

FAMILY  
LAW AND THE  
PURSUIT  
OF INTIMACY



MILTON C. REGAN, JR.

# Family Law And The Pursuit Of Intimacy

**Robin West**



## **Family Law And The Pursuit Of Intimacy:**

**Family Law and the Pursuit of Intimacy** Milton C. Regan Jr., 1995-01-01 In recent years family law has catapulted from the shadows to the spotlight in public consciousness The issues that family law addresses divorce custody single parenthood same sex marriage prenuptial contracts unmarried cohabitation alternative families have attracted enormous public attention and have become the subject of celebrated legal disputes newspaper and magazine articles television shows and movies and Presidential campaigns The modern family serves as a highly charged symbol of the conflicts that arise within an American culture that professes devotion both to individual rights and family obligations Family law has shown increasing willingness in the last two decades to resolve these conflicts in favor of individual rights It has placed heightened emphasis on the autonomy of individual family members exhibiting greater suspicion of the family as a constraint on self development This has translated into a waning influence for the moral vision of family life that assigns rights and obligations to those with formal legal identities such as spouses parents or children a vision expressed in the legal model of status In its stead has entered the alternative vision of contract which enables individuals themselves to establish the terms of their relationships with regulation limited to cases of imminent harm This vision strives to free individuals from the fetters of communal expectations so that they can pursue genuine intimacy with others In this timely work Regan delves into recent legal cases social theory and family history to challenge the assumption that contract should serve as the governing principle of family law The devaluation of status he claims puts us at risk of losing the resonance of the family as a cultural model of the responsibilities that flow from relationships with others In a postmodern world marked by fragmentation of both identity and personal relationships intimate commitment may rest more than ever on the ability of culture to orient the individual within shared norms of conduct The challenge therefore is to construct a new model of status shorn of sexist assumptions yet based on commitment and responsibility that will preserve the distinctive character of family law as a narrative about self and other in intimate relationship

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*Alone Together* Milton C. Regan Jr., 1999-03-25 Contemporary marriage involves complex notions of both connection and freedom. On the one hand, spouses are members of a shared community while on the other they are discrete individuals with their own distinct interests. *Alone Together* explores the ways in which law seeks to accommodate tensions between commitment and freedom in marriage. Author Milton Regan suggests that only close attention to context can guide us in deciding what weight to assign to each dimension of spousal identity in a given setting. This interdisciplinary work has relevance to family law, family studies, feminist legal theory and the debate between liberal and communitarian social theorists.

**Great Debates in Family Law** Jonathan Herring, Rebecca Probert, Stephen Gilmore, 2015-04-17 This textbook is an ambitious and engaging introduction to the more advanced writings on family law, primarily designed to allow students to get under the skin of the topic and begin to build their critical thinking and analysis skills. Each chapter is structured around key questions and debates that provoke deeper thought and ultimately a clearer understanding. The aim of the book is therefore not to present a complete overview of theoretical issues in family law but rather to illustrate the current debates which are currently going on among those working in shaping the area. The text features summaries of the views of notable experts on key topics and each chapter ends with a list of guided further reading.

**Regulating Intimacy** Jean L. Cohen, 2009-01-10 The regulation of intimate relationships has been a key battleground in the culture wars of the past three decades. In this bold and innovative book Jean Cohen presents a new approach to regulating intimacy that promises to defuse the tensions that have long sparked conflict among legislators, jurists, activists and scholars. Disputes have typically arisen over questions that apparently set the demands of personal autonomy, justice and responsibility against each other. Can law stay out of the bedroom without shielding oppression and abuse? Can we protect the pursuit of personal happiness while requiring people to behave responsibly toward others? Can regulation acknowledge a variety of intimate relationships without privileging any? Must regulating intimacy involve a clash between privacy and equality? Cohen argues that these questions have been impossible to resolve because

most legislators activists and scholars have drawn on an anachronistic conception of privacy one founded on the idea that privacy involves secrecy and entails a sphere free from legal regulation In response Cohen draws on Habermas and other European thinkers to present a robust constructivist defense of privacy one based on the idea that norms and rights are legally constructed Cohen roots her arguments in debates over three particularly contentious issues reproductive rights sexual orientation and sexual harassment She shows how a new legal framework reflexive law allows us to build on constructivist insights to approach these debates free from the liberal and welfarist paradigms that usually structure our legal thought This new legal paradigm finally allows us to dissolve the tensions among autonomy equality and community that have beset us A synthesis of feminist theory political theory constitutional jurisprudence and cutting edge research in the sociology of law this powerful work will reshape not only legal and political debates but how we think about the intimate relationships at the core of our own lives

