmarried women are convinced that politicians do not listen to them and do not follow through with their promises once they are elected.”\(^{375}\) Single women also report that time pressures make it difficult to learn about the candidates and issues.\(^{376}\) Social isolation further contributes to the disenfranchisement of single women. Unmarried females are less likely to attend church or volunteer than married women. These forms of civic engagement predict political participation.\(^{377}\)

The differences in civic engagement and political participation of single and married women in part reflect the unmarried females’ more economically marginal status.\(^{378}\) Because “[m]any unmarried women are one paycheck away from disaster,” they value job security, higher wages, and improved educational opportunities. In fact, “[t]hese economic concerns far outweigh some of the challenges that we know confront women in the workplace, such as being a victim of sexual harassment or not getting a raise due to one’s gender.”\(^{379}\) As a result, single women are highly concerned about issues like affordable health care but dubious about government’s ability to offer effective solutions.\(^{380}\)

Single people, regardless of gender, tend to be more liberal than married people, so the failure to mobilize an emerging “nation of singletons” seriously hampers progressive politics, including a feminist agenda.\(^{381}\) Still, the Democratic Party has not reached out to the unmarried. As Democratic pollster Celinda Lake explains, “The average candidate runs around with his well-put-together, well-rested wife and

\(^{373}\) Id. at 53.
\(^{375}\) Id. at 11.
\(^{376}\) Id.
\(^{377}\) Id. at 12-13.
\(^{378}\) Id. at 4.
\(^{379}\) Id. at 5.
\(^{380}\) Id. at 8-10.
\(^{381}\) Chaudhry, supra note 371, at 54. However, the ideological gap for married and single men is narrower than for married and single women. Id.
two perfectly dressed kids—then he talks about the marriage tax penalty. Single women have been a tremendously ignored constituency." Just as Friedan feared that feminism would be hijacked by single, childless manhaters, Democratic leaders fear being labeled anti-family. As political analyst Ruy Teixeira points out: "If you speak to single people, you open yourself to charges that you don’t support family values. Democrats already have enough trouble with that." Despite the claims of sociologists like Judith Stacey that we are living in a world of “brave new families,” somehow single people still do not count as a household worthy of inclusion.

Although the Democratic party and the women’s movement have yet to formulate a strategy for mobilizing single females, their low rates of participation have entered the mainstream press. Recent issues of Glamour, Marie Claire, and Elle include articles urging young women to vote. Glamour reminds its readership that “Voting is definitely a Glamour Do” like “fram[ing] your face with wispy blond layers” because even as their participation dwindles, young women have more at stake than at any time in recent history. Health care costs are surging, fewer women are covered by insurance, jobs are still scarce and the ability to get an abortion, cited by many women as a fundamental right, is in peril.

Just as Helen Gurley Brown addressed her Cosmo girls directly and unequivocally as unmarried women, these magazines are sending a clear message about electoral participation—albeit in terms that may treat voting more like a commodity than a civic duty.

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383. Chaudry, supra note 371, at 54 (internal quotation marks omitted).
387. France, supra note 386, at 238, 239; Holy Hair Disasters!, GLAMOUR, April 2004, at 262; see also Mannarino, supra note 382, at 16 (citing low rates of voting among single women).
B. Can Single Women Be a Distinct Constituency?

Simply observing that single women don’t vote and then exhorting them to do so can not be a substitute for devising an agenda that draws them to the polls. The status of singlehood must be analyzed not just as an individual choice but as part of a social structure that has traditionally preferred marriage and family as the means to social respectability and financial security for women. By pressing to have it all, second-wave feminists acquiesced in the presumed superiority of the couple, whether married or cohabiting. The women’s movement now must make clear that its goal is not for women to follow a script of combining work and family. What “having it all” should mean instead is that women can choose among a wide array of options related to careers and personal relationships. Singlehood, then, becomes simply one among many legitimate choices, a path that can lead to a full and happy life just as marriage and children can. Only in this way will women achieve genuine emotional independence along with economic and political rights.

To put single women’s needs on a par with those of wives and mothers, feminists must continue and even redouble some of their traditional reform efforts but make explicit how these fundamental commitments benefit women, regardless of their marital status. Gains in education and employment are vitally important for all women, and indeed, perhaps they are most crucial for women on their own, whether with or without children. Humane working conditions are integral to the dignity and integrity of all women, not just those who wish to balance a career with a family life. Reproductive choice preserves single women’s autonomy just as much as it controls married and cohabiting women’s fertility. In addition, though, feminists must move beyond formal principles of individual non-discrimination to consider how society is structured to accommodate marriage and family. Because intimacy historically has been associated with ties among husbands and wives, parents and children, single women find little support for their efforts to forge new bonds of care and connectedness.

