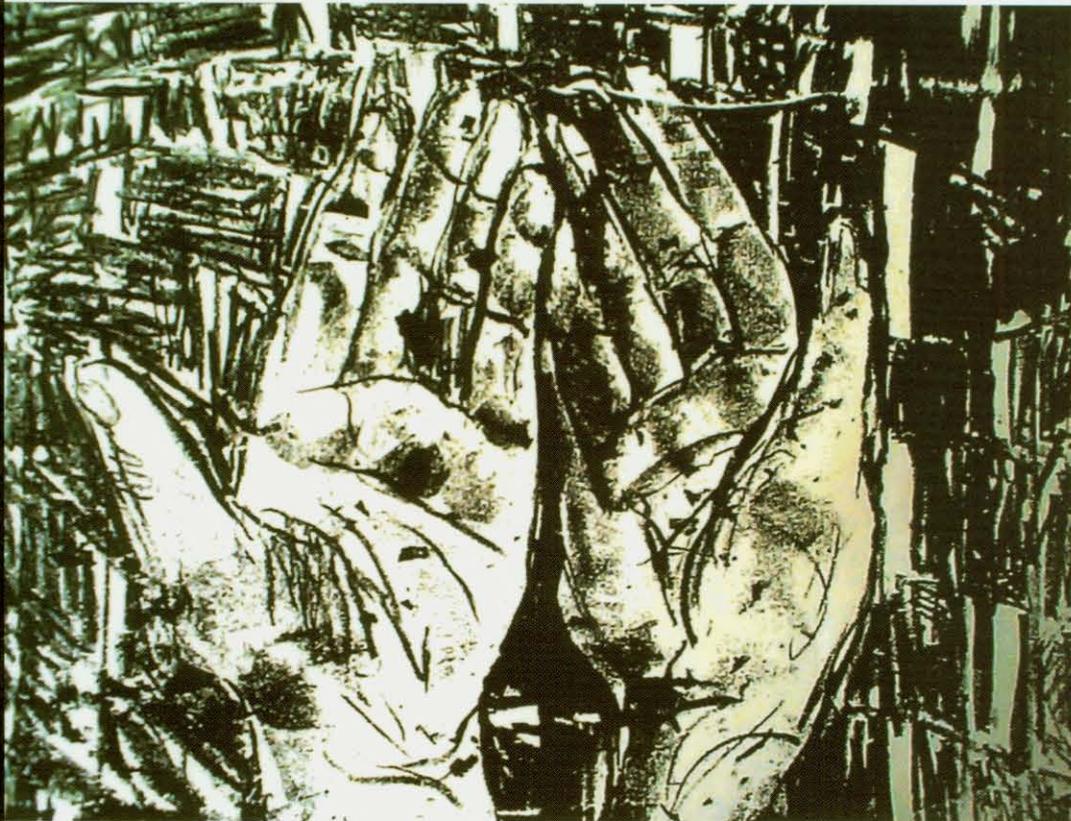


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Inside articles by Molly Ladd-Taylor; Shu-Ju Ada Cheng; Susan B. Boyd; Joanna L. Radbord; Lorraine Greaves, Ann Pederson, Colleen Varcoe, Nancy Poole, Marina Morrow, Joy Johnson and Lori Irwin; Rhonda Shaw; Lisa Neel and Audrey M. Dentith; Michelle Hughes Miller; Krista Robson; Nané Jordan; Emily J. Noonan; Amy Salmon; Beth Osnes; Lori E. Ross and Brenda Toner

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## Front Cover

Erin Tapley, "Offer," lithograph, 12" x 18", 1998

*Erin Tapley exhibits her work in prints and mostly installations nationally. She is an Associate Professor at University of Wisconsin Oshkosh in Art Education.*

**Molly Ladd-Taylor**

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# **Mother-Worship/ Mother-Blame: *Politics and Welfare in an Uncertain Age***

