

## Chapter 2

# Monogamy? Exoticizing a 3,000-Year-Old Pre-Christian Western Tradition

Anthropologizing Western society is a dire undertaking. Anthropological concepts were developed in Europe and North America. They are all too often notions simply derived from the way in which Western cultures distinguish that which is normal—and poses no problems—from that which is unaccustomed, strange, exotic, and raises questions calling for answers: the practices of *others* (see Moffat 1992: 222). This somewhat parochial anthropological epistemic model prevents the Western analyst from observing her culture from afar—from a step back and a distance that is essential to see for oneself, as Rabinow (1986) encourages, the exotic side of our Western institutions, just as *others* may see them.

For this reason, to defamiliarize ourselves with socially imposed universal monogamy, we should first consider observations made about it outside the Western world. To this end, I will refer to an amazing essay published in 1988 by David G. Maillu, a Kenyan intellectual who does not want his country to adopt our universally imposed monogamous matrimonial standard, which, he claims, would impart a fundamentally unfair social status to a great many women and children, just as it has done for centuries in all European societies and in the Americas. An unusual critique from someone who rejects ethnonihilism, and whose argumentation is worth detailing to grasp its relevance fully.

Maillu starts by alleging that the number of African men that are polygynous corresponds to just as many men in Europe and America who are also linked to more than one woman at the same time through what he calls the *wife-plus-mistress(es) system* (Maillu 1988: 30–31). The case of former French President François Mitterrand is a good example of such practice (even though it was not known to Maillu). While remaining married to his legitimate wife, Danièle, with whom he had two sons, President Mitterrand had a mistress (Madame Pingeot), with whom he had a daughter (Mazarine) (Fig. 2.1). And according to rumors circulating among some of the journalists at the newspaper *Le Monde*, he is believed to have had a second mistress with whom he supposedly fathered a son (anonymous, personal communication). In Europe and America, the number of men who engage in such “polygynous” practices probably represents a small proportion of the total male population.



**Fig. 2.1** Funeral of French President Mitterrand, January 1996. © Patrick Artinian / Libération /12/01/1996. Courtesy © Libération and Patrick Artinian. In the foreground, the coffin of the President carried by six gendarmes. Immediately behind the coffin, Madame Danièle Mitterrand, the first wife of the President, between the two sons she had with him. She lived in Paris in the family apartment on rue de Bièvre. Immediately behind her, coming out of church, Madame Pinget, the President's mistress, accompanied by Mazarine (head leaning to her left), the daughter she had with him. She and her daughter lived in an annex of the Palais de l'Élysée. A bishop and two assisting priests look out over the procession as it leaves the church. Had he been a journalist, David G. Maillu (1988), our Kenyan observer, might have written the following caption. The French President, who saw to his own funeral arrangements, seems to have wanted to state that "polygamy" was nothing out of the ordinary. He had said as much to journalists shortly before his death. Was he not justifying African polygamous traditions at a time when some of our own African fellow citizens want to renounce them? He must be recognized for his courage, in contrast to others, for acknowledging the daughter he had with his second wife and for not having made her a bastard but his legal child. His first wife and her son Robert are to be admired for their grand gesture when inviting Mme Pinget and Mazarine to the funeral and declaring they loved Mazarine because she is a Mitterrand like them. It seems that Western culture is finally on its way to becoming more civilized.

In most parts of Africa the situation is similar, for up to 97 % of all marriages are monogamous (but there have been exceptions in some regions and countries where polygamy has reached up to 50 % of all marriages in the past). Besides, what distinguishes Europe from Africa is rooted neither in practices nor in statistics, but instead in long-divergent societal attitudes towards a given common practice: concurrent plural liaisons or what I shall call “conjunctions.”<sup>1</sup> I prefer this somewhat quaint word over that of “liaison” or “affair” because conjunction merely evokes “the state of being conjoined,” that is, “brought together so as to meet, touch, overlap, or unite” (*Merriam-Webster Dictionary*), without entailing positive or negative value judgments referring to the legitimacy or illegitimacy of the conjunction.

Since time immemorial, African societies recognized that multiple conjunctions were just so many marital relationships that had to be legitimized and regulated (with standards varying from place to place) so as to be socially controlled and not left to the mere whims of individuals, as is the case in the wife-plus-mistress(es) system.

Maillu does not refer to Greco-Roman Europe, but some additional data will further his argument. According to Numa Denis Fustel de Coulanges’ highly respected study of classical times, the ancient Indo-Europeans already adhered to an imposed universal monogamous system (1956: 47–48, original 1864, book second, Sect. II):

The institution of *sacred* marriage must be as old in the Indo-European race as the domestic religion [worship of one’s family ancestors and, for a married woman, of her husband’s ancestors]; for the one could not exist without the other. [...] [Marriage] united man and wife by the powerful bond of the same worship and the same belief. The marriage ceremony, too, was so solemn, and produced effects so grave, that it is not surprising that these men did not think it permitted or possible to have more than one wife in each house. *Such a religion could not admit of polygamy* (emphasis added).

Unequivocal evidence of universal monogamy in Ancient Greece goes back to the seventh century BCE and in Rome to the third century BCE (Scheidel in Chief Justice Bauman 2011 at 150 through 153; Scheidel 2009, 2011). Furthermore, advances in the recently developed method of phylogenetic comparative research (Fortunato 2011) support de Fustel de Coulanges’ inferences for much older dates.

