

CIVIL UNION OR THE AESTHETIC FLUIDITY OF THE FALSE FAMILY

Corina Pantelimon Bistriceanu²⁵⁰

ABSTRACT

In the construction of this article, we start from two new concepts in the socio-human sciences: that of fluidity, applied with great resonance in the interpretation of the new dynamic forms of contemporary society by Zygmunt Bauman, and that of aesthetics, in the sense of the type of judgment with which we approach the external world, as defined by Immanuel Kant. Their utility lies in verifying and explaining the manner in which new inconsistent social and familial formulas are projected and articulated, in synchrony with the liquefaction and aesthetification of all social structures of the “old order” of tradition or of the “steel carcasses” of modernity. The redefined family as a fluid aesthetic group is one in which its axes of stability, the vertical link of descent, and the supportive horizontal link of marriage are fractured and declared unusable. “Projects” of relationships in permanent construction emerge in their place, inconsistent and unstable by their very nature, whose integrative capacity is relative and manifests only as long as the satisfaction they offer lasts. These projects, which replace the “solid” social institutions in everyday social life, not only have a mimetic effect, taking on the apparent form of the relationship/structure they replace, but also have a dissolving effect. Civil partnership is such a satisfactory solution for mimicking marriage for those who do not find enough satisfaction in getting married, but nor so little that they give up on it. Its consequences, in terms of fluidizing sexual ties within the family, are of the same nature as those of incest, which fluidize the lineage ties.

Keywords: family, consensual union, liquid society, aesthetic community.

REVOLUTIONS AND THE MELTING OF COMMUNITIES

Karl Marx and Friedrich Engels launched the concept of melting social solids in a social revolution where class conflicts – as well as the classes themselves and all the other categories, whether modern or pre-modern, which, due to their differentiated composition, could generate social conflict – were to be resolved by melting them into a redeemer synthesis. Like all revolutions, bourgeois, liberal, or social-communist, Marxist revolution also aimed at liberating society from the constraints that had kept it coagulated in an inconvenient order for personality and entrepreneurial rationality. The modern spirit rises against communities as old as humanity itself, pressing towards the dissolution of what was solid (indestructible, immune to history, resistant to the passage of time – such as the sacred, the tradition, the community, the family).

²⁵⁰ PhD in Sociology, Spiru Haret University, Bucharest, Romania, E-mail contact: corinabistriceanu@yahoo.com.

The old traditional obligations (family, with its dense network of household duties and ethical obligations, neighborhood, with its claims of spatially anchored solidarity, church, whose idea of suprahuman and postmundane judgment relativized any kind of rationality, etc.) had to be dissolved in order to unleash the infinite capacity for rational calculation of the effects of human action. However, what crystallized in capitalist modernity after this initial melting of solids was rather a slag that roughed up, instead of lubricating, social action. The instances of the new social control were identified and interrogated even from the standpoint of the new rational authority. Therefore, the process was redirected at the microsocal level, and intensified, in what was called “the second modernity” or “postmodernity”. In postmodernity, revolutions are discrete. Before the Second World War, the American philosopher James Burnham announced what was already visible, namely that the administrative revolution had already ended – with the evident and complete victory of the administrators. In 1988, Henri Mendras wrote about the “second French Revolution” of the 1960s – 70s, as important in consequences as that of 1789, but whose objective was values, not institutions, and whose conquests were psychosocial rather than economic. American pragmatism and interactionism, represented in the Charles Pierce, William James, and John Dewey projects of rewriting psychosocial theories, philosophy, and pedagogy, reassess the potential for “academic revolution” through compulsory education and scientific research.

In the new postmodern, posthistorical world (Francis Fukuyama), postcultural (George Steiner), postethical (Gilles Lipovetsky), and, of course, posthuman(ist) (Katherine Hayles), the task of constructing the new social order is not assumed either politically or individually; it will be the result of convergences of particular interests. The right to individual happiness replaces the common right, shifting the anxiety generated by the inherent precariousness of life’s fluidity outside the political sphere, which guarantees only the right to choose; individuals are encouraged to use their own resources for survival, dignity, or growth. Order is guaranteed only through participation and individual achievement, internalized in the form of individual interest. Individuals are voluntary social units, urged to promote their own interests in rule-keeping; rule-breaking triggers “self-inflicted harm”. It’s in our interest to conform. Norms are replaced by fear of falling behind and by desire for satisfaction.