“Bad” mothers are all around us: in the news, on sitcoms, and in jail. Judith Scruggs, whose son committed suicide, was convicted of a criminal offense for failing to provide him with proper care (Scarponi, 2003). Andrea Yates, who killed her five children to protect them from the devil’s grasp, was found guilty of murder when a jury rejected the claim that she was mentally ill (“In-Depth Special: The Case of Andrea Yates,” 2001). “Bad” mothers also abound on television comedies; the intrusive Marie on “Everybody Loves Raymond” and “Malcolm in the Middle’s” hysterical mom are always good for a laugh. But where are the “good” mothers in contemporary culture? Except for Lorelei Gilmore, the very un-motherly mother on television’s “Gilmore Girls,” they are very hard to find.

In many ways, the disappearance of the “good” mother is a welcome development. You can’t have a “good mother”—at least the way the dominant culture defines her, as selfless, nurturing, and true—without a bad mother to compare her to. I used to think the opposite was also true: the bad mother was only bad when compared to a mother who was good. But now I’m not so sure.

I was curious about what had happened to the good mothers, so I did an informal survey at my kids’ school. My question—who is a “good” mother (and why)?—provoked a great deal of disagreement. For example, some people said Jane was a good mother because she is so attentive to her children, but others said that is what makes her a bad mother; her children have no space! The only agreement was among my children. When asked who’s a good mother, they all agreed, “Not you, Mom.”

Unable to find any good mothers in the schoolyard, I decided to try a Google search. The internet is full of “bad” mothers: unmarried mothers, teen mothers, mothers on drugs, mothers on welfare. Fortunately, it’s full of their

defenders too. But good mothers (or even, as the psychiatrist D. W. Winnicott [1953] would say, “good-enough” mothers) are a lot more obscure. The “good mothers” I found through Google were almost all tied to Mothers’ Day—or God. “How are mothers and Jesus alike?” one web-published sermon asked. Both are willing to make the ultimate sacrifice and lay down their lives for their children. The only difference is that when a mother dies, she stays dead, and Jesus came back to life (Christ our Savior Church, 2000).

The invisibility of “good” mothers in mainstream politics today is a significant historical change. One hundred fifty years ago, the good mother was an icon of North American political culture. Men did the nasty work of business and war, according to nineteenth-century gender ideology, while mothers stayed home in “woman’s sphere,” bearing and nurturing children and protecting their families from the heartless world outside (Evans, 1989; Prentice et al., 1988).

The maudlin mother-worship of Victorian times reached its peak in 1908, when Mothers’ Day was established in the United States by Anna Jarvis, an unmarried non-mother who apparently found in lobbying for Mother’s Day a way to achieve the public visibility and career her late mother had opposed (Jones, 1980). Women’s groups initially objected to Mothers’ Day as too sappy, but Christian Sunday Schools, politicians, and the flower industry recognized it as a great opportunity. The holiday came into its own during the First World War, when good mothers were defined as those who made the ultimate sacrifice of sending their sons to war. American Mothers’ Day literature claimed to be honouring all mothers, since war was a national project and (as one clergyman explained), “Rich and poor can meet on the common ground of love, reverence and appreciation for the mother” (Jones, 1980: 188). In reality, however, the patriotic, Christian, white, middle-class orientation of Mother’s Day excluded a lot of mothers.

That exclusion is precisely the point: mother-worship is always bound up with mother-blame. This was especially true in the years around the First World War, when industrialization, immigration, changing gender roles, and the twin projects of nation-building and (in the U.S.) empire-building heightened elite concerns about population “quality.” Physicians, clergy, and politicians praised racially fit (white middle-class) mothers who had large families, but worried aloud about the uneducated masses who did the same (Valverde, 1993; Ladd-Taylor, 1994). U.S. President Theodore Roosevelt even coined the term “race suicide” to goad educated white protestants into having more children. Honouring the white mother of a large family as “sacred,” he heaped scorn on her childless counterpart, who “shirks her duty, as wife and mother, [and] earns the right to our contempt” (1908: 174). The eugenics movement exemplifies the interdependence of mother-worship and mother-blame. Eugenics used propaganda to convince “superior” women to have lots of children, but used the law to prevent the reproduction—and immigration—of the so-called unfit (McLaren, 1990; Paul, 1995).

