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Maternal Sin and Salvation *Child Protective Services and the Policing of Mothers' Sexual Behavior*

In the U.S., child protective services (CPS), a large welfare bureaucracy run on a county level, is empowered to investigate allegations of child abuse and neglect and to determine whether a child can safely remain in the home or must be removed. Over three million children in the U.S. each year are reportedly abused or neglected with over one million of those reports substantiated (Peddle and Wang). Once an allegation has been substantiated, a case is opened and children will either be removed from their homes or remain home with surveillance by social workers. At this point, the family—usually female headed—ceases to be private and gives way to unprecedented levels of public scrutiny. Should parents wish to regain custody of their children, the dependency court will attempt to reform the parents through the provision of services such as drug testing or treatment, counseling, anger management, parenting classes, or housing referrals. Parental behavior will be monitored by a social worker who is expected to coordinate services and to report the details of parental behavior and levels of compliance to the court. Yet becoming an appropriate mother in the eyes of the state requires more than compliance with services. Mothers must demonstrate their commitment to mothering and to their relationship with their children above all other relationships. A mother's willingness to forego sexual relationships with men will immeasurably influence whether or not she is able to regain custody of her children.

This paper looks specifically at the ways in which women's sexual relationships with men become central to assessments of their ability to mother. Using examples from specific cases, I argue that dominant ideologies of ideal womanhood are deployed to demand a mother's chastity and self-sacrifice. While the policing of mothers' sexuality has been a fixture in U.S. public welfare policy, a current manifestation of this uses sexuality as a litmus

test for a mother's commitment to her children.

Sites and methods

Under U.S. federal law, absent a dozen circumstances, parents must be given an opportunity to reunify with their children.¹ Most often, counties comply by providing services to biological parents who wish to reunify with a child. The goal of these services is to reduce the risk identified so that a child can safely return and remain at home. Because a child's family life has been determined to be unacceptable, a significant focus is placed on reforming parental behavior.

I gathered data using participant observation, interviews, policy analysis, and fieldwork. For over two years, I attended high-level county committee meetings, focused on reformulating policy. Additionally, I accompanied social workers as they investigated allegations of child abuse and neglect and determined whether children should be removed from their parents, and social workers in charge of coordinating reunification services and making recommendations regarding case outcome to the court. I observed confidential dependency court proceedings and followed cases in court for more than a year. I discussed cases and case histories with attorneys representing the children, the parents, or the county, and sat in on meetings between attorneys and parents. I also interviewed parents whose children had been removed by CPS and who were attempting (or had attempted) to reunify with them. At each stage, the looming question is whether a child should be returned to parents, placed in long-term care, or freed for adoption.

Idealized motherhood deployed

For women, the ability to become an acceptable mother requires her conformity to externally applied definitions of mothering. While the dominant ideology of motherhood has been widely critiqued (Fineman, 1995; Hanigsberg and Ruddick, 1999; Hoffnung, 1989; Ladd-Taylor and Umansky, 1998; Rich, 1976; Roberts, 1999a; Rothman, 1989; Tice, 1998), this construct goes virtually unquestioned in the CPS system. Instead, women in the CPS system are encouraged to embrace these tropes. This idealized version of appropriate motherhood requires a woman to become self-sacrificing, chaste, and able to demonstrate that her children are the center of her life. As Smart (1991) observed, "A good mother is always available to her children, she spends time with them, guides, supports, encourages, and corrects as well as loving and caring for them physically. She is also responsible for the cleanliness of their home environment" (cited in Kline, 1995: 119). Mothers are sexual only when tied to men to whom they are married (Fineman, 1995).

In contrast to the archetypal good mother, the bad mother includes "those that did not live in a 'traditional' nuclear family; those who would not or could not protect their children from harm; and those whose children went wrong" (Ladd-Taylor and Umansky, 1998: 3). As Appell writes of CPS mothers, "Bad