### **British Conservatism and the Legal Regulation of Intimate Relationships**

Andrew Gilbert, 2018-08-23 What does conservatism as a body of political thought say about the legal regulation of intimate relationships and to what extent has this thought influenced the Conservative Party's approach to family law With this question as its focus this book explores the relationship between family law conservatism and the Conservative Party since the 1980s Taking a politico and socio legal perspective the discussion draws on an expansive reading of Hansard as well as recently released archival material The study first sets out the political tradition of conservatism relying largely on the work of Edmund Burke before going on to analyse the discourse around the development of four crucial statutes in the field namely the Matrimonial and Family Proceedings Act 1984 the Family Law Act 1996 the Civil Partnership Act 2004 and the Marriage Same Sex Couples Act 2013 This work offers the first extended synthesis of family law conservative political thought and Conservative Party politics and as such provides significant new insight into how family law is made Runner up of the 2020 PSA Conservatism Studies Book Prize

### **Regulating Sex** Elizabeth Bernstein, Laurie Schaffner, 2005 First

Published in 2005 Routledge is an imprint of Taylor Francis an informa company

### **Law and the Web of Society** Cynthia L. Cates, Wayne V. McIntosh, 2001-07-31

From birth certificates and marriage licenses to food safety regulations and speed limits law shapes nearly every moment of our lives Ubiquitous and ambivalent the law is charged with both maintaining social order and protecting individual freedom In this book Cynthia L Cates and Wayne V McIntosh explore this ambivalence and document the complex relationship between the web of law and everyday life They consider the forms and functions of the law charting the American legal structure and judicial process and explaining key legal roles They then detail how it influences the development of individual identity and human relationships at every stage of our life cycle from conception to the grave The authors also use the word web in its technological sense providing a section at the end of each chapter that directs students to relevant and useful Internet sites Written for upper level undergraduate and graduate students in law and society courses Law and the Web of Society contains original research that also makes it useful to scholars In daring to ask

difficult questions such as When does life begin and Where does law begin this book will stimulate thought and debate even as it presents practical answers *The Limits to Union* Jonathan Goldberg-Hiller, 2023-06-20 Revised and updated to include the most current information on same sex marriage The Limits to Union documents a legal struggle at its moment of greatest historical importance The Limits to Union is a superb book about the complexities of recent political struggles over same sex marriage Goldberg Hiller offers a sophisticated account of egalitarian rights advocacy and the reaction it has generated from established majorities animated by a new common sense of exclusionary sovereign authority The author's analysis is multidimensional and nuanced but the core argument is bold important and well supported I recommend it very highly to everyone interested in understanding the character possibilities and constraints of civil rights amid our contemporary culture wars Michael McCann author of Rights at Work Pay Equity Reform and the Politics of Legal Mobilization In this excellent book Goldberg Hiller uses Hawaii's experience to examine the interaction between courts and the political system Relying on briefs legislative statements and interviews with activists from both sides of the question he views this familiar debate through the unfamiliar prism of gay marriage which allows him to gauge the viability and the pliability of the American civil rights ideal and how gay and lesbian issues fit or don't fit within that ideal William Heinzen New York Law Journal Goldberg Hiller presents the history of the same sex marriage question since it first sparked debate in Hawaii He follows the shifting debate through court cases state propositions and state and federal legislatures considering questions about the constitutionality of the Defense of Marriage Act and the concept of equal protection under the law for gays and lesbians This detailed treatment of the legal issues surrounding same sex marriages is highly recommended R L Abbott University of Evansville A valuable contribution to the field situating the gay marriage debate in broader contexts of theory law and practice Same sex marriage is an important issue that finds itself caught in the friction points of much larger debates over the nature of rights the limits of sovereignty and the proper role of courts and law in a democratic society The Limits to Union should therefore be of interest even to those who do not think of themselves as interested in gay and lesbian rights issues Evan Gerstmann Loyola Marymount University Law and Politics Book Review