This is the context in which women activists forged powerful “mothers” movements in the United States, Western Europe, and throughout the British Commonwealth. Maternalism, or maternal feminism as it is often called in Canada, was especially influential in shaping public policy in the United States, where working-class organizations were weak and efforts to enact class-based welfare legislation, such as health insurance, had failed (Kealey, 1979; Michel and Koven, 1993). Women who did not have the right to vote claimed political authority as mothers. “Woman’s Place is Home,” one suffragist declared, “But Home is not contained within the four walls of an individual house. Home is the community. The city full of people is the Family.... And badly do the Home and Family need their mother” (Dorr, 1919: 327). They hoped the message was clear: women could not fulfill their maternal obligations unless they had political power.

Activists from a variety of political perspectives drew on the image of the good mother to press their demands for higher education, better treatment of wage-earning women, and the vote. The American reformer Jane Addams, Canada’s Nellie McClung, and numerous colleagues in women’s clubs and social settlements used the metaphor of the selfless mother, who like a soldier literally risked her life bearing children for the nation, to convince male politician-voters that publicly-funded kindergartens, health clinics, playgrounds, day nurseries, and welfare services would not undermine a mother’s love for her child. After all, they said, nothing could weaken that essential mother-child bond. Birth controller Margaret Sanger and anarchist Emma Goldman tied their radical demands for birth control and female emancipation to the needs of working-class mothers. Even never-married women, such as Addams, cast themselves as “social mothers” so their femininity was never in doubt (Berg, 2002; Ladd-Taylor, 1994).

In the United States, mothers’ movements were generally middle class and racially segregated, but they were not only white. African-American activists often described themselves as the “civic mothers” of the race and established health and educational services within their communities. They also used “good mother” rhetoric to get white women to face their own racism and privilege. At an 1899 meeting of the National Congress of Mothers, Mary Church Terrell urged white women to “put yourselves for one minute” in the place of a black mother—“(you could not endure the strain any longer) and imagine if you can, how you would feel if situated similarly.... [I]nstead of thrilling with the joy which you feel as you clasp your little ones to your breast, [you would tremble] with apprehension and despair” (Terrell, 1899: 407).

As Terrell’s eloquence and a number of recent scholars have shown, the white middle-class mothers’ movement left many women behind. Maternalists never questioned women’s “natural” responsibility for homemaking, they took for granted the superiority of English protestant middle-class culture, and they truly believed that every child needed two heterosexual parents and a mother who stayed home full-time. As a result, they supported programs, like mothers’

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pensions, which provided a small amount of support for single mothers and children in so-called “suitable” homes (e.g., where single mothers didn’t have sex or work long hours outside the home), rather than childcare or better-paying jobs. In the United States, mothers’ pensions evolved into Aid to Dependent Children, or welfare; in Canada, they formed the basis of the 1944 *Family Allowance Act*, a universal child benefit. Both programs were discontinued in the 1990s, but maternalist thinking about children’s need for a suitable, stay-at-home mother still reverberates in American and—to a lesser extent—Canadian welfare politics (Christie, 2000; Mink, 1995; Strong-Boag, 1979).

The most progressive reformers, like Jane Addams, defended disadvantaged mothers on the grounds that if they were bad mothers, it was because of conditions, like poverty or poor housing, that were beyond their control. But others were not so forgiving. Maternal feminists had always cast a suspicious eye at low-income mothers, but the presumption that motherhood united women across the boundaries of class, race, and nation was also inclusive. As a result, when maternal feminism disappeared from the political landscape in the 1920s, mother-blaming grew more vicious. It also reached into the middle class. Childrearing advice, which had once idealized mother-love, now characterized it as a “dangerous instrument” and “stumbling block” to child development. Mothers’ pensions, which at least had acknowledged mothers’ contribution to society, became Aid to Dependent Children or (in Canada) family allowances. Although women continued to be influential in the child welfare field, they considered themselves professionals first. Claiming political authority on the basis of motherhood was no longer a winning strategy (Ladd-Taylor, 1994; Ladd-Taylor and Umansky, 1998).