mothers are the mothers who get caught” (1998: 357). This is therefore a study of women who have been legally identified as bad mothers. By the time they reach the reunification stage, a mother’s culpability is no longer in question. A court, using a low legal standard of preponderance of the evidence, has found her to be responsible for the harm that befell her child. The mothers in this study—like most of the parents in the CPS system—are poor and overwhelmingly lack formal education. Their lack of resource and education further contributes to the defining of incompetent mothering. While no data are collected about the ethnic background of mothers, at least 60% of children in foster care are from racial or ethnic minority groups, with African-American children comprising the largest ethnic minority (DHHS; NCCANCH). Women of color are not the only ones who mother children of color (Funderburg, 1994; Ladner, 1997; Lazarre, 1996; Macey, 1995; McBride, 1996; Reddy, 1997; Reich, 2002; Twine, 1997). In fact, two of the white women discussed in this paper mother children who have Latino fathers. Nonetheless, the overrepresentation of minority children in the CPS system suggests an overrepresentation of women as color as well. While definitions of good motherhood are racialized, the expectations placed upon mothers who are attempting to reunify with their children are not significantly different based on race or ethnicity. Once in the system, concerns about women’s sexual behavior are similarly applied.

Policing women’s sexuality

Fineman suggests that “single motherhood as a social phenomenon should be viewed by feminists as a practice resistive to patriarchal ideology, particularly because it represents a ‘deliberate choice’ in a world with birth control and abortion” (1995: 125). Should we accept Fineman’s argument that single motherhood represents a choice, then it can also be argued that the very existence of their children demonstrates that poor mothers lack the necessary morality to be mothers. Solinger points out that “in the nascent era of ‘choice,’ poor women who had children could be tagged as bad choice-makers, as ‘morally depraved,’ and targeted for child removal” (2001: 260). Out-of-wedlock births bring immoral sexuality into focus while poor women who bear children are additionally considered irresponsible. Indeed both of these issues were the main targets of the 1996 U.S. welfare reform act and justify further surveillance of bad mothers (Edelman, 1997; Joffe, 1998; Mink, 1995; Roberts, 1999b).

The monitoring of mothers’ sexuality by welfare officials is not new; a mother’s sexual behavior has been the centerpiece in assessments of her morality since the inceptions of social work. Tice’s analysis of early child welfare workers in the progressive era demonstrates this. She argues,

Charity organization society workers and their progeny became preoccupied with women’s sexual morality and misconduct. They

revised the long tradition of efforts to rescue and protect indigent and immigrant women that had directed much of the work done in evangelical maternity homes and protective residences for working women. Instead, they focused upon saving society from “morally tainted” women and girls thought to be capable of “infecting its members with a moral evil more hideous than physical disease.” (1998: 30)

Starting in the early 1950s, welfare workers used a “man-in-the-house rule” to deny women welfare benefits. Trattner explains that under this policy, “widely adopted at the time, the presence of a man automatically made a home ‘unsuitable’ and was considered evidence that financial need did not exist, regardless of who the man was, his economic situation, or his relationship to the family” (1994: 311). Similar surveillance techniques have been used in Canada by what Little and Morrison refer to as “pecker detectors” (1999). In the U.S., the prohibition on having a man around was enforced by welfare agencies through the use of “midnight raids.” These unannounced searches, carried out without a warrant, were common practice until the United States Supreme Court declared them unconstitutional in 1968 (Piven and Cloward, 1993; Trattner, 1994). As a result, the man-in-the-house rule cannot be used in the U.S. to determine eligibility for welfare benefits. However, matters of child protection allow social workers to investigate cases where a child is believed to be in danger. The presence of men not related to the child—most acutely those with a criminal history, particularly relating to illegal drugs, violence, or driving under the influence—are seen as indicators of likely maltreatment and appear on most CPS risk assessment tools as red flags. As one investigating social worker told me, “we still use the man-in-the-house rule. It’s just us now,” rather than the eligibility workers.

Once the courts remove a child from a home, a woman—now defined as a bad mother—must demonstrate her ability to make good motherly decisions. During the reunification process, women are strongly discouraged from developing or continuing relationships with men. While official policy does not explicitly ban intimate relationships, judges, social workers and attorneys advise against relationships because men are often seen as dangerous to children, making it difficult for children to return home. The courts are also concerned that boyfriends often derail women’s reunification efforts, particularly when the man is not the child’s father and is therefore not invested in the case outcome. Of course, not all men are of concern to CPS. Men who are married to the mothers of their children, so long as they have not caused the harm that befell the child, are of less concern. The men who are identified by CPS as unsafe for children have histories of criminal behavior, lack consistent employment, and are likely to be somewhat transient in lifestyle. These men typically do not support the household financially, nor present themselves as committed to protecting children from harm, most acute when the men are not

related to the children. I observed several cases where men not only failed to contribute materially, but were supported by a mother's meager public assistance grant. As the CPS system looks to identify men who pose a risk to children, poor men are almost exclusively identified. Criminal history weighs heavily in assessments of the appropriateness of men as well. Men of color, who are more likely to have a criminal history because of the significant racism in the criminal justice system, are also more likely to be perceived as a threat to a mother's bid for her children. While these policies affect men of color, there are many cases where poor white men were banned from the homes of women in the CPS system. Logically, these are the men CPS mothers who are overwhelmingly poor and disproportionately women of color are likely to meet. However, this is not a fact the CPS system officials take into consideration.

