

Black Love

Abstract:

What is Black love if it is something more than monogamous romantic love and marriage, for example? Many Black thinkers who have considered matters of Black love have conflated it with marriage or romantic love or both. In this paper, I offer a social constructionist account of Black love. Drawing on Tera Hunter's notion of the *third flesh*—a reconfiguring of the idea that through marriage “two become one flesh”, that indexes the superior relationship of master to slave in the antebellum United States—I argue Black love is essentially a non-monogamous notion that characterizes intimate caring relationships among Black relata not excluding relationships of erotic love and sex. It is worth pointing out that this account challenges the ways we think about romantic love and complicates how we think about race in America. A primary corollary the paper establishes, for example, is that as Black love and “romantic love” were shaped differently by racism and America's institutions and practices, romantic love (i.e., a notion that centers a loving subject who is an autonomous and dignified individual) and Black love are ontologically distinct.

I. Introduction

In a 2013 paper exploring Black philosophy's contribution to theorizing the erotic, Anika Simpson pointed out that there is a tacit acceptance among Black lovers (and perhaps Black philosophers alike) that “Black love is dead.”¹ For what it's worth, despite the growing popularity and importance of the notion ‘Black Love’ among Black folks inside *and* outside of the academy, the philosophy of love has not recorded many contributions from Black philosophers on the subject. When Black scholars have concentrated on love, there has been an observed tendency to conflate matters of Black *love* with matters of Black *marriage*. For example, at the turn of the 20th century, W.E.B. DuBois, E. Franklin Frazier and others believed that legal monogamous Christian marriage was central to racial uplift for Black folks. More recently, Black marriage historians Tera Hunter and Dianne Stewart have both recently discussed Black love as it pertains to marital relationships among Black folks.² Suffice it to say that among scholars of Black love there has been a tendency to **(a.)** conflate Black love with marriage or **(b.)** conflate Black love with romantic love. In my view, however, situating discussions of Black love exclusively within discourses of contemporary monogamous American marriage provides too narrow a scope for analyzing Black love.

America's historical archives more often tells a far messier, far more complex story of Blacks' intimate relationships that extend beyond the formation of dyadic monogamous pairs. For example, in many cases, bondswomen were forced to breed with multiple bondsmen at their master's command. In other cases, forced separation brought about by the domestic slave trade ruptured, fragmented, and all but destroyed Black families and intimate relations, creating a variety of Black non-monogamous intimacies both in the antebellum period and in the wake of emancipation, prompting careful minds to mull the question, what is Black love if it is something more than monogamous love and marriage?

Drawing on Hunter's notion of the *third flesh*, this article suggests that “Black love” is essentially a non-monogamous notion that indexes intimate caring relationships among Black relata not excluding relationships of erotic love and sex. The third flesh is a conceptual tool that enables reconfiguring the idea that through marriage “two become one flesh” by indexing the superior relationship of master to slave in the antebellum United States. While for Hunter, the

third flesh was formalized through the American institution of slavery, I argue that legal restrictions ensuring marriage's monogamous conditions buttress the surveilling power and authoritative functionality of the third flesh in contemporary American society and ultimately stifle the formation and appreciation of Black love in all of its glory.

This article also makes another argument. If social constructionists about love are correct then the unique history that gives rise to Black love makes it altogether distinct from mainstream notions of romantic love that center a loving subject who is an autonomous and dignified individual. Black love and "romantic love" were shaped differently by racism and America's institutions and practices. In other words, Black love and romantic love are ontologically distinct.

In the next section I offer a discussion of social constructionism and draw a connection between "race" and "love" as social constructs. Section II aims to disambiguate the first conflation, **(a.)** that Black love is synonymous with marriage.. It engages with the notion of *marital shade* put forth by Anika Simpson and Paul Taylor to illuminate the degree that American society is at once amatonormative and mononormative and obscures the recognition of non-monogamous relationships. Section III aims to disambiguate the second conflation, **(b.)** Black love is essentially romantic love among Black relata. In this section, I offer a social constructionist account of Black love. In doing so, I theorize over the third flesh and situate it not as orthogonal, but central to the construction of Black love. This section remarks on Black intimacies in both the antebellum and postbellum periods and troubles Blacks' fitness for romantic love. Ultimately, the section establishes Black love as essentially a non-monogamous notion that indexes intimate caring relationships among Black relata not excluding non-monogamous relationships or relationships of erotic love and sex. In section IV I provide some brief remarks on the relationship between Black love and marital shade and the need to rethink how we theorize these things, before providing concluding remarks in section V.