Family communities, the most solid forms of social affirmation, survivors of the first wave of “melting solids”, are defined in terms of zombification or bankruptcy. German sociologist Ulrich Beck (author of the phrases “second modernity” and “the society of risk”) speaks, in 1999, about communities neither alive (because their survival is not permitted) nor dead (because they resist assassination), the so-called zombie institutions:

“You might ask what a family actually is these days? What does it mean? There are, of course, the children, my children, our children. But even the quality of being a parent, the essence of family life, begins to disintegrate under the conditions of divorce (...) Grandmothers and grandfathers are included and excluded without any means of participating in the decisions of their sons and daughters. From the perspective of their

grandchildren, the significance of grandparents must be determined through individual decisions and choices”²⁵¹.

Across the ocean, sociologist Reuben Hill refers to the family as a failed, bankrupt institution:

“The bizarre composition in terms of sex and age makes it an inefficient work group, a weak planning committee, an awkward social gathering, and an uncertain group for spiritual communication. Its leadership is taken on by two amateurs, relatively lacking in experience, unprepared for the roles of husband, wife, and parents”²⁵².

THE AESTHETIC AND FLUID COMMUNITY. THE NEW FAMILY FORMULA

The liberation from the family community becomes an urgent consequence of repeated revolutions, but one that has not yet been fulfilled. People’s resistance stems from a misunderstanding of the superior quality of the “freedom to be fluid”: aversion to freedom is either due to unpreparedness for the practice of a life free from definitive affiliations, such as the family, or due to a lack of trust in the benefits of this liberation. Security and stability are still important for the human condition.

“Promoting security always requires sacrificing freedom, and freedom can only be increased at the cost of security”²⁵³

– this is one of the dilemmatic findings of modernity. Modern individualism, Enlightenment, is ambivalent,

“at the same time a vector of individual emancipation, increasing their autonomy and making them bearers of rights, and a factor of increasing insecurity, making everyone responsible for the future and obliging them to give life a meaning that is no longer pre-molded by anything from the outside”²⁵⁴

²⁵¹ „Vă întrebați ce este de fapt o familie în zilele noastre? Ce înseamnă ea? Există, desigur, copiii, copiii mei, copiii noștri. Dar chiar și calitatea de părinte, esența vieții de familie, începe să se dezintegreze în condițiile divorțului (...) Bunicile și bunicii sunt incluși și excluși fără niciun mijloc de a participa la deciziile fiilor și fiicelor. Din punctul de vedere al nepoților lor, semnificația bunicilor trebuie determinată prin decizii și opțiuni individuale”, în Zygmunt Bauman, *Modernitatea lichidă [Liquid Modernity]*, Bucharest, Antet Publishing House, 2000, p. 9.

²⁵² „Compoziția bizară în ceea ce privește sexul și vârsta o face să fie un grup de lucru neeficient, un slab comitet de planificare, un grup de distracții incomod și un grup incert de comunicare spirituală. Conducerea ei e asumată de doi amatori, relativ lipsiți de experiență, nepregătiți pentru rolurile de soț, soție, părinți”, în Corina Bistriceanu, *Sociologia familiei [Sociology of Family]*, Bucharest, Romania of Tomorrow Foundation Publishing House, 2005, p. 15.

²⁵³ „Promovarea securității cere întotdeauna sacrificarea libertății, iar libertatea nu poate fi mărită decât cu costul securității”, în Zygmunt Bauman, *Comunitatea [Community]*, Bucharest, Antet Publishing House, 2001, p. 16.

²⁵⁴ „în același timp un vector al emancipării indivizilor, care le mărește autonomia și îi face purtători de drepturi, și un factor de insecuritate crescândă, care îi face pe toți responsabili de viitor și îi obligă să dea vieții un sens care nu mai este premodelat de nimic din afară”, în *Ibidem*, p. 17.

