Marriage: religious rite or civil right?

A brief irreverent history of marriage

When humans were still walking on all fours males unceremoniously ‘mated’ with one or more available females and females mated with one or more available males. Nothing much changed when humans began walking upright and still lived in small enclaves. As time passed humans learned to domesticate animals and cultivate crops allowing our ancient ancestors to end their wanderings and accumulate property (land). Up to this point lineage was unimportant. Now, however, the deposition of one’s property upon their demise became an issue that was resolved by pairing (at least temporarily) one male with one particular female (and vice-versa). The Christian bible is replete with instances of males *taking* specific females as wives with little ceremony. (Notice that the popular current version of the martial vows still asks, “Do you \_\_\_\_ *take* \_\_\_\_ as your lawful wedded \_\_\_\_?”)

In this manner, a birthright could be established with little chance for mistaken identity. Early humans undoubtedly also noticed that as long as one man mated with only one woman (and vice-a-versa) there was little risk of contracting communicable diseases. In order to encourage this practice some sort of pledge was needed to enforce its continuance. The obvious answer was a vow of fidelity over an indefinite future based on some deeply felt conviction anchored in a belief in the existence of a deity (or deities).

In the earliest of these periods governments were formed behind strong charismatic leaders. There were few, if any, marriage license bureaus or magistrates to perform them. Most civilizations did conduct periodic censuses and recorded familial unions mostly for taxing purposes, however. On the other hand, there were priests who could ordain vows of fidelity in the name of their Deity.

The lack of government ordination was vividly demonstrated by the titanic battle between Henry VIII and the Pope Clement VII through Thomas Cromwell. Henry (The State) wrestled so hard with the Holy Church that a ‘new’ faith (The Church of England) was formed, with Henry as its head, to keep more heads from rolling. Had Henry been the sole arbiter as what constituted marriage there would have been no need for any beheadings or break with the holy Catholic Church. But alas in the end poor Henry was excommunicated. That tells you who was really in charge. The change of faiths did not transfer the issue of what constitutes marriage to the state (Henry) it only created a faith that allowed some leeway in the definition of marriage. We are left with the conclusion that the state did not actively participate in the marriage process until sometime in the past 500 years.

Religious rite or civil right: marriage vs. ménage

For most of human existence the act of marriage was predominately a religious rite. States became involved when disputes involving property or lineage could not otherwise be resolved. Issuing marriage licenses and birth/death certificates was the natural result of attempts to resolve these disputes. Civil courts could then be used to arbitrate any disparate claims.

If marriage is first and foremost a religious rite then *I propose that the Supreme Court formally declare marriage a religious rite ordained solely and exclusively by long established religious institutions.* If similar arrangements are deemed in the public interest then the state, of course, could create and enforce them. However, such arrangements should not be called ‘marriages.’ The name, civil union, is obviously unattractive and carries with it little in the way of social acceptability. For that reason *I further propose that civil unions performed and enforced by the state be called ménages (fr.* *household* as in ménage-a-*trois*, or in this case -a-*deux*). This change does leave open the possibility of *ménage-a-trois, manage-a-quatre,...manage-a-beaucoup.*

Those opting for ‘marriage’ would need to also form a ménage for the legal protections the state would provide. If adopted this plan would give ménages the status of a civil right and leave marriage, as it has been for most of history, a religious rite.