II. The Void

Questions in the philosophy of love and philosophy of race can be seen as having some things in common. Each of these subdisciplines engage metaphysical questions about the nature of the object(s) they seek to analyze. What is love, Plato asks in the *Symposium*.³ What is race, Charles Mills asks in his metaphysics of race.⁴ These questions have spurred intellectual movements and ontologies that revolve around the belief that love and race are social constructions. When Mills writes that there is "no natural metaphysics" and that "social metaphysics arises directly out of the social histories"⁵, he means that our metaphysical concepts, like love and like race, are products of social expectations, traditions and norms rather than natural, biological distinctions. We cannot explain race or love by appealing exclusively to the features of biology.

Social constructionists urge us to take histories seriously. "Under other circumstances, other worlds, or even in our world at different times," Mills writes, "different lines of demarcation could have been drawn."⁶ If we have any interest in understanding the complex social realities of our world, we must approach history with a keen appreciation for its role in shaping it. This is as true for our attempts to understand race as it is for our attempts to understand love. Across time (and space), societies have been actively engaged in constructing social information and determining its value. Love and relationship theorists have pointed out romantic love's variation

throughout time by indexing its epochal shifts—in some time periods love has been coupled with sex and in others, it has been heralded as a lofty asexual experience; in some societies we find more support for thinking of love as an irrational emotion and in others, it looks a lot like it responds to the reasons we have for loving the object(s) of our love(s).⁷ In contemporary American society, love functions to tacitly shape how we think about which of our intimate relationships are appropriate or desirable—romantic love, we think, is the most suitable basis for marriage. Thus, it is not uncommon to see connotations between love and marriage, though the two are distinct. For example, surely one can be in love and not be married, just as one can be married and not be in love.

There is yet another set of confusions (one to be addressed in this section, and another to be addressed in the next) that we find among Black writers who have, albeit sparingly, set out to theorize or analyze Black love. One is that (a.) they, too, have conflated matters of love and marriage. Simpson was right to point out a void—Black philosophers have not contributed to theorizing the erotic, but specifically Black love, as much as we should have.⁸ When Black scholars have thought about Black intimacies, they’ve exhibited a tendency to frame these discussions in terms of heterosexual marriage, the nuclear family, and Blacks’ ability to achieve it. At the turn of the 20th century, thinkers like W.E.B. DuBois and E. Franklin Frazier were of the mind that legal monogamous, Christian marriage was central to racial uplift for Blacks. And although, at around the same time, Anna Julia Cooper’s work was actively questioning prevailing logics surrounding romantic love that required the self-abnegation of women, monogamous marriage was still near the center of her analysis.⁹ More recently, in an attempt to bring moral philosophy to bear on the intersection of race and love, Mills himself asked whether or not Black men have a moral duty to marry Black women.¹⁰ Another scholar of love and race did something similar more recently when he asked “Is Marriage for White People?”, albeit landing far afield of Mills’ affirmative conclusion toward endogamy.¹¹

My remark on these writers intends to point out the narrowness of their procession on modal monogamy—or the unargued assumption that the only metaphysically possible romantic relationships are monogamous ones.¹² These attempts of filling the void that Simpson has pointed out, are amatonormative—they assume that a dyadic, monogamous (and usually heterosexual) relationship that leads to marriage is a universally shared goal and ought to be aimed at and preferentially pursued in lieu of other relationship types¹³—and in some ways, pollute the ability to ask questions about Black love most perspicuously by smogging the landscape. Contemporary philosophers of love have compellingly argued at length about how centralizing marriage in this way when we theorize about love(s) casts a regulatory shadow on relationships that deviate from the marital norm. In fact, this is what Simpson and Paul Taylor have called *marital shade*.

Simpson and Taylor’s notion of marital shade is useful and important because of the ways it links marriage to antiblack racism and settler colonial forms of sexual citizenship, and it also informs part of the basis upon which my account of Black love rests. They frame their discussion of marriage and race through a conceptual lens of ocularcentrism and metaphoric invisibility, pointing out how appeals to visibility and visibility can highlight features of oppressive racialization. On one hand, in line with thinkers like DuBois and Frantz Fanon, they suggest that appeals to visibility and visibility show “how racialization is mobilized and intensifies the basic dialectical mechanism of human subject formation.”¹⁴ Thus, they validate what racialized subjects experience as watching oneself being watched through the eyes of others. On another hand, they suggest that appeals to visibility and visibility can create

“patterned opportunities for misrecognition” in ways that uphold racist racialized regimes; for example, if we think about racialized phenomenological encounters by appealing to the visual field, then failures of recognition effectively create dimensions of invisibility to the experiencing subject.¹⁵ This is what we mean when we charge others with “not *seeing* me” or “feeling unseen.”