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<sup>1</sup> Conjunction is borrowed from eighteenth-century French legal vocabulary. Conjunction was then the term used to designate any mating between a man and a woman. On occasions, when the *conjunction* was illicit, the text qualified the word *conjunction* by adding an adjective such as in *conjunction réprouvée* (see “De la Bâtardise”, in *Dictionnaire de Droit et de Pratique* par M. Claude-Joseph de Ferrière, doyen des docteurs-régens de la Faculté des droits de Paris, et ancien avocat au Parlement, 2 tomes, Paris: chez Savoye, 1762; in *Livres des sources médiévales* at: <http://www.fordham.edu/halsall/french/batard.htm> (retrieved Dec. 16, 2008)). In its primary meaning conjunction remains neutral as to whether the union is legitimate or illegitimate. It merely refers to the action *de se conjuguer* (from which stem conjugal and conjugal in English), *de se joindre*, and *de s’unir physiquement*. Licensed spouses live in complete *conjunction*, as do unmarried lovers and gay couples (see *Trésor de la langue Française* at: <http://atilf.atilf.fr/dendien/scripts/tlfiv4/showps.exe?p=combi.htm;java=no> (retrieved Dec. 9, 2011)). In English, conjunction may retain the French meaning (see “Male and Female Created He Them,” by Rev. Dr. Erik E. Sandstrom, at: <http://lastchurch.com/index1/maleandfemale.doc> (retrieved Dec. 18, 2008)).

These reconstructions push the origin of [Indo-European] monogamous marriage into pre-history, well beyond the earliest instances documented in the historical record; this, in turn, challenges notions that the cross-cultural distribution of monogamous marriage reflects features of social organization typically associated with Eurasian societies, and with “*social complexity*” and “*modernization*” more generally (ibid: 87, emphasis added).

As this contemporary work suggests, and as Fustel de Coulanges advocated years ago, it is quite plausible that universal monogamy is a fundamental characteristic of societies speaking Indo-European languages.

Dumézil’s work on Indo-European marriages (1979) is at once better detailed and more ambiguous regarding imposed monogamy versus the possibility of plural marriages. Dumézil distinguishes four routes that lead to the establishment of a socially honored intimate union between a man and a woman: (1) capture of the girl by the groom-to-be without the girl’s or her parents’ consent; (2) groom’s payment for the girl to the girl’s father (in kind or in services) with or without the girl’s expressed consent; (3) gift of the girl, and of wealth, to the groom-to-be by the girl’s father; (4) freely consented union between a man and a woman without any parent’s or relative’s interference (ibid: 44–45, 80, *passim*). Depending on the groom’s social stratum, one of the four paths is preferable to the other three (ibid: 45). Thus, when marriage remains monogamous and lifelong, only one path will have been taken. So far, this still meshes well with a universal monogamous system.

However, besides this, Dumézil advances as a speculative hypothesis (“*hypothèse maxima*,” “*à la limite*”) the possibility for a man to take several spouses (in sequence or concomitantly), following any or all of the four paths (ibid: 45, 60). He also discusses episodes from epics that illustrate the existence of such a “polygynous option” (ibid: 59–71). However, these classics involve only cultural heroes, kings or high-ranking noblemen, and unfold in an era when Indo-European societies had already been deeply divided into social strata or classes for centuries. Are Dumézil’s examples relevant in the much earlier context discussed by Fustel de Coulanges or Fortunato?

Dumézil’s text includes another difficulty. In Chap. 3, we will see that a union is a full-fledged marriage only when the children born from that union are granted full birth-status rights by society. And Dumézil is not clear at all about the status of the different sets of children born from the different women involved in one plural union, neither for the late period he discusses, nor for the era preceding the division into social classes. If these birth rights differed greatly, we cannot speak of true polygamy in the anthropological sense (as will be discovered in Chap. 3); only of a plural union consisting of one marriage and in addition of one or more socially honored concubinal arrangements. As Dumézil avoids the words *polygamy* or *polygyny* and even use an expression like “his titular wife” in the context of Heracles’ plural unions (ibid: 60), I am tempted to compare Dumézil’s late Indo-European plural unions (even more so possible earlier forms) to a similar reality in Roman classical times.

In Rome, in that epoch, the dissolution of a religious marriage (*confarreatio*) remained difficult if not impossible. Husband and wife had to attend a formal religious ceremony (*diffareatio*) led by a priest and witnessed by two persons, during

which they had to pronounce “formulas of a strange, severe, spiteful, frightful character, a sort of malediction, by which the wife renounced the worship and [domestic] gods of the husband” (Fustel de Coulanges 1956: 47–48). It is true that wealthy or powerful men were often in concurrent intimate conjunctions with several women, but this only meant that each additional female partner was merely a concubine, who, while certainly a fully legitimate partner, was never a wife or “the wife.”

Now, when belief in Christ first spread from a small Jewish community in Palestine to the large Jewish Mediterranean diasporas throughout the Roman Empire, there were perhaps five Jews settled in the Diaspora for each one still living in Palestine. Shlomo Sand (2009: 145) estimates the diasporic population to four millions. Many were former polytheist people who had earlier converted to Judaism which was a popular and proselytizing religion before Christianity muzzled it. The first Christian converts were diasporic Jews and long after the New Testament Canon was completed (110 CE at the latest), a majority of Christian converts were still Greek-speaking diasporic Jews (perhaps one fifth of all diasporic Jews). Christian Gentiles, that is, former Greco-Roman polytheists, were still a minority. By 250 CE, Christian Jews may have been as many as one million (Miles 2002: 59, 110–111, 306). To many of them, conversion to Christianity had not meant a renunciation of Jewish culture (ibid: 258; see also, for greater details, the case of the Sabbatian Christians of Edesse in Mesopotamia (Julien and Julien 2001), no more than it had for Jesus, and, of a Jewish culture that had always held polygyny to be legitimate and respectable (see Genesis 4:19, 16:1–4, 25:6, 26:34, 31:17; Deuteronomy 21:15; Judges 8:30; 1 Samuel 1:1–2; 2 Samuel 12:7–8; 1 Kings 11:2–3; 1 Chronicles 4:5; 2 Chronicles 11:21, 13:21, 24:3, etc.).