**Intimacies** Alan Frank, Patricia Clough, Steven Seidman, 2013-07-24 In the last decade or so there has been a shift in the popular and academic discussion of our personal lives Relationships and not necessarily marriage have gravitated to the center of our relational lives Many of us feel entitled to seek intimacy an emotionally depthful social bonding rather than simply security or companionship from our relationships Unlike in a marriage centred culture intimacy is today pursued in varied relationships from familial to friends and to romances And intimacies are being forged in multiple venues from face to face to virtual cyber contexts A new scholarship has addressed this changing terrain of personal life there is today a vast literature on cohabitation parenthood without marriage sex and love outside marriage queer families cyber intimacies and friendships However much theorizing and research has focussed either on the interior subjective or sociocultural aspects of intimacies not their interaction This

volume aims to break new ground *Intimacies* explores the psychological terrain of intimacy in depthful ways without abandoning its sociohistorical context and the centrality of power dynamics Drawing on a rich archive that includes the social sciences feminism queer studies and psychoanalysis the contributors examine changing cultures of intimacy fluid and solid attachments and intimacies from hook ups to sibling bonds to erotic love a politics of intimacy that may involve state enforced hierarchies class misrecognition social exclusion and violence embodied experiences of intimacy and dynamics of endings and loss a pluralization of intimacies that challenge established ethical hierarchies This volume aims to define the cutting edge of this emerging field of scholarship and politics It challenges existing paradigms that assume rigid hierarchical approaches to relational life *Intimacies* will be of interest for psychoanalysts and for students or scholars in sexualities gender studies family studies feminism studies queer studies social class cultural studies and philosophy

**Marriage Proposals** Anita Bernstein, 2008-12 The essays in *Marriage Proposals* envision a variety of scenarios in which adults would continue to join themselves together seeking permanent companionship and sustenance linking sexual intimacy to a long commitment usually caring for each other and building new families What would disappear are the legal consequences associated with marriage No joint income tax return no immigration privileges like the fiancé visa or the right to bring in a husband or wife no special statuses for prison visits or hospital decisions no prerogative to remain silent in court by claiming confidential marital communications no pension entitlements no marital benefits and detriments regarding criminal or civil liability The anthology makes a unique contribution amid the two marriage furors of the day same sex marriage and the Bush Administration's marriage movement that marrying is good and more marriages would be better for society Abolishing the legal category of marriage is the only policy suggestion in current American discourse that speaks to both causes Activists on both sides of the same sex marriage fight along with marriage movement partisans all seek improvement through law reform *Marriage Proposals* gives them a viable reform abolition of marriage as a legal status for fighting battles in the courtroom and the streets Contributors include Anita Bernstein Peggy Cooper Davis Martha Albertson Fineman Linda C McClain Marshall Miller Lawrence Rosen Mary Lyndon Shanley and Dorian Solot

**Public Vows** Nancy F. COTT, 2009-06-30 We commonly think of marriage as a private matter between two people a personal expression of love and commitment In this pioneering history Nancy F Cott demonstrates that marriage is and always has been a public institution From the founding of the United States to the present day imperatives about the necessity of marriage and its proper form have been deeply embedded in national policy law and political rhetoric Legislators and judges have envisioned and enforced their preferred model of consensual lifelong monogamy a model derived from Christian tenets and the English common law that posits the husband as provider and the wife as dependent In early confrontations with Native Americans emancipated slaves Mormon polygamists and immigrant spouses through the invention of the New Deal federal income tax and welfare programs the federal government consistently influenced the shape of marriages And even the immense social and legal changes of the last

third of the twentieth century have not unraveled official reliance on marriage as a pillar of the state. By excluding some kinds of marriages and encouraging others, marital policies have helped to sculpt the nation's citizenry as well as its moral and social standards and have directly affected national understandings of gender roles and racial difference. *Public Vows* is a panoramic view of marriage's political history, revealing the national government's profound role in our most private of choices. No one who reads this book will think of marriage in the same way again.      *Untying the Knot* Tamara