Racialization regimes readies our phenomenological landscape for encountering one another by, quite literally, coloring it. In turn, this enables both racialized recognition failures and deleterious denials of it. These denials, according to Simpson and Taylor, sustain at least four forms of racial invisibility:

- **Denial of presence**- the refusal or failure to accept or register the fact that racialized others do in fact exist in one’s world.
- **Denial of moral personhood**- related to the denial of presence but is particular in how it both accepts the presence of a racialized other but negates their standing as a person—e.g., denying the racialized other the agency to consent or not consent or object to mistreatment.
- **Denial of Perspective**- denial of the possibility or validity of the racialized other having a view on social arrangements worth soliciting and crediting, and that might differ from one’s own.
- **Denial of Plurality**- involves the assumption that race is somehow all encompassing—e.g., “the members of a race can be thought of as a monolithic block, such that differences in gender, sexuality, religion, class, national origin, age, and political ideology neither matter or draw notice.”¹⁶

Simpson and Taylor suggest that these denials are epistemically and phenomenologically problematic—by undermining presence, moral personhood, perspective, and plurality, they target and attack the credibility of one’s standing as a being and a knower. Furthermore, these denials paradoxically situate invisibility with hypervisibility—the humanity of oppressed racialized subjects is scrutinized and obscured precisely due to the hypervisibility of their racialization to a racially perceiving subject. Importantly, these philosophers suggest that these denials are what *give shape* “to white supremacy not simply as an ideology, set of discourses, or a social imaginary, but also as a set of concrete political arrangements in political systems shaped by capitalism.”¹⁷

In the next section, we will see how U.S. mobilization of state mechanisms—and particularly, U.S. marriage—have been used to force African American’s intimate relationships into conformity with U.S. (read as “white”) conceptions of gender and family. By throwing the power of the state behind certain approaches to intimacy and enforcing its preferred models of human intimacy after the U.S. Civil war, the state assigned clear marital stakes to choices about intimate relationships and family structures.¹⁸ Said differently, by functioning to acknowledge relationships that are amatonormative—(and, indeed, that is, *those intimate relationships that can be presumed to be monogamous*)—American marriage enables the possibility for failing to recognize, and thereby failing to *see* certain people, relationships (read as non-monogamous), and communities thus rendering them invisible—lost to the void.

We can meaningfully ask, who is visible and invisible to marriage and under what conditions? To not mince words, who is lost to the void? If marital shade is cast over all intimate Black relationships, it is most obscure and deepest where Black non-monogamy stands. While these philosophers rightly point out the ways that the history of American marriage is intricately

bound up in a history of racism, colonialism, and white supremacy, their analysis lacks due attention to the monogamous condition of marriage as a part of this history. In other words, it's not immediately clear that their analysis avoids a kind of modal monogamy which, of course has implications for what Black love is and what it could be. One acceptable conclusion we find, then, is that Black love might be constructed in ways that deny or otherwise undermine presence, moral personhood, perspective, and plurality of Black subjects.

III. Black Love

a. *A short history*

Recall that social constructionism urges us to take histories seriously (as a way of seeing how culture and tradition shape our social constructions). Simpson and Taylor are aware of the ways that marriage renders Black people, relationships, and communities invisible in ways that the state endorses by throwing state power behind certain approaches to intimacy and family life, and behind the determination not to acknowledge or accept alternative approaches. In establishing this point, they consider the case of *Livingston v. Williams* decided by the Texas Supreme Court in 1890 which determined the inheritance rights of children born to different mothers but sharing the same father.¹⁹ Ironically, however, they stop short of acknowledging the case as being about a kind of non-monogamous intimacy among Black relata. In fact, the presence of non-monogamous intimacies is prevalent throughout the history of slave marriage in the United States both before and after emancipation although Black writers seldom think they are worthy of remark.