Part of the motherhood mystique is the requirement that mothers must prioritize their relationship with their children above all others. This cultural expectation becomes a legal mandate for mothers involved with CPS. Many women are not willing to abandon companionship while undergoing reunification. This often leads to elaborate attempts to hide relationships and living arrangements. For example, I observed a case where a child was removed from his African-American mother after his stepfather inappropriately disciplined him. During the period of reunification, they were each ordered to attend parenting classes and counseling and were ordered to remain apart. Despite court orders to the contrary, the mother attempted to still see her husband, a fact that was brought to the attention of the judge during a hearing to assess progress. The mother explained that her husband was not living at her house, but with his mother and that he simply came by once in a while to visit. The judge exploded, stating, "I am not going to play games with you over the meaning of the word 'live!'" adding that he believed that in fact the husband was sleeping over. The judge, a former probation officer, explained that if there were positive reports from counselors, he would relax the court orders, but if the reports were not positive, "I don't care how long you've been married, I won't allow him there."

Whether her husband stayed with her or not is largely irrelevant while her son was in foster care placement. Nonetheless, the mother's choice to allow her husband to "visit" was at issue because it suggested a lack of compliance with a court order. Her attempts to conceal her relationship communicated a larger message about her priorities. Because her desire to maintain a relationship with her husband is in opposition with her ability to regain custody of her son, her actions suggest to the court that she is unwilling to sacrifice her own desires for the good of her son. She therefore fails to perform the duties embodied in the good mother.

The binary between sexuality and self-sacrifice is not inconsequential. A mother's willingness to accept the prescribed chastity, as embodied in the image of the good mother, determines her case outcome. To demonstrate the significance of this, the following section compares two cases: one in which a

mother regained her child and one in which a mother did not. By comparing the cases of Audrey, who successfully reunified with her daughter, and Mary, whose parental rights to her three children were terminated, we can clearly see how a woman's sexual behavior can determine whether or not she can remain a mother.

Audrey

Audrey, an attractive 19-year-old white woman, entered CPS when police executed a search warrant and seized large quantities of drugs and cash that were part of her 27-year-old live-in boyfriend's side business. At the time of the seizure, their four month-old daughter was placed in protective custody and Audrey and her boyfriend were arrested, though criminal charges against her were eventually dropped. Her boyfriend was sentenced to four years in jail, with the possibility of only servicing half of his sentence. As an undocumented Mexican immigrant, he would be deported upon his release. In addressing the issues remaining for the dependency court, Karen Klein, the attorney appointed to represent her infant daughter on the case, was uncharacteristically sympathetic explaining that "it appears this mother was dating the wrong person... This is not to say that she isn't to blame; she did have drugs in her home." The judge felt less kindly towards Audrey. He stated,

I find it hard to believe you were just dating the wrong man as Ms. Klein said. I find it hard to believe you didn't know... That doesn't mean you use [drugs] and it doesn't mean you aren't a good mother to this child. I would suggest you will be given an opportunity to reunify with your child and I want you to take it seriously. I don't think you are totally innocent in this situation.

After the case concluded, Karen and I discussed her position. She explained to me that she would "love to be that mother's counselor." She explained that she had pulled Audrey aside and told her that she needs to "find out who Audrey is ... not as a mother, not as a girlfriend" but on her own. As her daughter's attorney, she again takes it for granted that she will discover a greater commitment to mothering without a boyfriend present. She said that Audrey said that sounded good and said that she did not intend to have any more boyfriends. Most likely, Audrey's appearance as a young, white, attractive woman allowed Karen, a young white woman, to identify with her.

