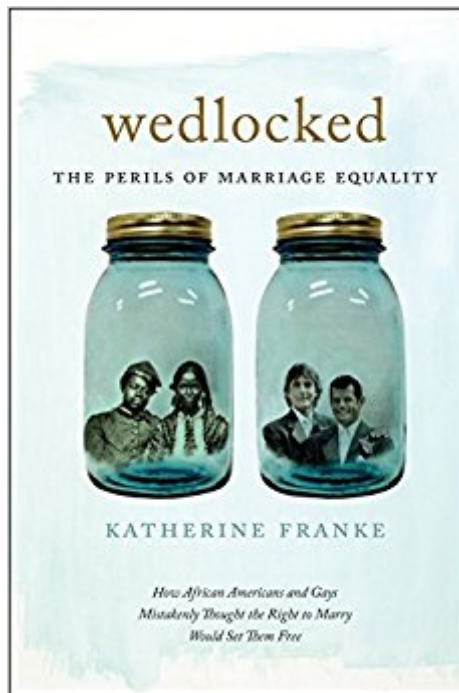




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# Wedlocked: The Perils Of Marriage Equality (Sexual Cultures)



## Synopsis

The staggering string of victories by the gay rights movement's campaign for marriage equality raises questions not only about how gay people have been able to successfully deploy marriage to elevate their social and legal reputation, but also what kind of freedom and equality the ability to marry can mobilize. *Wedlocked* turns to history to compare today's same-sex marriage movement to the experiences of newly emancipated black people in the mid-nineteenth century, when they were able to legally marry for the first time. Maintaining that the transition to greater freedom was both wondrous and perilous for newly emancipated people, Katherine Franke relates stories of former slaves' involvements with marriage and draws lessons that serve as cautionary tales for today's marriage rights movements. While we be careful what you wish for is a prominent theme, they also teach us how the rights-bearing subject is inevitably shaped by the very rights they bear, often in ways that reinforce racialized gender norms and stereotypes. Franke further illuminates how the racialization of same-sex marriage has redounded to the benefit of the gay rights movement while contributing to the ongoing subordination of people of color and the diminishing reproductive rights of women. Like same-sex couples today, freed African-American men and women experienced a shift in status from outlaws to in-laws, from living outside the law to finding their private lives organized by law and state licensure. Their experiences teach us the potential and the perils of being subject to legal regulation: rights and specifically the right to marriage can both burden and set you free.

## Book Information

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## Customer Reviews

"[E]ven if same-sex marriage recognition does not exactly replicate the experiences of post-Civil War African American couples, the history of state-sanctioned African American marriage, by turns exhilarating and crushing, remains an important challenge to the dominant narrative that recognition is a pure good, as well as a reminder that there are always (at least) three parties in every marriage. And yet the romantic conception of marriage continues to peddle the idea that intimate relationships are the most private and personal of decisions made between two people." •Times Literary Supplement

Wedlocked is a brilliantly conceived cautionary tale of the risks of securing a "freedom to marry." Drawing upon original research into the complications that marriage rights carried for slaves freed in the 1860s, Katherine Franke warns that marriage rights are not the unalloyed triumph for gay people and same-sex couples that the Supreme Court and virtually all commentators have claimed. Anyone interested in gay marriage should read this book "but so should anyone concerned about the stubborn perseverance of racism in America. For those who appreciate irony, compare this fascinating book with Justice Thomas's skeptical dissent in the recent marriage equality cases." •William N. Eskridge Jr., author of Dishonorable Passions: Sodomy Laws in America, 1861-2003

A provocative intervention into legal and cultural debates concerning same-sex marriage. Plumbing the well-known analogy between race and sexual orientation in new ways, Wedlocked offers a clear-eyed meditation on the traps and tripwires that marriage, as a highly regulative and deeply gendered legal construct, imposes on non-normative communities. With compelling stories, the book takes on the tenets and truisms of same-sex marriage proponents in startling ways. A real conversation-starter." •Martha Umphrey, Professor of Law, Jurisprudence, and Social Thought, Amherst College

If marriage is the much-exhausted metric of morality in our times, Katherine Franke's Wedlocked turns razor-sharp insight to the tangled genealogy of its often-incoherent power in the American context. Franke aligns struggles for gay marriage rights with African Americans' first access to the right to marry, smartly exposing the malleable line between intimacy and the untouchable." •Patricia J. Williams, author of the column "Diary of a Mad Law Professor" for The Nation

"A persuasive and provocative addition to scholarship on the history and the influence of marriage." -Women's Review of Books

"[R]igorous, historical." -Los Angeles Review of Books

Katherine Franke is the Sulzbacher Professor of Law and the Director of the Center for Gender and Sexuality Law at Columbia University. In addition to her academic work, she is the Chair of the Board of Directors of the Center for Constitutional Rights.