In the 1920s and 1930s, politicians rarely talked about the need to dignify motherhood or protect maternal welfare. They did, however, talk a great deal about protecting society from “bad” mothers and their imperfect children. The “bad mother” discourse of the interwar years reached its peak—and did its greatest damage—in the campaign for eugenic sterilization. The U.S. Supreme Court upheld the constitutionality of compulsory sterilization in 1927, and eventually 33 states and two Canadian provinces enacted sterilization laws. More than 60,000 North Americans, mostly women, were forcibly sterilized (McLaren, 1990; Reilly, 1991).

Public support for eugenics waned in the 1930s and 1940s, but political mother-blaming thrived. In striking contrast to the First World War, when good-mother imagery was pervasive, pundits of the World War II era were obsessed by the evils of “America’s traditional sweet, doting, self-sacrificing Mom” (“Moms’ denounced as peril to nation,” 1945: 11). The positive image of the virtuous mother who made the supreme sacrifice by sending her sons off to war was displaced by the domineering “Mom,” who kept them tied to her apron strings and—according to the U.S. Army psychiatrist Edward Strecker—caused the alarming instance of psychoneurosis in servicemen (cited in Terry, 1998). In their popular but bizarre diatribe on *Modern Woman: The Lost Sex*,

Ferdinand Lundberg and Marynia Farnham (1947) catalogued the unspeakable harm that rejecting, over-solicitous, dominating, and over-affectionate mothers did to their children—and society. In their view, most mothers needed psychotherapy to learn to accept their passive feminine role and yield to male authority in the family.

Although the 1950s are often associated with the archetypal good mother June Cleaver and (if you believe conservatives) the golden age of the family, Cold War anxieties accelerated the mother-bashing frenzy. Smothering stay-at-home moms were accused of turning their sons into homosexuals or communists, working mothers of neglecting their kids and producing juvenile delinquents, and black “matriarchs” of causing black men’s unemployment and poverty (Feldstein, 2000; Ladd-Taylor and Umansky, 1998).

Today, we live in another uncertain age, when war, terrorism, and an economic downturn are leading people back to the perceived security of the home. Yet with the majority of mothers in the workforce, the home no longer seems as safe as it once did. Smothering or neglectful “bad” mothers are still blamed for youth violence, drug abuse, and dangerous sexual practices. In contrast to the past, however, the “good” mother is nowhere to be found.

Hoping to restore the “good mother” to American political culture, the Motherhood Project of the Institute for American Values recently launched a pro-family campaign based on the “maternal feminist” values of Jane Addams. Led by prominent neo-liberals like Sylvia Ann Hewlett and Jean Bethke Elshtain, the project promotes the Victorian concept of the home as a safe and “separate” sphere. It draws a distinction between the “values of the motherworld,” such as “sacrifice, humility, and forbearance,” and the grasping values of the moneyworld (Institute for American Values, 2000). It preaches the universality of mothering and mother-values, where class, race, and cultural background become irrelevant in the face of a common motherhood. And, like its early twentieth-century counterpart, the Motherhood Project emphasizes children’s need for a two-parent, heterosexual married family. The Institute for American Values advocates a number of “family-friendly” policies, including tax reform, paid parental leave, flextime in the workplace, restrictions on advertisements, marriage education for welfare recipients, and legislation making it more difficult to obtain a divorce. Like its early-twentieth century counterpart, the new “maternal feminism” effectively encourages reproduction among the elite, but discourages it among the young, unmarried, and poor. For example, Hewlett’s (2002) highly publicized *Creating a Life: Professional Women and the Quest for Children* laments what she sees as the tragic childlessness of high-achieving women, while *The War Against Parents: What Can We Do For America’s Beleaguered Moms and Dads*, which she co-authored with Cornel West (1998), proposes restructuring welfare benefits to privilege married two-parent families, and reconfiguring the legal system to make it easier to adopt a child. As feminist historian Rickie Solinger (2001) shows, the simplification of adoption procedures would serve mainly to facilitate the transfer of babies from

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poor and unmarried “bad” mothers to more affluent (and therefore “better”) ones.