Reading these passages in the Bible, one has the impression that in ancient Israel, as should it be anywhere else in the world then (and now), polygyny was, in any given population, much less common than monogamy, but that such plural marriages also went without saying. When discussed in the Bible, polygynous arrangements are presented to the reader as mere matters of fact. The narrator spells out their existence only because it may be useful for understanding the story being told. When this is not important, no precise descriptions are given as to the nature of the marriage.

Exodus (21:10–11) offers the rudiments of a codification of the duties imposed and the rights granted in a polygynous marriage. The Hebrew language version translates as:

(10) If another [wife] he takes for himself, [then] her board [his first wife's], her clothing, or her oil he is not to diminish [others translate *her oil* as “marital intimate relations”].

(11) If these three [things] he does not do for her, She is to go out for nothing, with no money [without having to pay any compensations] (see Fox's new translation from the Hebrew, 1990: 348–249).

While this does not mean that Jews necessarily encouraged polygyny (indeed some Indo-European who had converted to Judaism may have desisted from such practice), this passage clearly indicates that the institution was regarded as a valid form of marriage recognized by God and was subject to a legal framework. It must be noted that, in Judaism, as in early Christianity and later in Islam, marriage was



not a sacrament but a contract between families. The presence of a rabbi was not even required. For that reason, from a Roman polytheist religious viewpoint, a Jewish marriage was only the equivalent of Roman concubinage or cohabitation.

A similar status was granted by Rome to early Christian converts' marriages, which for the most part followed the traditions of their nations of origin (diasporic Jewish communities or polytheist nations). There existed then no formal Christian liturgy for marrying. Marriage could simply be by mutual agreement in the presence of ordinary witnesses. The marriage would be consummated the same day. The blessings or the presence of a priest were not required (Armstrong 1991: 264). By the first half of the fourth century CE, the Church encouraged its converts to give themselves some actual matrimonial rights and duties through a *post facto* registration of their Christian unions under Roman civil law. This confirms how informal were Christian marriages then.

The three most famous New Testament passages on matrimony—Matthew 5, 19, Corinthians 7, and Ephesians 5, all composed before 110 CE—express neither a position on polygyny nor on a need for socially imposed universal monogamy. True enough, according to the apostles, Jesus assailed fellow Jews who claimed to have the right to repudiate a wife almost at a whim. He accepted divorce but only in the case of a wife's sexual unfaithfulness:

Matt. 5:32 But I tell you, everyone who divorces his wife, except in a case of sexual immorality, causes her to commit adultery. And whoever marries a divorced woman commits adultery.

Matt. 19:9 And I tell you, whoever divorces his wife, except for sexual immorality, and marries another, commits adultery (Holman Christian Standard Bible, Blum (ed.), 2009).

Luke synthesized these verses as follows:

Luke 16:18 Everyone who divorces his wife and marries another woman commits adultery, and everyone who marries a woman divorced from her husband commits adultery (ibid).

The King James Bible, which seems to rest on a different Greek original, is more flowery:

Matt. 19:9 And I say unto you, Whosoever shall put away his wife, except [it be] for fornication, and shall marry another, committeth adultery: and whoso marrieth her which is put away doth commit adultery (King James Bible, 1769 Oxford Authorized Version).

Some interpret these references as imposing monogamy. Yet, nowhere does it denounce the institution of polygyny per se. It may very well be read as “a man who does not repudiate his first wife, who keeps protecting and supporting her, and who takes a second one, does not commit adultery.” In a polygynous culture such as that of ancient Israel, any honest husband considered it his honor to enshrine the rights of his first spouse(s) before taking a second or third one. Jesus, faithfully Jewish as he was, knew that, and it is striking that in Mathew's text he is not presented as opposing polygyny at all but only unjustifiable repudiation. On that score Jesus was explicitly going against divorce, which was then legal. If he had been against polygyny, which was then legal as well, he would have clearly said so. True enough, he is still justifying repudiation in one case: that of an adulterous married woman. Why? In his time the normal punishment for that crime was to be stoned to death in public

(lapidated). It is evident that, in the case at hand, unacceptable as repudiation was to Jesus in general, it still constituted a progress over stoning.

Our interpretation is all the more plausible if we consider (1) that the possibility of true polygynous marriages was taken for granted in Jesus' Israel and was scandalous only among the Romans (see below); (2) that in Matt. 5:32 and 19:9 Jesus is foremost concerned by the break-up of an already existing marriage and thus by the separation of what God had already united into one flesh (this explains why the new husband of a repudiated wife is, from Jesus' vantage point, embroiled in the then capital crime of adultery—his new wife “still belongs” to her first husband); and (3) that nowhere does Jesus rebuke polygyny (e.g., the *addition* of a second wife without divorcing the first, etc.), while speaking of adultery when an abusive repudiations has taken place in order to take a second wife.

That husband and wife become one flesh does not preclude that three or four persons may equally become one flesh, just as three or four metal pieces that may have no use taken separately may be turned into one functional artifact if welded together. Abraham's or King David's plural marriages provided Jesus with vivid examples.