With liberal second-wave feminism has come an intensified focus on work and family that makes it increasingly difficult for Americans to

388. Greenberg & Greenberg, supra note 374, at 13 (“It is not sufficient to call on unmarried women to vote because it is their civic duty.”).

build relationships with friends and neighbors. Robert Putnam describes how more of us are “bowling alone,” turning away from civic associations, private clubs, recreational sports leagues, and the myriad other activities that create a sense of shared community. The result has been a growing sense of anomie and the disintegration of public space. As Americans lose their capacity to empathize with one another, ironically the most common experience becomes the “being together of strangers.” Unmarried people, in particular, find themselves in a social terra incognita.

Putnam’s work on social capital offers a place to begin thinking about a policy agenda that is responsive to single women’s needs. In his research, Putnam distinguishes between civic engagement and informal social networks. According to Putnam, machers are “people who make things happen in the community,” while schmoozers are “those who spend many hours in informal conversation and communion.” While his book focuses heavily on the decline of civic engagement, he also notes that schmoozing has gone down in all segments of society. Putnam reports that “[s]ingle people spend more time and energy in schmoozing,” while “marriage increases time spent at home and in formal community organizations, while reducing the time spent with friends.” Even after marriage, however, women spend more time schmoozing than men. Putnam worries about the decline in friendship networks primarily because “this silent withdrawal from social intercourse [may have] affected our propensity to pitch in on common tasks and to show consideration for bystanders. . . .” By contrasting schmoozers with machers, Putnam implicitly treats informal social networks as sources of amusement and recreation, mainly important to the extent that they facilitate other forms of civic engagement and philanthropy. He largely ignores the possibility that single people invest more than married people in friendships because these connections are valuable in their own right. In particular, informal social networks can

390. ROBERT PUTNAM, BOWLING ALONE 194-203, 277-79, 283 (2000) (citing changes in America’s family structure as a contributing though not the primary factor in the decline of social capital).
392. PUTNAM, supra note 390, at 93.
393. id. at 108.
394. id. at 94.
395. id. at 94-95.
396. id. at 115.
provide communities of care not available through traditional family forms. 397

Such networks of care can be vital to single people’s survival. For instance, a study of single mothers found that they build repertory families, “an ensemble of people who provide some combination of emotional and psychological support, economic contributions, and routine household chores and maintenance.” 398 Some members of these repertory families are relatives but many are neighbors and friends. 399 In fact, named guardians for the women’s children are “as likely to be friends as kin.” 400 In forging these repertory families,

the women are challenging the sanctity of the nuclear model of family, by developing a broad-based network model. . . . By parceling out these various aspects (the physical work, the caring work, the emotional work, etc.) across a wide network of people, these mothers spread the “risk” of losing a key player (like a husband) as well as safeguarding against anyone feeling overtaxed or burned out. 401

Despite the central importance of informal networks to single people’s survival, Putnam is not alone in trivializing contact with friends as schmoozing. This lack of cultural validation for friendship makes it hard for single people to create networks of support and intimacy. In an earlier era, female friendships were a source of strength that made sisterhood possible and first-wave feminism imaginable. 402 Today, the emphasis on finding a soul-mate and settling down has dramatically altered perceptions of the potential for such lifelong bonds. 403 As Rachel Kranz writes:

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399. Id. at 205-06.

400. Id. at 206.

401. Id.


403. See, e.g., LILLIAN B. RUBIN, JUST FRIENDS: THE ROLE OF FRIENDSHIP IN OUR LIVES 114 (1985) (noting that for men and women alike, “friends are expected to understand and accept that love is a more compelling priority than friendship” and therefore “[f]riends take second place”); CAROL M. ANDERSON & SUSAN STEWART WITH SONA DIMIDJIAN, FLYING SOLO: SINGLE WOMEN
Many of my single women friends were desperate to find men because they saw this as the only way to have any significant emotional ties with anyone. What about friends? Well, no. If coupled, they weren’t available; if single, they’d disappear as soon as they found men.

I certainly recognized this anxiety, too. So I decided to make a radical assumption: I was never going to meet a man who would become my lifetime partner.

This decision sent shock waves through my life. At first it sounded like giving up. Wasn’t feminism supposed to help you Have It All? Then why was I settling for less?