A major problem with the Motherhood Project’s implicit opposition of “good” and “bad” mother is that, especially in the United States, the “bad” mother has so much greater symbolic power. Since the 1980s, the “bad” mother (who in recent years is almost always black and a crack addict or “welfare queen”) has become a central icon of U.S. political culture. According to Solinger (2001), such shrill “bad” mother rhetoric, along with 20 years of attacks on welfare, abortion rights, and women’s health services, is making motherhood a “class privilege” in the United States. She suggests that this is partly because U.S. feminists employed the rhetoric of choice, rather than rights, in asserting the right to legal abortion. If the decision to have (or not have) a baby is seen as a choice, not a right, women who are young, poor, disabled, or on welfare but still “choose” motherhood can be criticized for making a bad choice.

Political mother-blaming exists in Canada, of course, but it is nowhere near as vindictive and mean-spirited as it is in the United States, and it has not set such deep roots in welfare policy and the courts. A brief comparison of two highly publicized “bad mother” cases in the mid-1990s is illustrative. In 1995, Tabitha Pollock’s three-year old daughter was found beaten to death at her home in Illinois, and Tabitha’s live-in boyfriend admitted to the beating. Forensics found evidence of considerable abuse, but Tabitha denied any knowledge that her children were mistreated. The other adults in the household—her boyfriend’s parents and his brother’s girlfriend—claimed ignorance too (*People v. Pollock*, 1999).

Tabitha Pollock, but not her boyfriend’s parents, was charged with first-degree murder. Although not present when the crime was committed, she was a parent who had failed to protect her child from an abuser, and the law of accountability applied. Witnesses for the prosecution criticized Tabitha’s mothering and testified to her prior bad acts: she once let the little girl climb on a bookcase, which almost fell on top of her, and she failed to keep her children or their clothes sufficiently clean. The Department of Children and Family Services had been called in to investigate, but found no evidence of abuse. Nevertheless, a jury concluded that Tabitha Pollock was not merely a “bad” mother, but a murderer as well. She was convicted of first-degree murder and sentenced to 36 years in jail. She served seven years before her conviction was overturned by the Illinois Supreme Court (*People v. Pollock*, 1999; Liptak, 2002).

Renee Heikamp was 19 years old and homeless when her first child Jordan was born in Toronto in 1997. As a young mother at risk, she was put under the care of the Catholic Children’s Aid Society, which placed her in a women’s shelter. There, surrounded by lots of people, her baby starved to death when only five weeks old. Heikamp admitted to feeding her baby water, instead of formula, but blamed social workers and her lack of education. The social

workers said Renee had deliberately misled them. Although Renee and her social worker were both charged with criminal negligence causing death, in a controversial ruling after several months of testimony, a judge threw out the charges. In 2001 a coroner's jury ruled baby Jordan's death a homicide—a finding that had no legal bearing on the mother—and issued 44 recommendations focused mainly on improving services for mothers on the streets (“Jury rules baby's starvation a homicide,” 2001).

Both cases involved a tragic and preventable death, a malfunctioning child protection system, bad mothering, criminal charges, and intense media attention. But while Pollock spent several years in jail, the judicial proceedings surrounding the Heikamp case focused more on the appalling failure of the child protection system than on the mother's crime (Blatchford, 2001).

Why the difference? It is not, as some would like to think, that Canadians are more caring. It is because Canada established a welfare state in the decades after World War II, and a welfare state offers considerable protection from mother-blaming. It is much easier to be a not-bad mother when one has health insurance, paid parental leave, the possibility of affordable childcare, a reasonably safe environment—and lives in a society where “welfare” is not (not yet?) a dirty word.