Tera Hunter's influential book, *Bound In Wedlock: Slave and Free Black Marriage in the Nineteenth Century*²⁰, and more recently, Dianne Stewart's *Black Women Black Love: America's War on African American Marriage*²¹, have provided rich texture to the evolution of slaves from property to personhood in their narratives tracking the existence of Black intimate relationships in both the antebellum and postbellum United States.²² Regarding the antebellum, their work catalogues how Black relata were forced into non-monogamous relationship structures as a consequence of the domestic slave trade. For example, as Black women's wombs were treated as lagniappes as "Ultimately, it didn't matter who impregnated her; the enslaved woman's womb was a 'capital asset' that the slaveholder could rely on in his wealth building plans."²³ As a result, as common practice, slaveowners in the antebellum period often forced bondswomen to breed with various male slaves in ways that straightforwardly fly in the face of what we recognize as modern monogamy. Darlene Goring adds emphasis to this point when she writes, "It is no secret that slaveowners routinely engaged in force as well as consensual sexual relations with slave women, notwithstanding [their own marital status nor] the marital status of women."²⁴ Thus, intra- and interracial non-monogamies in the U.S. have developed since the 1800s.

Not every non-monogamy in the antebellum period was a matter of depressed agency in this kind of way. Some non-monogamies seemingly involved an exercise of agency. Consider the following passage from Stewart quoting the spouse of a bondswoman named Laura Spicer:

Please get married as long as I am married... it was never our wishes to be separated from each other and it was never our fault... The woman is not born that feels as near to me as you do. You feel this day like myself Laura. I thinks of your and my children every day of my life. Laura, I do love you the same. My love to you never hath failed. Laura, truly, I've got another wife and I am very sorry, that I am. You feels and seems to me as much of my loving wife as you ever did Laura.²⁵

Although we know that Laura and her husband were separated against their volition—the denial of moral personhood—the passage reveals the complexity of understanding things like choice and consent around America’s earliest Black non-monogamies. It also, however, establishes a basis for the possibility of what one contemporary scholar has termed *polyaffectivity*, or simultaneous intimate relationships between folks who are emotionally intimate but are not necessarily sexually connected.²⁶ Stewart’s work goes further as it catalogs how these non-monogamous dynamics were inherited by the postbellum Reconstructionist state. She writes:

Unexpected love triangles and other prickly scenarios presented themselves in the immediate post-war years for many. In some instances, Black women resolved such surprises by choosing to remain married to the same man, not necessarily as co-wives but as co-mothers. After months “making her way” from Alabama to South Carolina to be reunited with her husband and children lost to her through the domestic slave trade, Dorcas Cooper was satisfied to remain in a polygamous relationship when she recognized how well her husband’s new wife had taken care of her children... Cooper, in fact, “liked” her husband’s second wife, Jenny “and would not let anyone say anything against her.”²⁷

Despite the role played by the institution of slavery for designing intricate polygamous unions among Black folks in America, historical record shows Freedman’s Bureau agents extending little regard for these relationships. Bureau agents believed that any arrangement that deviated from monogamy contaminated marriage while positioning Black women and children to become state dependents—a rationale reflected in Ronald Regan’s 1976 presidential campaign which cast Black women as “Welfare Queens”—as one agent recounted “Whenever a negro appears before me with 2 or 3 wives who have equal claim upon him,... I marry him to the woman who has the greatest number of helpless children who otherwise would become a charge on the bureau.”²⁸ Thus, during the Reconstruction Era, marriages were forced upon Black intimacies not motivated by a desire to secure Black families and romantic relationships but to ease the burden they feared indignant Black women and children would place on the state.

Other legislative barriers and penalties were raised for Black non-monogamists as well. In Georgia, the “Act to prescribe and regulate the relation of Husband and Wives between persons of color” instructed Black folks with two or more spouses, to select *only one* to marry “immediately after the passage of this Act by the General Assembly... If such man, thus living with more than one woman, or such woman living with more than one man, shall fail or refuse to comply with the provisions of this section, he or she shall be prosecuted for the offense of fornication, or fornication or adultery, or, fornication and adultery, and punished accordingly.”²⁹ Suffice it to say, the blatant disregard of these Black non-monogamous unions, as Black historians explain, created vast material disparities, for example in their capacities to build wealth or sustain families.