– neither by pater familias, nor by tradition, nor by God –, say Jean-Pierre Fitoussi and Pierre Rosanvallon in a study on the new inequalities²⁵⁵. Therefore, two categories of people (autonomous and anxious) and a new hierarchy emerge. Civilization takes on two faces: the emancipation of some in the assertion of individuality and the disciplining of others for mass conformity. Reasonable restratification is succinctly formulated in a 1909 speech held by Woodrow Wilson, then president of Princeton University:

“We want to create a class of individuals with a liberal education, and we want to create another class of individuals, a much larger class, essential in any society, who will not benefit from a liberal education but will be prepared for the execution of certain heavy manual labor tasks”²⁵⁶.

In postmodernity, educating the “many more” is even more important, as work is less demanding, and access to knowledge could enable them to break away from the streams of social efficiency.

“Think of school as a laboratory for psychological conditioning, where individuals of a particular, unique type are forged through methods similar to the Chinese water torture, to manifest as a homogeneous mass, to accept continuous boredom and hateful behaviour, envy, mediocre competence, all of which must be received as a natural part of the human condition. The official economy we have built needs to be constantly supplied with ample quantities of leveled, sluggish, passive, disturbed and disturbing individuals, unfriendly and without friends, lacking family, who can be exploited until they become wastes, and then replaced, after efficiently fulfilling their assigned tasks”²⁵⁷.

Enough reason to respond to the demands of efficiency and order “in one’s own interest”, but not enough to begin to doubt this interest; enough to accept the answers with which they are bombarded, but not so much as to pose their own questions – this balance of rationality of the masses must be preserved. Critical thinking must be encouraged, but not judgment – and the model is that of domination of public opinion and mass media. To achieve this delicate balance, the occupation of choosing and deciding is doubly useful: it keeps busy those who wish to assert their freedom in the psychological act of their own choice (choosing their own

²⁵⁵ *Ibidem*.

²⁵⁶ „Dorim să creăm o clasă de persoane cu educație liberală și dorim să creăm o altă clasă de persoane, o clasă mult mai mare, de trebuință în orice societate, care să nu beneficieze de educație liberală, ci să fie pregătită în vederea executării anumitor sarcini de muncă manuală grea”, in John Taylor Gatto, *Arme de instrucție în masă [Weapons of Mass Instruction]*, Bucharest, Anacronic Publishing House, 2018, p. 25.

²⁵⁷ „Gândiți-vă la școală ca la un laborator de condiționare psihologică, în care sunt făuriți, prin metode asemănătoare «picăturii chinezești», indivizi de un tip aparte, unic, care să se manifeste ca o masă omogenă, să accepte plictiseală și urâciune continue, invidie, competență mediocră, toate acestea trebuind să fie primite ca parte naturală a condiției umane. Economia oficială pe care am construit-o trebuie aprovizionată constant cu cantități ample de indivizi niveლაți, molâi, pasivi, tulburați și tulburi, neprietenoși și fără prieteni, lipsiți de familie, care pot fi exploatați până se transformă în deșeuri, ca apoi să fie înlocuiți, după ce își vor fi îndeplinit cu maximă eficiență sarcinile trasate.”, in *Ibidem*, pp. 100–101.

identity, rejecting predetermined identities in family, religious, territorial, natural, or cultural formulas) and instills in them an endemic uncertainty given by the “inability to reflect on such an enormous multiplicity of options”²⁵⁸.

For potential nostalgia and community inertia, the ideologization of the community is seen as a solution. The aesthetic community theorized by Immanuel Kant is adopted in the explanation by Zygmunt Bauman as a model for soothing the postmodern consciousness tired of the dynamics of postmodernity. The nostalgia for community, the longing for the “warm circle” where understanding and trust were unconditional, has led to the emergence of projects for the ideological construction of substitutes. The communitarian ideology, as well as the most supported projects for the rational reconstruction of warm community frameworks, are present especially where the community is less – or not at all – encountered. In other words, the more rational-fluidly conceived society is, the more efficient its interaction is, the greater the diversity of ideas for “recovering” the community side of the new humanity. For Kant, the superior-level community of artistically mobilized consciousness can be achieved precisely because people become capable of elevating themselves individually, each according to their autonomy, predilections, and tastes on this level; a consciousness that has not emancipated itself from the constraining frameworks of family, territorial, or spiritual communities is not capable of being part of the selective circle of artwork. Taking up and interpreting this mode of coagulation of aesthetic communities, which exist only in relation to an external and prior object, Zygmunt Bauman identifies several such associative formulas: the public and fan groups, the communities created by external dangers (public enemies, crises, wars, pandemics), by events (festivals, matches), by problems (stray dogs, obesity, ecology, etc.). All these are forms of externalization and defining the fundamental insecurity of man, with which he is left to fight individually, being occasionally directed to define properly the danger, the enemy and the savior.