As Audrey recounted the same conversation to me, she explained that Ms. Klein had doubted her resolve to avoid new relationships with men. Audrey explained,

Well [my daughter's] lawyer, she's like, "Well, you will; you're just in shock." And I'm like, "No. All I want to do is work and take care of my daughter and that's that." And that's all I do now. I work and come home and take

care of her. I don't have time to go out with someone else. I don't see it happening. If it did, it did. But I don't see it happening. I'd feel too guilty towards my daughter. I'd feel too bad bringing other men around.

Audrey provided answers to Karen that indicated she was willing to sacrifice her own social needs for the good of her daughter and that she aspired to, for the first time, provide materially for her child. The absence of her incarcerated boyfriend and her vow to wait for him created the image of a mother willing to forego relationships. In discussing her plan, she explained, “two years is just fine for me. I can do it by myself.” The incarceration of her boyfriend forced her to claim a sense of independence. Audrey’s acceptance of her need for independence made her an appropriate mother in the eyes of the CPS system. She convinced Karen Klein who, like most children’s attorneys, almost never recommends reunification, that she was reforming. She seemed to embrace her newfound self-reliance in a way that was palatable to the courts. Most importantly, she reiterated her intentions to avoid relationships with men. She also regained custody of her daughter within seven months of the initial case, with unsupervised visitations granted almost immediately. In contrast to Audrey’s willingness to forego a relationship and focus on caring for her child, Mary’s case demonstrates the failure women experience when they choose differently.

Mary

Mary, a white woman in her early 30s, was slow to begin her reunification services following the removal of her three children when her youngest was tested positive for methamphetamines at birth. A year into her case, she became motivated and entered a church-run residential drug treatment program. After completing the one-year program as a model client, Mary stayed on as a group leader and mentor to others. The role gave her a source of positive feedback and a sense of accomplishment. While in the program, she met Dennis, a man with a long criminal history of possession of drugs and drug paraphernalia and of drug dealing. Without telling the program leaders, her social workers, or her attorney, Mary and Dennis were married. While this created an issue for her service providers at the program, it was a crisis for her CPS case. Because Mary was beginning the process of having her children returned to her, she initially attempted to hide the marriage. Months later, she did approach her social worker to ask that she give Dennis his own case plan; the social worker, feeling betrayed by Mary, refused. Additionally, the social worker explained that her case was more than 18 months old, approaching the legislatively determined limit for reunification, and that she was not willing to start over with someone else. This situation singularly changed Mary’s case from one where reunification was likely to one where she was about to lose her children permanently.

The day before the hearing to determine whether Mary’s reunification services should be terminated, the last step before termination of parental rights

is decided, Mary filed for a legal separation from Dennis. Her attorney argued emphatically on her behalf. "By all accounts, this is a mother who is capable of parenting. She is willing to put aside her relationship with Dennis. She is late but she has done it. She has been very blunt about her relationship since... it came out. She has no intention of reuniting with him." His efforts to convince the court of the permanency of their separation were belied by Mary's visibly pregnant belly.

In giving his ruling to terminate her reunification services, the judge addressed Mary directly.

You have done a lot of work but it's been three years. I can't send them home. You made a fatal error in judgment when you got up to the 18 month hearing in March and got involved with and married someone who is clearly inappropriate for these children. He has a long history of substance abuse, like their fathers. It is not about now that you're separated... You made a poor choice to get involved with a man while you are fighting with what I would assume is everything you've got. It was a poor choice. You've had lots of time and you've come a long way. But even giving you the benefit of what you've done, we don't have time. These children are entitled to go on with their own life. I won't fault [the social worker] for not developing a relationship with Dennis. He shouldn't have been a factor.

While Mary's involvement with a bad man was a key aspect of her case, her willingness to commit energy to a new relationship was perceived as a lack of commitment to her children. Mary did not reunify with her children who were adopted by their foster parents: her oldest son by his paternal aunt and her younger two children by a wealthy white lesbian couple. Mary's case is indisputably sad. While no one, including her social worker who supervised visitations with between her and her children, doubted her capacity to mother, she was not able to demonstrate a totalizing commitment to her children. Her unwillingness to suppress her own sexuality when she met Dennis, a need that led to her relationship with him, showed her lack of maternal sacrifice. What happened after she became involved with Dennis was almost irrelevant. In the court's view, if after eighteen months of working to reunify with her child she could be derailed from actualizing ideal motherhood, there was little reason for the court to believe that she would be more committed to her children if returned to her. Mary failed to reform. By contrast, Audrey began to conceive of herself as wholly committed to her daughter. She declared a lack of interest in men, thereby communicating her new commitment to motherhood.