Metz, 2010-01-04 Marriage is at the center of one of today's fiercest political debates. Activists argue about how to define it; judges and legislators decide who should benefit from it; and scholars consider how the state should protect those who are denied it. Few, however, ask whether the state should have anything to do with marriage in the first place. In *Untying the Knot*, Tamara Metz addresses this crucial question, making a powerful argument that marriage, like religion, should be separated from the state. Rather than defining or conferring marriage or relying on it to achieve legitimate public welfare goals, the state should create a narrow legal status that supports all intimate caregiving unions. Marriage itself should be bestowed by those best suited to give it the necessary ethical authority: religious groups and other kinds of communities. Divorcing the state from marriage is dictated by nothing less than basic commitments to freedom and equality. Tracing confusions about marriage to tensions at the heart of liberalism, *Untying the Knot* clarifies today's debates about marriage by identifying and explaining assumptions hidden in widely held positions and common practices. It shows that as long as marriage and the state are linked, marriage will be a threat to liberalism and the state will be a threat to marriage. An important and timely rethinking of the relationship between marriage and the state, *Untying the Knot* will interest political theorists, legal scholars, policymakers, sociologists, and anyone else who cares about the fate of marriage or liberalism.      Constitutional Courts, Gay Rights and Sexual Orientation Equality Angioletta Sperti, 2017-05-04

In the last fifteen years, constitutional issues regarding the rights of gays, lesbians, and same-sex couples have emerged on a global scale. The pace of recognition of their fundamental rights, both at judicial and legislative level, has dramatically increased across different jurisdictions, reflecting a growing consensus toward sexual orientation equality. This book considers a wide range of decisions by constitutional and international courts, from the decriminalization of sexual acts to the recognition of same-sex marriage and parental rights for same-sex couples. It discusses analogies and differences in judicial arguments and rationales in such cases, focusing in particular on human dignity, privacy, liberty, equality, and non-discrimination. It argues that courts operate as major exporters of models and principles and that judicial cross-fertilization also helps courts in increasing the acceptability of gays and lesbians' rights in public opinions and politics. Courts discuss changes in the social perception of marriage and family at national and international levels and, at the same time, confirm and reinforce them, forging the legal debate over sexual orientation equality. Furthermore, by promoting the political reception of the achievements of foreign gay movements in their own jurisdictions, courts play an essential role in breaking the political stalemate.      **Reconstructing Political Theory**



Mary Lyndon Shanley, Uma Narayan, 1997 In this volume a companion to *Feminist Interpretations and Political Theory* Penn State 1991 edited by Mary Lyndon Shanley and Carole Pateman leading feminist theorists rethink the traditional concepts of political theory and expand the range of problems and concerns regarded as central to the analysis of political life Written by well known scholars in philosophy political science sociology and law the book provides a rich interdisciplinary account of key issues in political thought While some of the chapters discuss traditional concepts such as rights power freedom and citizenship others argue that topics less frequently discussed in political theory such as the family childhood dependency compassion and suffering are just as significant for an understanding of political life The Introduction shows how such diverse topics can be linked together and how feminist political theory can be elaborated systematically if it takes notions of independence and dependency public and private and power and empowerment as central to its agenda ***Baby Markets***

Michele Goodwin, 2010-02-26 Creating families can no longer be described by heterosexual reproduction in the intimacy of a couple's home and the privacy of their bedroom To the contrary babies can be brought into families through complex matrixes involving lawyers coordinators surrogates brokers donors sellers endocrinologists and without any traditional forms of intimacy In direct response to the need and desire to parent men women and couples gay and straight have turned to viable alternative means baby markets This book examines the ways in which Westerners create families through private market processes From homosexual couples skirting Mother Nature by going to the assisted reproductive realm and buying the sperm or ova that will complete the reproductive process to Americans travelling abroad to acquire children in China Korea or Ethiopia market dynamics influence how babies and toddlers come into Western families Michele Goodwin and a group of contributing experts explore how financial interests aesthetic preferences pop culture children's needs race class sex religion and social customs influences the law and economics of baby markets **Marriage, Sexuality, and Gender**