In any event, Jews resisted Roman emperors' edicts forbidding Jewish polygyny as late as 393 CE (see Reinach 1873/1919: 3(1): 631). And Rabbinic Judaism first “suspended” (not prohibited) polygynous marriages only around 1030 CE, initially only among Ashkenazim in Northern France and Germany (a religious ban known as *herem* adopted at the synod of Worms and attributed to Rabbenu Gershom Ben Judah<sup>2</sup>), later in Central Europe, and then Spain and Italy. The 1030 *herem* was true to all intents, constructions, and purposes, and yet it also allowed for one or two exceptions. Non-European Sephardim and most of the Oriental Jewish communities practiced polygyny alongside monogamy from time immemorial up to the end of the Second World War and formally outlawed it only after 1950, following the creation of the state of Israel.<sup>3</sup>

By the time of Jesus' death and during the next few centuries, upper class polytheist Romans were facing difficulties in dealing with concurrent intimate conjunctions, then common, and the different rights to be granted to children born from an official wife and from concubines. The history of marriage and concubinage under Roman law is complex. Under early Roman law, as among the ancient Teutons, and possibly most Indo-Europeans, religious marriage (*matrimonium confarreatio*, or *coemptio* or *usus*) was permitted only between two free persons of similar social standings. Concubinage (*concubinatus*) was then a different form of pair bonding that was recognized as legitimate and morally valid. It was resorted to when the conditions for a true *matrimonium* were not met (absence of the right to marry called *connubium*). In Rome, concubinage was the rule for many non-citizens, some lower-status men and women, as well as for aristocrats or free men taking a woman

<sup>2</sup>Rabbenu Gershom ben Judah was born at Metz in 960 and died in Mainz in 1028 or 1040 depending on the sources. See Rabbenu Gershom ben Judah and Polygamy in [www.JewishEncyclopedia.com](http://www.JewishEncyclopedia.com) (1901–1910 edition).

<sup>3</sup>Greer Fay Cashman, Why not Mr... & Mrs... & Mrs...? *Jerusalem Post*, Apr 3, 2006.

from certain lower social strata. Most slaves' pair bonding followed the different rules of the *contubernium*. It is to be noted that well into the second millennium CE, concubinage remained the sole form of marriage known by most of the European peasantry (Ariès 1982). It was then a near-equivalent of today's common law marriage in North America.

Latin concubinage was *de facto* overwhelmingly monogamous among poorer classes. Nevertheless, among aristocrats and other powerful men, its practice often resulted in simultaneous conjunctions between one man and several women. But such concubinal multiple intimate conjunctions were never equated with plural marriages and thus to polygyny. Any woman who was an addition to a living titular wife was designated a concubine. A man's concubine never was considered to be a titular wife and enjoyed none of the latter's prerogatives and inheritance rights. In addition, the children of concubines could not inherit from their father. Finally, a woman who had been legally wedded but not in full accordance with all the *matri-monium* religious and social rules (no dowry, for example) was also considered a concubine, not a titular wife, even when her partner had no other mate (See: Berger 2002: *passim*.; Karras 2006: 119–120; Le Jan 1995: 271–274; Rich 1890: *passim*; Tacitus 1999 [98 CE]: Chaps. 18, 19, 20; Weill and Terré 1983: 587 [references to Weill and Terré's legal volume are to paragraph numbers not to pages]; Zalewski 2004: 117–118).

It was only toward the end of the Roman Empire that concubines, and later their children, acquired some significant legal rights to inherit (Zalewski 2004: 117–119), but without the concubine being granted the status of a titular wife. The Roman concubine system started then to serve one of the purposes polygyny has in societies, where, to have an heir, a man may legally marry additional women (but in such cases women who enjoyed a full wife status, not as in Rome (Goody 1985: 83–84).

Thus, when Indo-European-speaking Roman Europe was adopting Christianity as its dominant religion, it could have seized the opportunity and solved its concubine problem by adopting Jewish laws regarding polygyny. Their lawfulness was then uncontested within Judaism. There was already an emperor, Valentinian II, who had briefly tried to legalize polygyny in 383–384 (Montesquieu 1817: 218). But this is disputed as that emperor was then only 13 years old. His father, Valentinian I, is also reported to have passed an edict allowing polygamy. But only one source mentions the fact. Moreover, if Valentinian II truly ever was pro-polygyny, by the end of his life, he enforced strictly monogamous policies. He died in 392. At any rate, Christian Europe refused to legitimate concomitant plural marriages (Duby 1983 and Duby in Goody 1985: 6), perhaps because the practice of polygyny, not its legality, was already shunned by some Jews, as well as, most likely, because of a deep-seated attachment of Christian Gentile converts to a Greco-Roman core value, possibly of very ancient Indo-European origin (the impossibility noted by Fustel de Coulanges for a fully religious marriage to be any other than monogamous).

At least Saint Augustine sides with this view when writing in *The Good of Marriage* in 401 CE:

[...] It is in a man's power to put away a wife that is barren, and marry one of whom to have children. And yet it is not allowed; and *now* indeed in *our times*, and *after the usage of*



*Rome*, neither to marry *in addition*, so as to have more than one wife living (emphasis added).<sup>4</sup>

Saint Augustine is the most thoughtful Christian thinker of antiquity. His testimonial cannot be taken lightly. Italics in this quotation emphasize his understanding of history: The illegality of adding a second or a third wife to a first one (not repudiated) is new and finds its origin in Pagans' customs, rather than, or so is implied, in those of the Judean and diasporic Jews who were then converting to Christianity.

Sometime between 200 and 400 CE, Christian converts from a Jewish background ceased to outnumber Gentile converts. For that reason, non-Jewish matrimonial traditions took precedence over that of the first Jewish proselytes, apostles and other teachers. True polygyny became unthinkable, as in preceding polytheist times—a pagan (so-called) but nonetheless deeply religious era notwithstanding. Thus, Gentile Christian Europe never addressed the negative social consequences of holding true polygyny anathema, irrespective of the unjust treatment this implied for concubines and their children.

