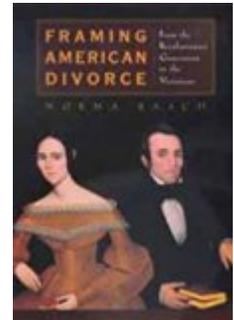


Norma Basch. *Framing American Divorce: From the Revolutionary Generation to the Victorians.* Berkeley: University of California Press, 1999. xii + 237 pp. \$29.95, cloth, ISBN 978-0-520-21490-3.



Reviewed by Ruth H. Bloch

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Norma Basch has written a richly informative and original study of divorce in nineteenth-century America. At once strong and subtle, Basch's arguments are peppered with insights about such wide-ranging issues as the relationship between law and society, the marital status of women, and the role of narrative in the construction of ideology. Connecting the past to the present, she traces the roots of the "culture war" that still rages between evangelical Protestants and liberals over the morality of American family life.

Before examining the book's numerous achievements in greater detail, I wish to dispense with my main reservation, which is about its organization. I found the division into three parts cumbersome and out of sync with the book's main points. The parts are defined more by types of source materials than by theme: "Part One: Rules" focuses upon law and political arguments; "Part Two: Mediations" discusses randomly selected, obscure court cases; and "Part Three: Representations" delves into stories recounted in popular literature. The obvious appeal of this organization is that it forefronts the unusual breadth of Basch's

research and vision. Here is a book largely about ideas that cannot be criticized as "mere" intellectual or even cultural history. Part One, on the law, features the nuts and bolts of power; Part Two, on the random sample of cases, considers ordinary social experience. The tripartite division does not, however, adequately serve the larger interpretative purposes of the book, for it is not essentially "about" the interrelationship of the law, the cases, and the popular literature. Instead, its deepest insights are embedded in the analysis of such cultural constructs as romantic love, female passivity, individual freedom, and republican political ideology. Basch's multiple observations about these issues are scattered in bits and pieces throughout the book. At times the argument seems unnecessarily repetitive, as when the discussion of popular literature in Part III hearkens back to that of political ideology in Part I. More regrettably, Basch's interpretive nuggets, often brilliant, risk being overlooked in the text's dense and divided terrain.

Rendered into more simple narrative form, the story told in *Framing American Divorce* starts

with the American Revolution. More than any previous historian, Basch sees the Revolution as a decisive turning point in ideas about marriage and, hence, about divorce. The revolutionary rhetoric of independence and equality, she argues, applied not only to the new nation and its citizens but also to that most basic social unit, the conjugal pair. While acknowledging that legal divorce had a longer history in New England, where the Puritans sought to desacralize marriage without questioning its patriarchal structure, Basch sees the Revolution as opening a new chapter in which divorce became connected to egalitarianism. Drawing upon texts by Jefferson, Paine, and other patriot leaders, as well as upon Jan Lewis's fine article "The Republican Wife" in the *William and Mary Quarterly* (October 1987), Basch points to the ways that republican thought challenged women's subordinate marital status. She also very convincingly documents the gradual establishment of divorce laws outside New England after the Revolution, showing how state after state enacted laws permitting divorce. In the first half of the nineteenth century litigants repeatedly tested the limits of these laws, pushing the courts to make greater refinements and providing multiple precedents for lawyers to argue on both procedural and factual grounds. Beginning in the 1830s, melodramatic stories about divorcing couples came to permeate sensationalist journalism and sentimental fiction. Divorce became the subject of an animated, if often murky, public debate about gender relations, social morality, and national destiny.

Contrary to the revolutionary impulses that initially propelled American divorce, its defenders in the nineteenth century rarely advocated female equality and free agency. Instead, true Victorians at heart, they presented the women suing for divorce as the innocent, self-sacrificial victims of selfish and tyrannical men -- husbands who had, by failing to provide love and protection, forfeited their right to rule. Divorce, far from rebellion, was in such circumstances simple self-de-

fense. Basch shows how both the advocates and the critics of divorce utilized the same Victorian symbolic framework. For the opposition, the essential fact that divorced women could legally remarry violated essential feminine qualities of chastity and dependency. Basch shows how commentators on both sides of the issue extended the double standard by assuming that female adultery was morally problematic in ways that male adultery was not. Despite the widespread belief in egalitarian ideals like romantic love and companionate marriage, wives continued to be deemed subordinate to their husbands. Advocates and critics of divorce agreed that marriage constituted the bulwark of American society, and their notions of marriage remained implicitly hierarchical. Only the most radical feminists and free thinkers embraced a goal of female autonomy.

Basch offers a multilayered explanation of this history. In part, she ably demonstrates, the nature and representation of legal cases were due to the structure of the law itself: fault divorce, in which juries needed to decide guilt or innocence, encouraged divorcing husbands and wives to make fiercely adversarial and emotional claims. Almost inevitably in cases of contested divorce, one party would emerge the victim, the other the villain. The stories of female passivity and male domination also reflected the basic economic reality of middle-class female dependency on men. However "gender neutral" the letter of the law may have been, women almost always stood to lose economically by divorce. The fact that adultery, in particular, was the most widely recognized ground for divorce also particularly disadvantaged women given the persistence of the double standard. Even in cases in which women were plaintiffs, men counter-claimed female adultery as their defense. Finally, the hyper-emotionality of nineteenth-century popular discourse, including its celebration of romantic love, determined the way divorces were recounted and understood.

The wailing tone of journalists differed little from that of sentimental novelists.

The double-edged role of the Revolution, or what we might best term liberalism, in the history of divorce remains a central problem throughout the book. On the one hand, revolutionary values, coupled with an increase in social freedom in the nineteenth century, rendered divorce more readily available, and women were its primary beneficiaries. On the other hand, gender inequality, a condition tacitly assumed by most of the revolutionary generation, remained integral to American understandings of marriage. For the revolutionaries as well as their Victorian descendents, marriage served as the foundation of social order, and divorcing women raised the specter of social chaos. At its most ambitious, Basch's study dissects basic dualities in our national culture: individual freedom versus self-sacrificial service, equality versus subordination, contractual rights versus religious obligation. Divorce, then as now, not only pits wives against husbands but brings these broader and more fundamental cultural antagonisms to center stage.

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