Sexuality and the suspect mother

Until now, I have argued the centrality of sexuality to considerations of the ability to mother. Yet the court's willingness to allow a white upper-middle class lesbian couple to adopt the young children calls this into question. The

outcome of Mary's case illustrates how concerns about sexual behavior are only deployed on those the court deems suspect. For the most part, women can be both sexual beings and legal mothers so long as they are perceived as committed to their children above all else. Once her capacity to mother or commitment to mothering is called into question, her sexuality will immediately be interrogated. The committed lesbian couple who participated in court proceedings for almost two years seemed, beyond question, committed to the children in a way Mary never appeared to be. Because their commitment was unquestioned, their sexuality did not become an issue. At one point, the paternal aunt who wanted foster placement of all three children alleged that the lesbian foster mothers were unfit to parent because of their sexuality. Because the children had been placed with the couple since infancy without any indication they were anything but committed to adopting them, the court disregarded the argument. Had the social worker or court had reason to believe the couple was endangering the children, their sexuality would inevitably have become fore-grounded, regardless of the nature of the allegation. Once a woman's ability to mother is called into question—whether in divorce proceedings, custody battles, or in the juvenile court—the only way a woman can retain her right to mother is through adherence to dominant ideologies of motherhood.

Conclusion

There are situations in which women's sexual behavior inhibits her ability to make good decisions for herself and her children, often because many mothers in CPS were victims of abuse themselves. Research suggests that mothers of sexually abused children are disproportionately more likely to have been abused themselves (Oates *et al.*, 1998) and that mothers who were sexually abused in childhood are likely not able to give their children appropriate structure, consistent discipline, and clear behavioral expectations (Ruscio, 2001). Other research suggests that many of the patterns established early in life dictate the kinds of relationships these women are likely to seek out (Gelles and Cornel, 1985). Women are often unable to leave relationships that are abusive to themselves or their children because of fear, lack of social support, or financial dependence. As Dorothy Roberts suggests, "maternal failures can only be assessed in the context of mothers' own experience of domestic violence" (1999a: 33).

There are also countless stories of women who allowed men to enter their home only to victimize their children. The potential for women's relationships with men to jeopardize children's safety is real, a fact that should not be minimized. Real threats need to be assessed, but they need to be assessed independently on a case-by-case basis. There was no credible reason to believe, for example, that Dennis posed any threat to Mary's children. Rather, his participation in counseling and their shared residence in a treatment program offered a credible suggestion that the risk was minimal. Mary's children were permanently removed then not because of a reasonable belief that they were

endangered but because their mother failed to perform the hallmark of good mothering: sexual self-sacrifice.

In discussing the failures of efforts to fix bad mothers, Annette Appell notes, “the child welfare establishment too often views their lives through a single lens; the textures and perspectives of each mother and her children become invisible or muted” (Appell, 1998:377). In assessing women’s commitment and ability to mother, women’s sexual behavior is integrated into that single lens. Rather than helping women to learn skills for negotiating sexual and personal decision-making, CPS uses maternal sexual behavior as shorthand for a lack of commitment to mothering, with mothers and children losing.

¹The 1997 Safe Families and Adoption Assistance Act states that states are not required to attempt “reasonable efforts” at reunification. in the following situations: if a court has determined that the parent has subjected the child to aggravated circumstances (which may include, but is not limited to, abandonment, torture, chronic abuse, and sexual abuse); if the parent has “committed murder” or “committed voluntary manslaughter” of another child of the parent; if the parent has aided or abetted, attempted, conspired, or solicited to commit such murder or such a voluntary manslaughter; if a parent has committed a felony assault that results in serious bodily injury to the child or another child of the parent; if the parental rights of the parent to a sibling have been terminated involuntarily, (Public Law 105-89, 11/19/1997). Additionally, California added that reunification efforts are not necessary if parents’ whereabouts are unknown; parent is suffering from a mental condition that renders him or her incapable of utilizing services (This requires two psychological evaluations); The parent has been convicted of a violent felony; The parent caused severe abuse on a child under the age of five. Even if one of the aforementioned situations exist, a court could order reunification services if it felt it was in the best interest of the child. Otherwise, the federal law requires that states begin processes to terminate parental rights.

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