As this account makes clear, the emphasis on having it all has made it difficult for women to experiment with relationships that do not depend on finding a romantic partner. These connections could enable women to develop other facets of their identity. Unlike relations with blood kin, friendships are voluntarily chosen attachments that can reflect a woman’s own values and aspirations. In fact, as Marilyn Friedman argues:

... [F]riendship is more likely than many other relationships to provide social support for people who are idiosyncratic, whose unconventional values and deviant life-styles make them victims of intolerance from family members and others who are unwillingly related to them. In this regard, friendship has socially disruptive possibilities. Out of the unconventional living it sustains there often arise influential forces for social change. Friendship has had an obvious importance to feminist aspirations as the basis of the bond that is (ironically) called “sisterhood.” Friendship among women has been the cement not only of the various historical waves of the feminist movement but also of numerous communities of women throughout history who defied the local conventions for their gender and lived lives of creative disorder. In all these cases, women moved out of their given or found communities into new attachments with other women by their own
choice, that is, motivated by their own needs, desires, attractions, and fears, rather than, and often in opposition to, the expectations and ascribed roles of their found communities.\(^\text{406}\)

Despite these benefits for women, friendship remains largely uncharted territory. As Stacey Oliker notes, there are no “explicit rights and obligations, rituals of solidarity, or firm expectations of permanence” associated with friendship.\(^\text{407}\) Nor are caretaking obligations outside of the nuclear family legally recognized and protected.\(^\text{408}\)

The battered state of friendship has created blind spots in policies related to dependency and care. Take, for instance, the Family and Medical Leave Act. As mentioned earlier, this Act provides job protection only to workers who are caring for a parent or child or themselves. An employee who wishes to take unpaid leave to tend to a dear friend would not be covered.\(^\text{409}\) Trimberger argues that “[b]y assimilating all unpaid care into family, we reinforce the continued invisibility of care provided by friendship networks and contribute to the insecurity felt by those with weak family ties.”\(^\text{410}\) Trimberger urges a right to care that would include recognition of and support for friends and other nonkin who assume caretaking obligations.\(^\text{411}\)

Canadian officials already are pondering these possibilities. In a report entitled Beyond Conjugalitry: Recognizing and Supporting Close Personal Adult Relationships,\(^\text{412}\) the Law Commission of Canada recognized that “[a] substantial minority of Canadian households involves adults living alone, lone-parent families or adults living together in non-conjugal relationships.”\(^\text{413}\) Moreover, “‘families of friends’ can be of great importance, particularly within the gay and lesbian communities and among older adults, especially older women.”\(^\text{414}\) Yet, these arrangements are largely ignored by law and policy. As an example, the Commission posted the following statement on its website:

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406. FRIEDMAN, supra note 402, at 248-49 (footnotes omitted).
408. Trimberger, supra note 397, at 9.
409. See supra notes 305-306 and accompanying text.
410. Trimberger, supra note 397, at 13.
411. Id. at 14.
413. Id. at x.
414. Id.
We are thirty-six-year-old twin sisters who have never been married or had children and live together. Our lives are inextricably linked: aside from being related and having known each other all of our lives, we have co-habited continuously for the last seventeen years (since leaving our parental home), rely on each other for emotional support, and are entirely dependent on each other financially—we co-own all of our possessions and share all of our living expenses. A more stable relationship cannot be found. Yet, because we are sisters, rather than husband and wife, and because we are not a couple in a presumably sexual relationship, we are denied tax benefits, “family” health coverage, and a multitude of other advantages constructed upon sexist and heterosexist ideas about what constitutes meaningful relationships.

We find this situation incredibly frustrating. It seems to us that we are being penalized for not marrying or living with men—or even with women in a presumably sexual relationship. Should the possibility of sexual relations between two co-habitating [sic] adults, whether heterosexual or homosexual, really be the yardstick by which the government, the law, and the corporation measure a citizen’s entitlement to social and economic rights? This notion is completely absurd, and yet our entire social structure is premised on it.

Based on evidence like this, the Commission concluded that “governments have tended to rely too heavily on conjugal relationships in accomplishing important state objectives. Rather than advocating simply that the law cover a broader range of relationships, the Law Commission is of the view that it is time for governments to re-evaluate the way in which they regulate personal adult relationships.” In particular, the Commission recommended that Canada move from a model in which the State determines which relationships deserve protection and support to a model in which individuals are free to identify those relationships that enjoy a special status. In particular, people would be free to register relationships, and these relationships would not be limited to couples, whether married or same-sex. Once a relationship was registered by mutual consent of the parties, each person would be subject to the legal responsibilities and enjoy the legal protections attached to intimate ties. For instance, the parties might assume obligations of support, presumptively share property, have the power to make decisions about one another’s caretaking arrangements.