Later, the Church gradually eliminated the privileges granted in late Roman times to concubines and especially to their offspring. Finally, after the Councils of Mainz (852) and Tribur (895), it started to define concubinal conjunctions in the upper classes as mere fornication and participating females and males as fallen creatures (Zalewski 2004: 118). Their children began to be known as bastards.<sup>5</sup> This was first directed at the Frankish aristocracy, who, like its Germanic ancestors and the Romans, admitted as legal and fully respectable concubinal relationships kept in addition to a binding monogamous marriage between two free persons. It is significant to note that the term *bastard* (*bastardus* in 1000 CE medieval Latin) derives not from a Latin root but most likely from *banstu*, signifying in medieval German “*tie* with a socially inferior woman”—*banstu* being itself possibly derived from the Indo-European verb *bhendh*, meaning *to tie* (Rey 1998: I, 349). Afterwards, these measures were progressively applied to the whole population living in monogamous concubinage (not to mention in pluri-concubinage). A few centuries later, in the early 1200s, the Church took total control of all possibilities to obtain a true marital status by making marriage a Christian religious sacrament exclusively. In the process, it gave itself a complete monopoly on the capacity to marry anyone.<sup>6</sup> Later,

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<sup>4</sup> Saint Augustine, *Of the Good of Marriage* (Translated by Rev. C.L. Cornis), Chap. 7. See <http://www.newadvent.org/fathers/>

<sup>5</sup> According to Goody (1985), the categories of mistress and bastard were devised by the Church so that when childless couples passed away without legitimate heirs their estate would go to the Church. To preserve the late Roman concubinage system would have put the Church in competition with the children of mistresses defined as legitimate heirs. In so doing, writes Goody, the Church sought to maximize the number of estates, bequests or legacies it inherited each year. The Church devised other institutions to reach the same ends: the prohibition of adoption, of divorce, of endogamy, and so on. Summarized as simply as possible, Goody's argument makes the Church look quite callous, but readers are encouraged to read his analysis for details.

<sup>6</sup> “Sacrament of Marriage.” *The Catholic Encyclopedia*. At: <http://www.newadvent.org/cathen/09707a.htm> (retrieved Dec. 17, 2011). This is why, up to the end of World War II, Jewish marriages were recognized only as mere concubinage in some Catholic countries such as Poland.

in the cross-currents of the Reformation and the Counter-Reformation, concubinage or marriage performed privately, even monogamous unions, were finally denied any recognition at the Council of Trent (1545–1563) (Ariès 1982). The Church thus resurrected the prehistoric Teutons' and early Romans' conceptions of marriage as a sacred institution following a rigorously monogamous standard, beliefs possibly of even earlier Indo-European polytheist origin, as Fustel de Coulanges (1956: 47–48) and Fortunato (2011) suggest. It also hypostatizes monogamy into a fundamentalism, inasmuch as the additional aristocratic pluri-concubinal arrangements allowed under the earlier monogamous systems were definitively barred, together with monogamous concubinage, which was the marriage model of most of the peasantry (Ariès 1982). The results were spectacular. The rate of ordinary concubinage involving one man and one woman brutally fell to historic lows in much of Europe (around 1 %). This lasted for close to a century. Nonetheless, around 1750, the rate of illegitimate birth started to grow again: in France, 1.8 % in 1760–1769, 2.6 % just before 1789, 4.4 % in 1810, 6.6 % in the 1820s, and above 7 % in 1860; in Britain 3.3 % in 1741–1760, 4 % in 1761–1780 and over 5 % as early as 1781–1787. A similar phenomenon took place in Scandinavia and in Germany (Sohn 2006).

Once concubinage could no longer be regarded as a quasi-marriage or as a common law marriage, the Church paid much less attention to the possibility that some men could have permanent liaisons with several women at once. Yet, such practices just went underground and did not disappear from the upper classes, as is aptly proven in the history of medieval and later monarchic regimes and, more recently, through examples such as that of the former French President François Mitterrand (singled out from many others, such as Roosevelt, Kennedy, etc.). It continued to exist, concealed, in the wife-plus-mistress(es) system evoked by our Kenyan observer.

Maillu's criticism of any socially imposed universal monogamy is leveled against the negative social outcomes stemming from outlawing polygamous behaviors altogether—side-effects that, while unintentional, are nevertheless real. The expression “negative side-effects” designates those unwanted and unwelcome results of an action that turns against the good intentions of those who initiate the deed. Maillu first points out that imposing monogamy on every individual must inevitably create a dichotomy between officially married spouses, on the one hand, and persons being in a mistress/lover relationship, on the other, and worse, between legitimate children (born from an officially married wife) and illegitimate children, or bastards (born from one mistress). This necessarily creates two classes of citizens: one with rights and one with many fewer rights or, depending on the case, virtually none.

At this point, some will have been put off by my using the term “bastard.” Why don't I drop it and use politically correct contemporary euphemisms such as *natural*

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In the eyes of the Polish State, all Jewish children were systematically declared to be illegitimate (*unehelich*). They could bear only their mothers' last names and had no legal fathers. They could be legitimized afterwards but as the fees were exorbitant for simple villagers in a *shtetl*, most Jewish parents never bothered to change either their children' illegitimate status or their own (Mendelsohn 2007: 89).