b. The Third Flesh

Whether genuinely chosen or begotten by force, non-monogamous Black intimacies and family structures are at the heart of Black family formation and the construction of Black intimacies. I suggest that the passages from Stewart provide support for the thought that, whatever our construction of Black love in America, what Tera Hunter calls the *third flesh* is essential to it. The third flesh is a kind of reconfiguration of the idea that, in marriage and marriage-like relationships, two become one flesh because it indexes the ever-present superior relationship of master—the third flesh—to slave. Black non-monogamous intimate relationships

during and after slavery were subject to interference and control by superior external forces—whether master or state—thereby rendering “normal” monogamous Black intimacies virtually impossible. Many Black intimacies were fragmented, broken, and non-dyadic. Said differently, marriage and marriage-like relationships for them was not an inviolable union between two people, but an institution defined and controlled by the superior relationship of master to slave.³⁰

Remarkably, Blacks developed a range of relationships in response to the presence of the third flesh in their relationships. When they chose to enter into intimate relationships, they did so on a spectrum that ranged from openly acknowledging their vulnerability and defining them in more informal and short-lived terms. The gradations of intimacy they generated were therefore, quite complex and illegible to those evaluating them through conventional lenses of heterosexual marriages. Importantly, included among these intimacies was what they called being “sweethearts”—“a short-term connection adopted by young people and those who were unable to claim any semblance of a stable life, often as a result of being sold or moved around often. They were essentially lovers and not necessarily monogamous.”³¹ Typically, Black *relata* engaged in a succession of marriages and partnerships throughout their lives as death and distance intruded their needs for caring companionship. The noxious effects of enslavement included the existence of a number of bigamous relationships for enslaved persons existing amid relationships with unauthorized beginnings and inexact endings.

Hunter goes into some detail, although not as much as Saidiya Hartman³², to describe literal, physical intrusions of the third flesh which “violated the marriage bed in its most extreme forms.”³³ The third flesh is also a useful heuristic for describing the force of anti-black surveillance after the Civil War by state agents such as the Freedmen’s Bureau or codified laws aimed at Black intimacies. Although, for Hunter, the presence of the third flesh was formally removed from the equation of Black intimate relationships when the War ended, I maintain that it was merely transmuted—the content changed but the patriarchal form of surveilling Black intimacy was buttressed by U.S. law. In the landmark cases establishing precedent for U.S. anti-polygamist resistance, racist reasoning was upheld. For example, in the influential case of *Reynolds v. United States*, the court reasoned that pluralistic intimacies were “odious among the northern and western nations of Europe,” and were “almost exclusively a feature of the life of Asiatic and African people.”³⁴ One legal scholar interprets the court’s opinion as implying that “polygamy was natural for people of color, but unnatural for White Americans of Northern European descent. When Whites engaged in this unnatural practice, antipolygamists contented, they produced a ‘peculiar race.’”³⁵ Despite the power that the United States Supreme Court has to expand its definition of marriage to include multiple persons without acting unconstitutionally, it has not tried a case on plural marriage since the 19th century. At the time of this writing, the *Reynolds* decision is still cited as the prevailing rationale against plural marriage.

Thus, the presence of the third flesh, in my view, registers Black love as essentially a non-monogamous notion as Black intimacies have not stepped out of the regulatory shadow cast over them by marriage. Said differently, the third flesh has implications for contemporary Black love and reveals the second confusion that we find among Black writers who’ve written about Black love (**b.**) as a kind of “romantic love” among Black *relata*. It is not. Black love and romantic love are ontologically distinct.

Many philosophers of romantic love in the West proceed from and on analyses that treat romantic love like an a priori phenomenon. Those at Plato’s *Symposium*³⁶ (and several philosophers since) think about love in its most perfect form—abstracted away from the

messiness of how this ideal is ubiquitously frustrated when it is experienced among embodied creatures like ourselves. As modern categories of ‘race’ were being constructed during the age of Enlightenment, how people thought about love also began to shift. Enlightenment brought with it a valorization of values—liberty and autonomy being premium among them. Stephanie Coontz notes that it was not until the 18th century when people began to adopt the radical new idea that romantic love should be the most fundamental reason for marriage and that people should be free to choose their partners on the basis of love.³⁷ Thus, the idea of free choice became central in thinking about romantic relationships. The prioritization of free choice in romantic relationships presupposes the existence of subjects to who are discrete, rational, and sovereign. Romantic love became dependent on symmetry and autonomy between persons.³⁸ Thus, many accounts of romantic love today center a subject that is strong, autonomous, and sovereign; vulnerable to let the other in, yet secure enough in itself to be free of jealousy—self-sufficiently able to recognize another’s need but equally able to demand generosity.³⁹ The third flesh grants Black love and Black lovers no such luxury.