What characterizes all these types of palliatives of community nostalgia is the attempt to meet and communicate individual consciousnesses, but without codependency, responsibility, and unconditional attachment to others. They are “civilized communities”, respectful of the rights and choices of the individual. Social action is not guided by norms, institutions, or stable principles, but by psychological specificity and human rights. Similarly, the new project of “family community” is being constructed.

This too becomes achievable where the family disappears from people’s lives, and they begin to suffer, individually and collectively, as a result. The family project must take over what was comfortable in the real family but eliminate the burdensome pressures. It must contain but not constrain; its form must be light and fluid, efficient for reconciling the needs for belonging and stability with the temptations of

²⁵⁸ „imposibilitatea de a reflecta asupra unei asemenea multiplicități enorme de opțiuni”, in Jacques Ellul, 1998, quoted by Zygmunt Bauman, *quoted work*, 2001, p. 97.

liberation and self-promotion. The new formula must be for the psychological comfort of man what the caravan is for living – a shelter and a vehicle that does not stop moving at the same time.

THE CIVIL UNION – FLUIDITY AND AESTHETICS FOR THE FAMILY

In the terms of fluid postmodernity, the family is reimagined as an interaction, a career, a meeting, a flux; the family-institution is condemned to disappear – not for progress, for the logic of progress has been abandoned; Herbert Marcuse observes that postmodernity proposes

“an unprecedented situation in history, because today we must free ourselves from a strong, wealthy society, in relatively good working order (...)”²⁵⁹.

The disappearance of the most powerful institution to which humanity has been bound from the beginning (and perhaps until the end) is useful because it will increase individuals’ freedom of choice: what is the best family they can choose? When descent and conjugal relationships are fluid enough to be liquidated, the ties between parents and children, as well as between spouses, solidarity across ages and genders can be unraveled into as many variants as necessary to occupy the imagination and action of individuals detached from any stable reference point. Simultaneously with the breaking of the natural markers of sex and age (for we can now, following the model of the LGBTQIA2S+ mosaic composed of the overflowing imagination of decentered sexuality and adoptive ages, and even of trans-species options, identify ourselves as a “social construct” regardless of our natural “version”), we encounter the breaking of family structures.

Romanian society and family have so far resisted honorably the onslaught of postmodernity, although they are involved in the European postmodern current. The projects to legalize civil union, an alternative formula to marriage, are one of the changes with significant consequences for the family. Proposals to legalize it have been “strung” in the Romanian Parliament from 2015 until today. By the idea of regulating the bond of those who opted for non-regulation – bringing consensual cohabitation onto the same legal plane as the family – there is a rapid move towards regulating homosexual relationships in the spirit of solidarity among different sexual preferences under the umbrella of marriage and family. Despite the reasons invoked, legalizing an alternative form for marriage does not mean eliminating discrimination against those who do not wish to marry, but on the contrary, it pressures for the formalization of what they left informal. Marriage is a form of family cohabitation for those who wish to engage in matrimonial relationships that primarily involve establishing legitimate descent, and then relationships of kinship between the

²⁵⁹ „o situație inedită în istorie, căci astăzi trebuie să ne eliberăm de o societate puternică, bogată, în stare relativ bună de funcționare (...)”, in Zygmunt Bauman, *quoted work*, 2000, p. 19.

families of origin of the spouses. That is, matrimonial relationships aim to initiate family ties built through common descent. The lack of references to descent impoverishes the content of marriage itself. Although not always explicitly mentioned, the contractual part of marriage supports its fundamental mission. We emphasize that, from the point of view of social-human reality, as highlighted in the history, sociology, or anthropology of the family and as can also be observed at the level of common sense, defining for the relationship of marriage is one's commitment to the status of parent, respectively, mother or father.