415. *Id.* at 119 (quoting *LAW COMMISSION OF CANADA COMMENTS BOARD, June 2000-Jan. 2001*).
416. *Id.* at xviii-xix.
417. *Id.* at 117-18.
and medical treatment, and so on. By acknowledging the growing significance of non-kinship relationships, Beyond Conjugality represents a brave attempt to reimagine the law of personal relationships in response to the shifting landscape of singlehood and marriage.

As laudable as the Law Commission’s efforts are, a registration system does suffer from serious limitations. By placing the burden on private individuals to file for protection, this approach privileges those with the time, money, and knowledge to pursue their legal options. Moreover, individuals must still continue to forge non-traditional relationships on their own, earning state support and recognition only when the bonds are strong enough to generate mutual consent to register. In societies still oriented to the normative superiority of nuclear families, building a connection that is worth registering may be an uphill battle. So, a final way to reconceive of singlehood is to create state policies that facilitate without mandating the creation of social support networks among single people.

Consider, for example, the possibilities that the co-housing movement holds for single women. A co-housing community “combines the privacy of single-family residences with the community offered by common facilities and meals.” This type of residential plan “explicitly attempts to reject the classic isolationism and ideological homogeneity of the American commune, the single family home’s private enclave located within wasteful suburban sprawl, and the middle class urban neighborhood that is only drawn together through shared fear of crime and random violence.” In part, co-housing is a response to the perception that demographic and economic transformations have made traditional housing arrangements unsuitable for meeting many residents’ needs.

Co-housing can be especially useful in addressing the needs of single women. Laura Padilla argues that “[t]he modern single-family detached home, which makes up 67 percent of the American housing stock, was designed for a nuclear family consisting of a breadwinning father, a homemaking mother, and two to four children.” Yet, this kind of family has become increasingly unusual, while single-parent

418. Id. at 120-21.
421. Id. at 6-7.
422. Padilla, supra note 419, at 193.
households are growing most rapidly. Padilla believes that co-housing can be a tremendous resource for single mothers, particularly low-income women of color, because of the support networks and services that can readily develop. In a similar vein, others have noted the benefits that shared housing arrangements can offer to older single women. In studying a "senior citizen" housing project in the San Francisco Bay Area, Arlie Hochschild discovered that widows dominated the population and assumed leadership roles in the community. The relationships among widows enabled them to overcome the stigma associated with old age. As Hochschild explains: "The widows of Merrill Court took care of themselves, fixed their own meals, paid their own rent, shopped for their own food, and made their own beds; and they did these things for others. Their sisterhood rests on adult autonomy."

Recognizing these benefits, single women are actively pursuing shared housing arrangements. For example, when New View Cohousing was established in 1989 in West Acton, Massachusetts, the residents included single mothers, older singles, and a lesbian couple as well as traditional nuclear families. In 1992, the Doyle Street project in Emeryville, California became the second newly built co-housing development in the United States. Its residents consisted of "a retired professor and his wife, an attorney raising her child alone, a woman raising her granddaughter alone, and a single professional woman."

The New York Times recently reported that with or without a formal co-housing project, a "friends-helping-friends model for aging is gaining momentum among single, widowed or divorced women of a certain age."

Without any official guidelines on how to proceed, these women

423. Id.
424. Id. at 206-20.
426. Id. at 16-19.
427. Id. at 69; see also Susan E. Crohan and Toni C. Antonucci, Friends as a Source of Social Support in Old Age, in OLDER ADULT FRIENDSHIP: STRUCTURE AND PROCESS 129, 133 (Rebecca G. Adams and Rosemary Blieszner eds., 1989) (reporting that for both men and women, "friendships are more important than family relations to morale and well-being in old age"); WILLIAM K. RAWLINS, FRIENDSHIP MATTERS: COMMUNICATION, DIALECTICS, AND THE LIFE COURSE 224 (1992) (noting that "the elderly primarily develop same-sex friendships; free standing cross-sex friendships are uncommon in old age"); TRIMBERGER, supra note 397, at 6, 7-9 (noting that single adults rely heavily on friendships for care and support during old age and serious illness).
429. Id. at 24-25.
430. Id. at 25.
have been crafting the arrangements as they go along, sometimes modeling them on prenuptial agreements. Indeed, this reliance on prenuptial agreements is further evidence of the powerful hold that marriage has in defining adult relationships. Many of the women report that contractual technicalities are the main drawback to trying to pool their resources, share a home, divide up household tasks, and provide one another with emotional support.  