The history of racism in U.S. marriage and its persisting legacy has given way to a social ontology and thereby, a social metaphysics that inevitably colors the lived experience of racialized subjects. “Black” as a qualifier on “love” warrants a nuanced investigation that takes serious stock of this fact. Black feminists have been saying all along, for example, that “Black women’s issues” are not simply a combination of “Black issues” and “women’s issues,”⁴⁰ but instead they are concerns that are altogether distinct from either; giving rise to a kind of analytical distinction that emerges from the uniqueness of their ontological, social, and political standing of being both Black and woman. Similarly, when it comes to Black love, we cannot simply add “Black” to “romantic love” and stir; it ain’t that kind of concoction. Black love is not additive. It is analytically distinct from the notion of romantic love that has come to be situated centrally in the philosophy of love.

IV. Marital Shade and Black Love

I wish to offer a brief commentary on the relationship between marital shade, Black Love, and what Stewart calls *forbidden Black Love* or “the manifold structures and systems that make prosocial romantic love, coupling, and marriage difficult, delayed, or impossible”⁴¹ for Blacks in America. However, instead of asking, as Stewart does, why African Americans are not doing better with marriage, we might ask instead, why marriage isn’t working for African Americans. In my view, Black love is essentially a non-monogamous notion. When Black love scholars proceed on theorizing Black love only in relation to, say “the marriage gap,” they extend the marital shade casted over it and inadvertently forbid it further. They don’t consider, for example, the possibility that Black love could be non-monogamous. To be clear, I am not saying that we cannot find Black love existing among Black intimate relationships that are dyadic—that is, made up of two and only two sentient beings marked as Black. I am saying that analyses of Black love that centralize those Black intimacies that are amatonormative and mononormative are at best incomplete, and at worst woefully misguided inquiries into the nature of Black love.

Taking the non-monogamous structure of Black love seriously might result in the development of more thoroughgoing research into what Black non-monogamists—such as Black polyamorists—can teach us about Black love. For example, we might learn how radically honest communication (including conversations about our extra-dyadic desires and interests) and the deconstruction of our desires to possess the beloved contribute to helping Black intimacies flourish. In the shadows of marital shade, Black non-monogamies are positioned

where invisibility aligns with a kind of hypervisibility. Said differently, Black love scholars are not shy to discuss infidelity, cheating, and otherwise non-monogamies whose bases are ethically questionable. When Black non-monogamies appear in the work of scholars of Black love and marriage, therefore, they are often cast as the demonized opposite of Black intimacies that are dyadic and monogamous—as intimacies that should be avoided and are illegitimate candidates for Black love. Ironically, however, in my view, Black love is essentially a non-monogamous notion. Instead of treating them shadily, what might we learn about Black love if we recognized Black non-monogamous intimacies as critical sites of knowledge production? How might these critical epistemologies emerging from considerations of racialized non-monogamous Black intimacies enrich our understanding of what Black love is and the degrees to which it is forbidden?

If we are set on questions of Black civil rights, and marriage rights are a part of that picture, then the nature of Black love probes us to think about how the connections between amatonormativity, mononormativity, and white supremacy transmute and extend anti-Black oppression. Furthermore, we should be most perspicuous in asking questions about the possibility for harm and injustice if the institution’s monogamous condition is left intact.

Critical non-monogamous and critical polyamory theorists have recently begun making some way on these questions.⁴² One scholar has pointed out how marriage interacts with race-based gendered oppressions for non-monogamists, including how it generates moral harm.⁴³ Another has been critical of monogamous marriage’s history of colonialism and race-based violence aimed at the destruction of indigenous peoples and families.⁴⁴ Building on the work of these thinkers will be imperative going forward in anti-racist and decolonialist struggles for liberation.

V. Conclusion

In this paper I argued that Black love is essentially a non-monogamous notion and that it is ontologically distinct from the notion of romantic love. Generally, there is a dearth of literature in philosophy and elsewhere that focus on the nature of Black love. Where Black love has appeared, I showed how Black scholars commit two common confluences—they conflate Black love with marriage and they conflate Black love with romantic love.