Ms. Franke, Sulzbacher Professor of Law and Director for Gender and Sexuality Law at Columbia University, puts forth an interesting, almost quirky thesis for her book. She believes that same-sex couples receiving the right to marry is similar to laws that compelled African-American men and women who had been co-habiting prior to the end of the Civil War, to marry following its end. And she asserts some compelling arguments or at least some ideas to ponder. In her introduction, Franke writes: "State licensing means your relationship is now governed by law, and that you have to play by law's rules. An affair or a breakup now has legal in addition to emotional consequences. Put most bluntly, when you marry, the state acquires a legal interest in your relationship. Cloaking freedom in state regulation as the freedom to marry surely does is a curious freedom indeed, for this freedom comes with its own strict rules" (9). The author points up a number of problems with marriage equality, one of which is the following: "Given that sexual orientation-based discrimination is legal in twenty-nine states, many Americans in same-sex relationships find themselves in the situation where they have a right to marry but exercising that right could result in losing their job once their employer learns of their marriage" (59). "Lawyers who advise non-traditional families on their legal rights have noted that once states started to allow same-sex couples to marry, the rights of couples in non-marital families began evaporating. Whether it be relationship contracts between unmarried partners, de facto parental rights, or rights that might accrue between two partners as a matter of common law, little by little courts are saying: you could have married, and since you didn't we won't recognize you as having, or being able to create, any kind of alternative family relationship between or among you that is legally enforceable. The right to marry, thus, extinguishes a right to be anything else to one another" (98). Franke later reasserts what she claims in her introduction, which is worth repeating, for it seems to reinforce her thesis: "Getting married means that your relationship is no longer a private affair since a marriage license converts it into a contract with three parties: two spouses and the state. Once you're in it you have to get the permission of a judge to let you out. And what you learn when you seek judicial permission to end a marriage is that it's a lot easier to get married than it is to get divorced" (121). As Franke begins to conclude her arguments, she often shifts to speculative language. "Of course we can't know for sure, as the court documents tell us far too little. But I have a couple of guesses about why these unwed mothers went to court and filed form papers announcing the fathers of their children" (174). "Another possible explanation for the frequent filing of bastardy petitions was the mothers were initiating these cases not for a local legal audience, but

for one up north (176). It's not hard to imagine unmarried mothers turn to bastardy petitions as a way of healing the deprivation of kinship that all enslaved people suffered (177). "The police had been summoned by another of Garner's lovers who was jealous and had reported to the police that a black man was going crazy in Lawrence's apartment and he was armed with a gun (a racial epithet rather than 'black man' was, in fact, probably used) (181). Well, which is it: probably or in fact? The latter example, in particular, seems inauthentic if the author cannot, in fact, locate a proper citation to prove her assertions. Near the end of her book, Franke sets up an important and stimulating question: "One might also provocatively ask whether marriage is better suited for straight people. By posing this question I don't mean to align myself with those, such as the conservative National Organization for Marriage, who feel that only straight people should be allowed to marry, but rather to ask whether the legal rules and social norms that make up civil marriage have heterosexual couples in mind. Put another way, is there something essentially heterosexual about the institution of marriage? Are marriage's rules and norms well suited to govern the lives and interests of same-sex couples? (209). Yes or No? Her question would make for an interesting debate! "One lesson we can draw from the early experience of same-sex couples with the right to marry is that marriage may not be for all of us. While we might all support the repeals of an exclusion from marriage as a matter of basic constitutional fairness, we need not all jump into marriage to demonstrate our new rights-bearing identity. If this book has any overarching message it is that we ought to slow down, take a breath, and evaluate whether marriage is for us (225). In an appendix, Franke issues a Progressive Call to Actions for Married Queers. I won't list them here, but the eight points do seem to summarize what her book is about: making sure that marriage laws help rather than hinder same-sex couples as they seek equality in this arena. The fact that her book comes out shortly before SCOTUS makes its historic declaration does not diminish the significance of the issues she raises. Hers is an important book, not to be missed.

Professor Franke is a very smart and thoughtful analyst of the same-sex marriage movement, and she is able to view it in a broad historical and political context. This book offers a creative perspective on the history of racial and sexual orientation liberation efforts, with a view on how gaining freedom from one sort of oppression can - in surprising ways - lead communities into a system of legal and social "regulation" that imposes its own set of restrictions. Her book is written in

an accessible style, with personal stories and historical insights that open your mind and motivate you to think in new and fresh ways. Even for those who will disagree with some of her points of view, it's an important and enlightening work that deserves a close read.

Brilliant, original thinker.

One of the best books I've read in quite some time. Franke's work is rigorous, thought-provoking, and elegantly written. This is an excellent book: it reaches backward then marches carefully toward issues relating to the contemporary marriage narrative. Should be required reading for African Americanists and scholars of queer lives. A wonderful gift for the holidays. Buy it now!

This book is a must read for any student of gender and sexuality studies. Katherine Franke combines history, law, and current discourses of "gay rights" to challenge our assumptions about how we think about state and cultural institutions. Franke is a compelling and brilliant scholar so this book should be relished and enjoyed.

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