*child* or *non-marital child*, for example? My main reason is to let Westerners face for a moment what their own legal concepts have come to mean in popular parlance. The aim is also to remind legislators of the cultural horror centuries of Western law have created: the bastard concept and the dire lifeworld this has entailed for whole cohorts of children who eventually all became second-class adults. In no way should it be understood as an attempt to stigmatize the unfortunate individuals who received this epithet and suffered from it. Besides, the most recent euphemism—the non-marital child—is itself a paradox. As I shall outline below, today’s non-marital child has the same rights as a legitimate child that his father may have conceived with an official wife. For that reason, from an anthropological viewpoint, the non-marital child’s mother is to be regarded as actually married to her child’s genitor, even when that one man is already officially married to someone else and remains so married. Thus, paradoxically, while the bastard was a true non-marital child when that locution did not even exist, the contemporary non-marital child has ceased being anything but non-marital as that very same locution has been coined.

Maillu describes our institutions as an exo-ethnographer would; as we would perhaps view them, too, if we could observe them from afar. While we, in the West, would never use his turns of phrase, they nevertheless problematize for us that which we take for unproblematic, and this gives them a strong heuristic value. In the following sections I summarize part of Maillu’s argument while trying to preserve the way he expresses himself (*ibid*: 30–31). Readers are forewarned that he analyzes Western societies as they functioned up to the 1960s, and that he takes an exclusively male point of view, which will be off-putting to some.

In Western societies, when a man falls in love with a woman other than his wife and wants to avoid putting his wife and children through the ordeal of divorce and the impoverishment that this would entail for them, he must keep the second “wife” a secret. Generally, in order not to complicate matters more than necessary, the man asks his second woman not to bear him children. If she becomes pregnant, whether by accident or by design, and delivers the baby, that child will be illegitimate under the law—a second-class citizen who will be labeled a “bastard” and who will bear that social stigma for his entire life. A bastard has no rights *vis-à-vis* his father; neither rights to inherit from him, nor the right to enjoy the company of his paternal relatives, nor the right to use his father’s family name. In the Western world, any child born to a second or third “wife” must live his entire life with the shame of having been born illegitimate. He is generally shunned and despised by those who should count themselves as his blood relatives. Whenever he claims rights he should have through his father, he becomes embroiled in fierce battles with the legitimate members of his patrilineal family. In addition, he is almost always thwarted by the courts, as laws put him in the wrong at the outset. His status is inferior to that of the children born to his father’s first wife and, as if that were not enough, the law does not even recognize him as being related to them in any way. A Western child born to a second or third “wife” has to grow up, so to speak, ashamed of his own presence in the world.

In the European tradition and in America, the second “wife” has no right to her husband (regardless of the duration of her relationship with him or the happiness

and children she has been able to give him). She is not legally entitled to inherit any of his wealth (not even a small portion to enable her and the children she has given him to continue to live comfortably should he predecease her). Nor can she ask him to be introduced into his circle of family and friends. She is also barred from attending ceremonies that mark important milestones in his professional life. She must be understanding and accept it. She cannot take her husband's name. Under no circumstances can she be seen at his side, at the market, or in the streets, much less walking holding hands with him. She must avoid any encounters with his official wife and accept that this other woman's social aspirations always take precedence over her own. Of all the women with whom a man might be involved, only his licensed first wife has any legal rights where he is concerned. Socially isolated, second and third "wives" must live in permanent quarantine. So Western civilization dictates.

To maintain his respectability, the husband is obliged to present a false image of who he really is. In public, all his behaviors must be calculated so as to give the impression that he has one wife and only one. In each of his conjugal lives, he must conceal much of his true self and always hide his true feelings. He must constantly pretend, if not lie outright. At all times and in all circumstances, he must deny the existence of the second "marriage" and the existence of the children conceived in his second bed. Even worse, under the implicit "arrangement" of the second "marriage" (in fact, there is neither a license nor a signed contract), he is free to abandon his second "spouse" without notice. This means he must assume no financial or social responsibility for her or her children. Is it not inhumane for any society to treat women who are second "spouses" and mothers in such a way? And what about the second-class status imposed on their children?

Because everywhere some men will continue, as in the past, to have more than one female partner at a time, Maillu asks the following questions: Between Africa, on the one hand, and Europe, on the other, which of the two civilizations may boast a marital system that is best adapted to the real world and is fairest to *all* women and *all* children? Traditional Sub-Saharan Africa, where both monogamous and polygamous marriages are accepted? Or the West, with its monogamous façade, which produces serious inequalities in status between two classes of women and two classes of children?

Rather than look at the institution of monogamy in itself and for itself, Maillu questions instead the sociological consequences of prohibiting polygamy altogether. He views socially imposed universal monogamy as the converse of prohibiting polygamy. In so doing, he depicts monogamy in the West in a way that we do not readily recognize as our own institution. Yet, in the broad strokes of his brush, we discern that his observations are quite fair, at least for the pre-1960s period. And this is precisely how we can defamiliarize ourselves with what socially imposed universal monogamy is in the eyes of *others* and in reality. By the same token, we realize that our Western marriage system might not actually go without saying. Maillu's approach reminds us of Bakhtin, for whom "it is only in the eyes of an *other* culture that the alien culture reveals itself more completely and more deeply" (quoted in Todorov 1984: 109–110). Except that here, we are the alien culture. His method is also not unlike structuralism, which also first calls into question those aspects of the

*other's* kinship and marriage system that appear to be inexplicable from the perspective of Western kinship and marriage (Lévi-Strauss 1956). To Maillu, the inexplicable among *us* is our irrational opposition to officializing any form of polygamy, even if on a very limited scale, for meritorious cases alone (for mistresses who have become mothers and for their children, for example).