I argued that Black love, like “race” and “romantic love” are social constructions which is to say that they are products of social expectations, traditions and norms rather than natural, biological distinctions. This tradition prods us to take histories seriously when thinking about our social metaphysical landscape. Romantic love and Black love have distinct histories—the former centralizes a subject that is sovereign and autonomous, the latter’s sovereignty and autonomy is compromised by the third flesh. Whereas the presence of the third flesh—or the superior relationship of master to slave—was introduced as Black intimacies were being constructed in America, I maintained that it was transmuted—the content changed but the patriarchal form of surveilling Black intimacy was buttressed by U.S. law. These considerations establish a social ontological distinction between romantic love and Black love.

The third flesh renders the construction of Black love an essentially non-monogamous notion. Instead of asking, as some Black scholars have, why African Americans are not doing better with marriage, we might ask instead, why marriage isn’t working for African Americans.⁴⁵ Considering the non-monogamous nature of Black love might lead to new insights around the ways that, taking a note from Dianne Stewart, Black love(s) is forbidden in American society and the mechanisms that are routinely employed to obscure them. I showed, for instance, the ways

that American society is amatonormative and mononormative. So, we might reasonably ask if and how these pressures harm Black intimacies, and in some cases, preclude the formation of Black intimacies that deviate from amatonormative and mononormative scripts such as Black polyamories. Are Black lovers owed anything for having endured these historical and ongoing harms? Pressing though these questions may be, for the sake of space, however, they must be left for another day.

¹ Anika Simpson, “Black Philosophy and the Erotic,” *The Black Scholar* 43, no. 4 (2013): 74.

² Tera Hunter, *Bound in Wedlock: Slave and free black marriage in the nineteenth century* (Cambridge: Harvard University Press, 2017); Dianne M. Stewart, *Black Women, Black love: America’s war on African American Marriage* (New York: Seal Press, 2020).

³ John M. Cooper and Douglass S. Hutchinson, *Plato: Complete Works* (Indianapolis: Hackett Publishing, 1997).

⁴ Charles Mills, *Blackness Visible* (New York: Cornell University Press, 2015), 41-68.

⁵ Mills, *Blackness Visible*, 48.

⁶ Mills, *Blackness Visible*, 48.

⁷ Anne E. Beall and Robert J. Sternberg, “The Social Construction of Love,” *Journal of Social and Personal Relationships* 12, no.3 (1995): 417-438.

⁸ Simpson, “Black Philosophy”.

⁹ Vivian M. May, “Anna Julia Cooper’s Black Feminist Love-Politics,” *Hypatia* 32, no.1 (2017): 42.

¹⁰ Charles W. Mills, “Do Black Men Have a Moral Duty to Marry Black Women?,” *Journal of Social Philosophy* 25 (1994): 131-153.

¹¹ Ralph Richard Banks, *Is Marriage For White People?: How the African American marriage decline affects everyone* (London: Penguin, 2011). Banks’ solution to the “marriage problem” is to suggest that Black women should seriously consider marrying white people—and white men particularly. He’s doubled down on this position in 2022. It is worth noting that on a cultural level, this politic has been endorsed by influential celebrities such as Kanye West.

¹² C. S. I. Jenkins, “Modal Monogamy,” *Ergo, An Open Access Journal of Philosophy* 2, no.8 (2015).

¹³ Elizabeth Brake, *Minimizing Marriage: Marriage, Morality, and the Law* (New York: Oxford University Press, 2011).

¹⁴ Anika Simpson and Paul Taylor, “Marital Shade: Studies in Intersection Invisibility,” *Philosophical Topics* 49, no. 1 (2021): 47.

¹⁵ Simpson and Taylor, “Marital Shade,” 47.

¹⁶ Simpson and Taylor, “Marital Shade,” 49.

¹⁷ Simpson and Taylor, “Marital Shade,” 50.

¹⁸ Simpson and Taylor, “Marital Shade,” 50.

¹⁹ Simpson and Taylor, “Marital Shade,” 56. Describing the case, they write, “At issue in this case was a conflict of inheritance rights over property owned by Moses Livingston upon his death. Prior to emancipation, Moses joined Fannie in a slave marriage, while both were the property of Philip G. Smith. Moses and Fannie cohabited as a married couple for close to fifteen years (1850-1865) and birthed an indeterminate number of children in those years. Within this time period, Moses also lived with another enslaved woman on the Smith plantation, Malinda. The relationship between Moses and Malinda was not sanctioned by their owner. An indeterminate number of children were produced by Moses and Malinda. Moses and Fannie lived together until fall 1865 and then cohabited intermittently until Fannie’s passing in 1872. Malinda and Moses cohabited until Malinda’s passing in 1876. Upon Moses’ death, a lower court ruled that the living arrangements of Moses, Fannie, and Malinda left Moses and Malinda’s remaining living child, George Livingston, without any entitlement to inherit any property from the Moses estate. The Texas Supreme Court upheld the lower court’s ruling that George was not Moses’s legitimate heir. According to the ruling, the Texas Supreme Court determined that the Texas legitimation statute was not applicable to slave children whose parents lived together without the express intention of entering into a marital union of husband and wife.”