Because friendships exist in the shadow of marriage and family, only women with the resources and determination to overcome legal and technical obstacles can successfully pursue alternative living arrangements. Not only must elderly women draft elaborate contracts, but co-housing advocates must overcome zoning laws and lending policies that stand in their way. In Village of Belle Terre v. Boraas, the United States Supreme Court held that a municipality could bar more than two unrelated persons from occupying a single-family dwelling as a way to prevent overcrowding, reduce traffic congestion, and preserve the neighborhood's quality of life. In fact, the ordinance was probably designed to keep out "hippies" during the 1960s and 1970s based on fears that communes would become "havens for drug use, free love, and anti-government sentiment." Today, zoning laws like those in Belle Terre can present a significant obstacle to co-housing development. Since the decision, several state supreme courts have struck down these limits on unrelated persons living together because they constitute arbitrary discrimination or violate a right to privacy. The New Jersey Supreme Court made explicit the special burden that these ordinances impose on single people, noting that the restrictions would prevent unrelated "widows, widowers, older spinsters, or bachelors" from living together in a single-family home.

Even when zoning issues are overcome, the novelty of co-housing can generate new obstacles. The California Supreme Court struck down ordinances like those in Belle Terre in 1980, concluding that the

432. Id.
433. Id.
435. Id. at 6-9.
restrictions violated the right to privacy in the state constitution. When the Doyle Street co-housing project was launched about a decade later in the Bay Area, the Federal National Mortgage Association (or Fannie Mae) “refused to approve the project because it was ‘too new and untried’ and potentially difficult for a bank to resell in the event of a foreclosure.” As a result, local banks withdrew their mortgage offers to residents. To obtain the necessary financing, prospective residents decided to amend their covenants, conditions, and restrictions to eliminate any reference to co-housing and to change the name of the project from the Doyle Street Cohousing Community Association to the Doyle Street Condominiums. These changes enabled the residents to obtain mortgages but undercut their ability to self-identify as a co-housing community. To the extent that non-traditional shared housing arrangements are of particular importance to the unmarried in general and single women in particular, these arbitrary legal obstacles should be eliminated. Moreover, co-housing developments could be encouraged as a way to build social safety nets for single mothers and older women who are especially vulnerable. Such changes are unlikely to happen so long as marriage is seen as the primary vehicle for women to achieve emotional intimacy and economic security. Until friendships receive cultural validation, housing that facilitates support networks among single people will remain anomalous and even threatening to the social order.

In sum, singlehood is now a commonplace condition for American females. Despite the prevalence of women living on their own, there is no clear conception of their special needs and concerns. Because marriage and family still dominate people’s image of the good life, feminists and politicians alike continue to neglect single women as a distinct constituency. Efforts to root out discrimination based on gender and marital status offer important protections to unmarried females, but they are not enough to address the condition of singlehood. American society has been structured around the assumption that individuals marry and have children, and there has been little effort to imagine, much less facilitate, alternative ways of living. Respecting the importance of informal networks of support and intimacy in single women’s lives is a first step in this direction. Making space for friends and neighbors to share resources and develop emotional ties is another. Yet, these are but

441. Id.
442. Id. at 26-27.
initial steps in enabling single women to build relationships of dependency and trust outside the traditional confines of marriage. The work of conceptualizing an agenda for single women has just begun.

CONCLUSION

To a significant degree, second-wave feminism took for granted that women would couple as well as have a career. In doing so, the women’s movement forgot the single woman and damaged its own chances for political success. As the population of singletons continues to grow, the time has come to recognize them as a legitimate constituency with unique needs. Years ago, Adrienne Rich insisted:

The problem, finally, is not that of who does housework and childcare, whether or not one can find a life companion who will share in the sustenance and repair of daily life—crucial as these may be in the short run. It is a question of the community we are reaching for in our work and on which we can draw; whom we envision as our hearers, our co-creators, our challengers; who will urge us to take our work further, more seriously, than we had dared; on whose work we can build.443

Surely, single women must be part of this feminist discourse and a dynamic part of an American society learning the difference between being unmarried and being alone.