Some will no doubt object that Maillu's exo-ethnography is anachronistic. Today, almost all Western societies have not only legalized divorce, but also made it readily available. A man can break off his relationship with his first wife and then marry his new love interest. There are now ways for him to remain within the boundaries of monogamy while living out numerous passions in the course of his life. Of course, the same holds true for women, but Maillu is sexist and focuses on male practices.

In all fairness, however, it must be stated that not everyone sets out to use divorce as a tool. To borrow Maillu's terminology, the existence of a second "wife" does not drive all first wives in the Western world to seek divorce (women generally lose an average of 20 % of their financial resources after divorce, while men tend to gain 10 %). The former French first couple, Danièle and François Mitterrand, provides a good example of this trend to not want to de-marry. It therefore cannot be stated that the wife-plus-mistress(es) system has completely disappeared. In certain social classes and other groups divorce is still not morally acceptable.

Besides, by divorcing and remarrying, do we really remain within strictly monogamous practices? Many Westerners do not believe so. Thus, for strict Catholics, a marriage can only be dissolved on the death of one spouse (unless the union breaches certain rules, such as incest prohibitions, in which case the marriage is declared to have been null and void from the beginning). For most Catholics, divorcing in a civil court for the purpose of remarrying is tantamount to a polygamous practice since the first marriage continues to exist while a second or third is contracted. Stricter Catholics will not even recognize the second union as a true marriage and speak of fornication instead. Proof of the seriousness of such accusations can be found in the fact that priests must refuse Holy Communion and other sacraments to any Catholic who has remarried after obtaining a divorce in civil court.<sup>7</sup>

Anthropologists who are part of Western cultures take a different track. They prefer to apply the term "serial" or "consecutive monogamy" to the phenomenon resulting from divorces. If so, do they not lack objectivity in so doing? Do they not

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<sup>7</sup>"Are divorced people permitted to receive Holy Communion?" *The diocese of Lincoln*. At <http://www.dioceseoflincoln.org/purple/divorce/index.htm#4>. "Today there are numerous Catholics in many countries who have recourse to civil *divorce* and contract new civil unions . . . The Church maintains that a new union cannot be recognized as valid, if the first marriage was. If the divorced are remarried civilly, they find themselves in a situation that objectively contravenes God's law. Consequently, they cannot receive Eucharistic communion as long as this situation persists . . . Reconciliation through the sacrament of Penance can be granted only to those who have repented for having violated the sign of the covenant and of fidelity to Christ, and who are committed to living in complete continence." In *Catechism of the Catholic Church*, Part Two: The Celebration of the Christian Mystery, Section Two: The Seven Sacraments of the Church, Chapter Three: The Sacraments at the Service of Communion, Article 7: The Sacrament of Matrimony, V. the Goods and Requirements of Conjugal Love, point 1650. Web access at: [http://www.vatican.va/archive/ccc\\_css/archive/catechism/p2s2c3a7.htm](http://www.vatican.va/archive/ccc_css/archive/catechism/p2s2c3a7.htm) (retrieved Dec. 11, 2008).

adopt a parochial rather than an analytical approach to the nature of our systems of de-marriage and re-marriage? For Maillu who, like Montesquieu's Persian visitor to eighteenth-century Paris (Montesquieu 1721), observes our Western practices from a distance and analyzes them from a world perspective, with the neutrality and detached objectivity of an outsider, it would be more accurate to speak of "serial polygyny" for men and "serial polyandry" for women. On this point, his anthropologizing of us is singularly both unsettling and lucid.

In the Whiteman's world, tradition and law, when a husband wants a second wife, he divorces his first wife in order to clear the ground for the second wife. If he wants a third wife, he divorces the second to make way for the third, and so on. And the White woman engages in polyandry by divorcing her first husband to marry the second; divorcing the second to marry the third, and so on (Maillu 1988: 29).

True, we would never explain our "de-marriages" by stating that we "want a second or third wife" and that to do so we must first "clear the ground" by divorcing the current wife. A Western man (or woman) would simply claim that he/she can no longer put up with his/her current wife (or husband). On the other hand, because the very existence of extramarital relationships is often the cause of petitions for divorce, are we not somewhat hypocritical? Has a man not in fact already fallen in love with a second woman before he even begins to disparage the first? Writing in the eighteenth century, the great Samuel Johnson spelt out that truth with a touch of humor:

It is so far from being natural for a man and woman to live in a state of marriage, that we find all the motives which they have for remaining in that connexion, and the restraints which civilised society imposes to prevent separation, are hardly sufficient to keep them together . . . [In the absence of society], when the man sees another woman that pleases him better, he will leave the first (in G. B. Hill (ed.), 1934, Vol. 2, p. 165, March 31, 1772).

If Johnson's observation is fair, then surely the way that Maillu anthropologizes us reveals the true cause of our second or third re-marriages better than we can explain them ourselves. Christopher Lasch, author of *The Culture of Narcissism: American Life in an Age of Diminishing Expectations* (1978), would probably not hesitate to subscribe to such an analysis. For him (ibid: 320–322, *passim*), our practices downgrade, and even deride, our longstanding tradition of the nuclear monogamous family and the concomitant notion of responsibility towards one's children. It could be added that half of us jump from one happy relationship turned sour to the next without stopping to consider that the presence of children from the previous union will inevitably keep us in a permanent "kinship" relationship of sorts with our former spouse or spouses.<sup>8</sup> We moreover neglect to entertain the notion that the second union will certainly have its own set of challenges (no doubt over new and different conflicts) and that these difficulties could lead to a third re-marriage. For Sacha Guitry, whose cynical views have always been on the mark, marriage amounts

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<sup>8</sup>Some Inuit languages include several different kinship terms to designate ex-spouses; French and English only have "my ex." They should perhaps develop a more sophisticated terminology expressing gender differences, order of separation, and so on.



to spending far too much time arguing about problems that would never have occurred had we remained single.