²⁰ Hunter, *Bound in Wedlock*.

²¹ Stewart, *Black Women Black Love*.

²² Darlene Goring also tracks this evolution nicely in her paper, “The History of Slave Marriage in the United States,” *J. Marshall L. Rev.* 39 (2005): 299.

²³ Stewart, *Black Women Black Love*, 27.

²⁴ Goring, “Slave Marriage,” 311.

²⁵ Stewart, *Black Women Black Love*, 64.

- ²⁶ Elisabeth Sheff, “An Introduction to polyamory: definitions, terminology, and details,” *SSTAR 2007: 32nd Annual Meeting* (2007): 61.
- ²⁷ Stewart, *Black Women Black Love*, 65-66.
- ²⁸ Stewart, *Black Women Black Love*, 64.
- ²⁹ Stewart, *Black Women Black Love*, 68.
- ³⁰ Hunter, *Bound in Wedlock*. 6.
- ³¹ Hunter, *Bound in Wedlock* 31.
- ³² Saidiya Hartman, *Scenes of Subjection: Terror, Slavery, and Self-Making in the nineteenth-century America* (New York: Oxford University Press, 1997).
- ³³ Hunter, *Bound in Wedlock*, 41.
- ³⁴ “Reynolds v. the United States,” Legal Information Institute, Cornell Law School, accessed February 11, 2023, <https://www.law.cornell.edu/supremecourt/text/98/145>.
- ³⁵ Martha M. Ertman, “Race Treason: The untold story of America’s ban on polygamy,” *Colum. J. Gender & L.* 19, (2010): 289.
- ³⁶ Cooper and Hutchinson, *Complete Works*.
- ³⁷ Stephanie Coontz, *Marriage A History: How Love Conquered Marriage* (London: Penguin, 2006): 5.
- ³⁸ Diane Enns, *Love in the Dark: Philosophy by Another Name* (New York: Columbia University Press): 6.
- ³⁹ Enns, *Love in the Dark*, 7.
- ⁴⁰ Kimberle Crenshaw, “Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color,” in *Critical Race Theory: The Key Writings that Informed the Movement* ed. Kimberle Crenshaw, Neil Gotanda, Gary Pepper, and Kendall Thomas (New York: The New Press), 357-383.
- ⁴¹ Stewart, *Black Women Black Love*, find p. (chapter 1)
- ⁴² Ruby Bouie Johnson, ed., “Black and Polyamorous,” Special Issue, *Journal of Black Sexuality and Relationships* 6, no. 2 (2019); Nathan Rambukkana, *Fraught Intimacies: Non/Monogamy in the Public Sphere* (Vancouver: University of British Columbia, 2015).
- ⁴³ Justin Leonard Clardy, “‘I Don’t Want to be a Playa No More’: An Exploration of the Denigrating Effects of ‘Player’ as a Stereotype Against African American Polyamorous Men,” *An Alizé: Revista de studii feministe* 11, (2018): 38-60; Justin Leonard Clardy, “Toward a Progressive Black Sexual Politics: Reading African American Polyamorous Women in Patricia Hill Collins’ Black Feminist Thought,” in *The Routledge Companion to Romantic Love*, ed. Ann Brooks (Onfordshire: Routledge, 2021): 153-161; Justin Leonard Clardy, “Monogamies, Non-monogamies, and the Moral Impermissibility of Intimacy Confining Constraints,” *Journal of Black Sexuality and Relationships* 6, no. 2 (2019): 17-36.
- ⁴⁴ Kim TallBear, “Making love and relations beyond settler sex and family,” in *Queerly Canadian: An introductory reader in sexuality studies* ed. Scot Rayter and Laine Hapern Zisman (Toronto: Canadian Scholars): 145.
- ⁴⁵ For an interesting discussion of this question interested readers should see Robin A. Lenhardt, “Marriage as Black Citizenship,” *Hastings IJ* 66 (2014): 1317.