Robin West, 2015-12-03 *Marriage Sexuality and Gender* examines contemporary debates about the meaning and value of marriage The book analyzes arguments for traditional marriage including those of neonaturalists utilitarians and communitarians or virtue theorists The volume also considers a range of feminist welfarist and liberationist arguments for ending the institution altogether It evaluates two major reform movements one focused on expanding marriage to include same sex couples and the other focused on the use of law to render marriage more internally just The book concludes with a plea to activists to redirect marriage equality movements toward the creation of an entirely secular civil union law that would respect a broader range of private life long commitments including but not limited to same and opposite sex couples without threatening the role of religious marriage in the lives of those who embrace it and without penalizing nonparticipants

**The Fall and Rise of Freedom of Contract** F. H. Buckley, 1999-08-27 Original essays by prominent legal scholars on the recent intellectual revival of freedom of contract and the value of free bargaining the essays will be gleaned from a series of conferences organized around areas where bargaining rights might be expanded **Rights, Gender and Family Law**

Julie Wallbank, Shazia Choudhry, Jonathan Herring, 2009-12-04 There has been a widespread resurgence of rights talk in social and legal discourses pertaining to the regulation of family life as well as an increase in the use of rights in family law cases in the UK the US Canada and Australia Rights Gender and Family Law addresses the implications of these developments and in particular the impact of rights based approaches upon the idea of welfare and its practical application There are now many areas of family law in which rights and welfare based approaches have been forced together But whilst to many they are premised upon different ethics respectively of justice and of care for others they can nevertheless be reconciled In this respect a central concern is the gender blind character of rights based approaches and the ontological and practical consequences of their employment in the gendered context of the family Rights Gender and Family Law explores the tensions between rights based and welfare based approaches explaining their differences and connections considering whether if at all they are reconcilable and addressing the extent to which they can advantage or disadvantage the interests of women children and men It may be that rights based discourses will dominate family law at least in the way that social policy and legislation respond to calls of equality of rights between mothers and fathers This collection however argues that rights cannot be given centre stage without thinking through the ramifications for gendered power relations and the welfare of children It will be of interest to researchers and scholars working in the fields of family law gender studies and social welfare

The Age of the Bachelor Howard P. Chudacoff, 2020-12-08 In this engaging new book Howard Chudacoff describes a special and fascinating world the urban bachelor life that took shape in the late nineteenth century when a significant population of single men migrated to American cities Rejecting the restraints and dependence of the nineteenth century family bachelors found sustenance and camaraderie in the boarding houses saloons pool halls cafes clubs and other institutions that arose in response to their increasing numbers Richly illustrated anecdotal and including a unique analysis of The National Police Gazette the most outrageous and popular men s publication of the late nineteenth and the early twentieth century this book is the first to describe a complex subculture that continues to affect the larger meanings of manhood and manliness in American society The figure of the bachelor with its emphasis on pleasure self indulgence and public entertainment was easily converted by the burgeoning consumer culture at the turn of the century into an ambiguously appealing image of masculinity Finding an easy reception in an atmosphere of insecurity about manhood that image has outdistanced the circumstances in which it began to flourish and far outlasted the bachelor culture that produced it Thus the idea of the bachelor has retained its somewhat negative but alluring connotations throughout the rest of the twentieth century Chudacoff s concluding chapter discusses the contemporary singles scene now developing as the number of single people in urban centers is again increasing By seeing bachelorhood as a stage in life for many and a permanent status for some Chudacoff recalls a lifestyle that had a profound impact on society evoking fear disdain repugnance and at the same time a sense of romance excitement and freedom The book contributes to gender history family history urban

history and the study of consumer culture and will appeal to anyone curious about American history and anxious to acquire a new view of a sometimes forgotten but still influential aspect of our national past

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