Maillu is not entirely mistaken in claiming that we conceal our polygynous and polyandrous practices by serializing our relationships. In fact, his take on our system of de-marriage/re-marriage is tantamount to what Christianity made of similar practices towards the end of the first millennium. It, too, realized that polygynous unions were being concealed behind repudiations and re-marriages, which were commonplace in the aristocracy. That is why it ultimately reinforced the idea that repudiation (and divorce) was unlawful except when the Pauline or Peterine privileges were involved—when one spouse was not baptized (for details, see Georges Duby 1983; Goody 1985: 53-59).<sup>9</sup> As this was not fully conclusive, the few rights still left to illegitimate children were eventually abolished with the ecclesiastical prohibition of all concubinage in 1545–1563 (Beckert 2008: 99).

If we were to refuse to recognize a form of serial polygamy in Western contemporary societies and to insist that this phenomenon is in fact serial monogamy, Maillu could also make the case that polygyny does not exist in his society by presenting his system—tongue in cheek—as a micro-cyclical monogamous system. After all, could he not have some fun with semantics too and say that the so-called polygynous African man is in reality “monogamous” in that he never sleeps with more than one wife at one and the same time?

Now, which of these diverse structures is the most responsible? The wife-plus-mistress(es) system with the cohort of second-class women and bastards that it inevitably produces? Serial monogamy, with its succession of divorces and the ensuing ruptured ties between parents and children? Micro-cyclical monogamy (e.g., polygyny), which recognizes that some may engage in “conjugal bulimia” without however instituting cruel break-ups (between spouses and children) and without depriving any of the parties involved of their rights to belong to a family group and enjoy a certain degree of stability?

It could be said that depicting our practices as polygyny rather than as serial monogamy is simply six of one and a half dozen of the other. Is there then actually no real difference between, on the one hand, Western societies that tolerate the wife-plus-mistress(es) system and accept divorce, while encouraging neither, and, on the other hand, societies where “polygamous unions” receive full legal recognition alongside monogamous marriage?

Sixty years ago, when any birth out of wedlock was still illegitimate, we would have had to admit that there was indeed a difference between Europe and Maillu’s Africa. To add a second or third spouse to a licensed first spouse was still legally impracticable. However, it would be false to maintain such a claim today, as there

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<sup>9</sup>In cases of incestuous marriages, bigamy, etc., prohibiting all divorces created problems for the Church. As divorce was not allowed, the Church had no choice but to twist its own semantics and it treated all illegal unions as null and void from the initial first step made during the wedding ceremony. In other words, it preferred to establish that one of its religious sacraments was automatically stripped of any divine sanction if it had been used to *consecrate* an impossible union.

are several Western countries where the notion of illegitimate birth is no longer valid.

I will start with France. Other mainstream Western cases, especially in the Americas, will be considered in Chap. 6. Inasmuch as France legally recognized that illegitimate children were entitled to the same rights as legitimate children, from an outsider's point of view, it has unwittingly given French citizens the right to enter into true polygamous marriages, with common or separate residences. The equality of rights between legitimate and illegitimate children was achieved through several pieces of legislation adopted since 1972 and one crowning ordinance on *filiation* (descent) passed in 2005, made enforceable in 2006 and further clarified in 2009.<sup>10</sup> As the "new rights" related to polygamy are a wholly unintended consequence of the equality of rights granted to illegitimate children, most French citizens are still unaware of their reality (only the Catholic Church sensed, albeit confusedly, that changing the status of illegitimate children would weaken the monogamous standard and, *nolens volens*, disparaged the reforms on these grounds). However, from the viewpoint of an anthropologist with an outside perspective, in our case an Anglo-Saxon viewpoint, it is nonetheless true that the adoption of these laws *de facto* gave French people a right to enter into actual polygamous marriages, quite resembling many of those found in other parts of the world.

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<sup>10</sup> These various laws were passed on January 3, 1972 (on parentage or filiation); January 8, 1993 (on children's rights); November 15, 1999 (solidarity pact between couple not legally married); Dec 3, 2001 (surviving spouse's and adulterine children's rights); March 4, 2002 (parental authority); March 4, 2002 and June 18, 2003 (family name); May 26, 2004 (divorce); July 4, 2005 (ordinance on parentage or filiation); Loi no 2009-61 du 16 janvier 2009 ratifiant l'ordonnance no 2005-759 du 4 juillet 2005 portant réforme de la filiation, abrogeant et modifiant diverses dispositions relatives à la filiation.

<sup>11</sup> Bauman available at: [http://www.bishopaccountability.org/decisions/2011\\_11\\_23\\_BC\\_Supreme\\_Court\\_C\\_1588\\_Re\\_Section\\_293\\_Criminal\\_Code.htm](http://www.bishopaccountability.org/decisions/2011_11_23_BC_Supreme_Court_C_1588_Re_Section_293_Criminal_Code.htm) (retrieved March 11, 2013).

<sup>12</sup> Berger available at: <http://books.google.ca/books?id=iklePELr6QC&pg> (retrieved Dec. 2, 2011).

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<sup>14</sup> Sohn at <http://hal.archives-ouvertes.fr/docs/00/08/58/42/PDF/Concubinage.pdf>

Mainstream Polygamy

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2014, XI, 113 p. 2 illus. in color., Softcover

ISBN: 978-1-4614-8306-9