Cohabitation, living together, or consensual union are not solid, stable realities. They can predominantly be considered as pre- or post-marriage arrangements, family annexes, "trial marriages", or preludes to marriage²⁶⁰. In the sense of alternatives to marriage, they are labeled with new terms, entered into the vocabulary as research shifts towards conjugal or non-conjugal relationships, predominantly centered on the sexuality presumed by heterosexual bonds. In this sense, the couple (distinct, both in reality and as a subject of study, from the family) no longer focuses on the duration or continuity of generations but rather on the (provisional, even by definition) satisfaction of the desires of the individuals involved²⁶¹. Free unions, trial marriages, cohabitation, consensual living arrangements are fluid, imprecise formulas, incapable of providing precise terms for designating "partners" until now: they are confusedly referred to as a "boy/girlfriend", "the one I'm with now", "the one with whom I live", "my partner", "my companion". Whether heterosexual or homosexual, these formulas reflect free loving practices that have opposed marriage as an institution for decades and, evidently, are in contradiction with the contractual form of civil partnership.

Moreover, they lead the "partners" to meet in the formula of the aesthetic couple, which contemplates from the outside the contours of marriage, family, descent, and which, avoiding mutual dependencies and responsibilities, "adheres" to the conjugal dyad in form and name, but non-conjugal in motives and purpose.

ILLICIT CONJUGAL RELATIONSHIPS: INCEST AND HOMOSEXUALITY

Social justice is no longer built through a good, fair, or correct society, but through the affirmation of the – formal and open to change – principle of human rights. From the perspective opened by this principle, battles begin for the

²⁶⁰ Vasile Ghețău, „Căsătoriile în România, partea a doua. Piața căsătoriei, dorința de căsătorie și formele coabitării în România” [“Marriages in Romania, part two. The marriage market, marriage desirability and forms of cohabitation in Romania”], in *Contributors*, January 5, 2024, Available at: <https://www.contributors.ro/casatoriile-in-romania-parteaadouapiatacasatorieidorintadecasatoriesiformelecoabitarii-inromania/>, Accessed on: February 14, 2024.

²⁶¹ Martine Segalen, *Sociologia familiei [Sociology of the Family]*, Iași, Polirom Publishing House, 2011.

recognition of various forms of privileges, defined as rights of different, persecuted, or unnoticed people until now. In order to become “right”, the difference must be identified and shared by a group, or a numerical category of individuals determined enough to be visible and recognized: only if privilege becomes a collective claim does it have a chance to be approved (as a right).

“However, in practice, everything comes down to controlling the movements of individuals, demanding unconditional loyalty from a few individuals presumed to be bearers of the difference for which recognition is sought, while simultaneously blocking access for all others”²⁶².

The process is one that can be projected logistically: first, the difference that can be claimed as a human right is discovered; the carrying minority, persecuted or ignored until this moment (victim), is mobilized and fortified, and the assault for recognition begins²⁶³.

Nearly a year ago, the European Court of Human Rights admitted that the complaint of 21 homosexual couples against the Romanian state was justified: Romania violated the right to family life for 42 individuals. The acrobatics of current reason urges us not to think beyond a decision that gives others a right we thought we all had; we all live in families, so everyone, including the 42, deserves recognition of their family status. Beyond what is told to us, however, other possibilities arise: the family is truly a reality that cannot be confiscated from us; but it is one that we are given the right to renounce. Those who feel unjustly treated certainly have parents, a group of relatives, families. However, their sexual orientation seems to make them not want to adopt and perpetuate the family model. Having the freedom to exist or not in a family and choosing to live outside of it, how can they still claim to invoke the family in their choices of extramarital sexual relationships? For those accustomed to answers, less to questions (and even less to their own questions!), the family is that institution defined by the exclusivity of sexes – the condition of conjugal status and ages – the condition of descent. The cancellation of sexual exclusivity leads to the relativization of marriage, of the conjugal relationship – through the multiplication of its possible scenarios – and ultimately, to its loss as a form of family union. Similarly, the cancellation of age exclusivity leads to the mixing of generations and the deterioration or confusion of filiation relationships – which is exactly the definition of incest. Although this parallelism of fluidizing family axes is not at all invoked in the current attacks on the “rigidity” of the family, the honesty of judgment puts it into evidence.

It has been argued that incest refers to the mixing of conjugal relationships, to their affirmation in forms different from those recommended and socially

²⁶² „Totuși, în practică, totul se reduce la controlul mișcărilor indivizilor, cerând loialitate necondiționată de la câțiva indivizi despre care se presupune că sunt purtătorii diferenței pentru care li se cere recunoaștere, blocând, în același timp accesul tuturor celorlalți”, in Zygmunt Bauman, *quoted work*, 2001, p. 58.

²⁶³ *Ibidem*, p. 57.

recognized. According to Lucien Lévy-Bruhl, however, it has not been defined as such by primitive populations, where incest is something that does not happen and cannot happen; it is, at worst, the absurd accidental, *monstrum*. The etymologies of the term support this negative definition of incest. Incest, a common word in the most well-known European languages (English, French, Spanish, Italian), derives from the Latin *castum* (pure, chaste) and means the denial of this state of purity, of harmony. In Chinese, the term indicates disorder in social relationships, having an even clearer socio-cultural tinge, and in Indonesian, the term for “incest”, overlapping with that of adultery, has both a social-moral connotation, improper, repugnant, and an aesthetic one, of something unpleasant, ungraceful. Anthropology emphasizes that defining incest as an “illicit conjugal relationship” confronts us both with the problem of partners’ sex and with the relationship between the form of sexuality and the matrimonial relationship.

“It seems that we can and even must introduce into the category of incest, as conceptualized in numerous societies, the ‘illicit conjugal relationship’ between same-sex partners, even one consummated through a common sexual partner”²⁶⁴.

The (sexual) possibility of the existence of two parents of the same kind, mothers or fathers, is itself the essence of incestuous disorder. Incest is a generator of confusion and disorder, of disrupting the structure of related groups, of mixing familial roles²⁶⁵. Similar to incest, which leads to the overlapping of parental and filial roles, to the mixing of filial steps, to the illegitimacy of descent, homosexuality in marriage would lead to the overlapping of (pseudo)conjugal roles, to the delegitimization of this bond.

CONCLUSION

To legalize an alternative form of marriage means not only to discriminate, but also to threaten with the dissolution the marriage itself and the married people. It means that the marital bond is considered insufficient for meeting human, biological, psychological, or social needs. It means proposing to those who are mothers, fathers, husbands, or wives to revert to alternative statuses, which they have precisely

²⁶⁴ „Se pare că se poate și chiar trebuie să introducem în categoria de incest, așa cum este ea conceptualizată în numeroase societăți, «legătura conjugală» ilicită între parteneri de același sex, chiar și cea consumată prin intermediul unui partener sexual comun”, in Françoise Héritier-Augé, „Incest” [“Incest”] in *Dicționar de etnologie și antropologie [Dictionary of Ethnology and Anthropology]*, Pierre Bonte and Michel Izard (eds.), Iași, Polirom Publishing House, 1999, p. 297.

²⁶⁵ „Ah, you marriage rites – you gave birth to me, and then when I was born, you gave birth again, children from the child of that same womb, creating an incestuous blood family of fathers, brothers, children, brides, wives and mothers – the most atrocious act that human beings commit!”, in Sofocle, *Oedipus the King*, (translation by Ian Johnston), 2004, Available at: https://www.slps.org/site/handlers/filedownload.ashx?FileName=Sophocles_Oedipus.pdf&dataid=25126&moduleinstanceid=22453, Accessed on: March 27, 2024.

surpassed through marriage. It actually means encouraging the abandonment of marriage or discouraging marriage in favor of temporary, provisional relationships. In postmodernity, remaining in the family community is no longer a necessity or a duty. But to turn the “freedom” to abandon the family – loudly embraced by 42 individuals – into the possibility of destroying it for tens of millions of others in one country is far more serious than any possible disregard for individual eccentricities.

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