Singing the praises of a welfare state is not a policy prescription, and right now it seems far more likely that Canada will lose its welfare state than that the United States will acquire one. Still, the divergent histories of the U.S. and Canadian welfare systems, considered alongside the mother-blaming culture both countries share, should lead us to approach any attempt to revive maternal feminism with caution. Early twentieth-century maternalists tried to build support for child welfare programs by appealing to mother-love and mother-values, but their policies did not empower all mothers and children, and they did not lead to a fair, comprehensive welfare system. Instead, they led to programs that assisted some “good” mothers, but demeaned mothers considered bad. We should leave mother-worship back in the twentieth century and set our sights in the twenty-first century on expanding mothers' rights and eliminating mother-blame.

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# **Mothering Under Duress *Women Caught in a Web of Discourses***

In early 2001, a 12-month-old Edmonton baby clad only in a diaper and t-shirt wandered outside on a freezing winter night where the temperature was -23 degrees. She was found frozen to the bone two hours later and was rushed to hospital. She not only survived, but made a rapid recovery, much to the amazement of medical and lay observers. The baby, Erika Nordby, became a legend.

The response to the case of Erika was dramatic. The entire country focused on her rescue and recovery. Almost immediately, however, a parallel story began to unfold: this one was about Erika's mother, Leyla, and specifically, about her mothering. The case was profiled in *Saturday Night* (Moher, 2001) in an article suggesting the real "miracle" was about to occur: for Erika to survive her social circumstances and grow up healthy. Leyla's mothering was suspect because she was single, Aboriginal and temporarily homeless. A mixture of events and factors emerged to fill out a picture of a mother who was, in general terms, less than perfect. However, the assumptions about her and her child were clearly different than those that would be attributed to a white, middle-class mother in a similar situation who was not suffering from the effects of poverty, child abuse or addiction.

The case of Leyla Nordby and her daughter Erika epitomizes the discourse about women who are mothering under duress. Little attention is paid to strengthening the position of women as mothers, yet enormous attention is paid to deficits and doubts, especially from the child's point of view.

This paper examines contemporary discourses on mothering in Canada as articulated through key policy documents, media portrayals and women's experiences. The origin of this analysis was growing concern about the reduction of importance of mothers—women—in policy discussions and

decision-making about mothers. A focus on mothers, especially in crisis situations, is often erased or subsumed by an intense public focus on the rights and safety of children.

We focus this discussion on three situations of mothering that often manifest as crises in the public domain: women who are using substances while pregnant or as mothers; women who are mothers and experience intimate partner violence in the family setting; and women with mental health issues who are also pregnant or mothers. In all three of these diverse situations, mothers are under duress, that is, they are mothering under pressure and are at risk of child apprehension, a risk that has both legitimate and coercive dimensions. In focussing on mothering in crisis situations, we are able to explore prevailing attitudes and values embedded in the discourses of mothering.

Mothers are routinely subjected to high expectations and idealistic standards of behaviour and nurturance in relation to their children. Indeed, the limits and “disciplinary machinations” (Campbell, 1999: 921) that the state places on pregnant women and mothers are a particularly pointed manifestation of this pressure.

Child apprehension practices and custody decisions are often the manifestations of policy, media and public discourses on mothering and serve as a lightning rod for debate and conflict. In some circumstances the woman’s “fitness to mother” becomes the question, and prevailing webs of discourses come to bear on mothers’ abilities to adequately care for their children, especially when they are under duress.

### **Theoretical approach**

We approach this analysis with a view that discourse can be usefully understood as including both text-based expressions of values and procedures and actual practices as expressed through talk (van Dijk, 1993). Public policy discourses are shaped by critical events, the fiscal context, the political cycle, media commentary, legal activity, prior discourse and the larger context of available cultural narratives. For this particular study, we operationalized this view of discourse by analyzing newspaper articles, government policy documents and what women themselves who mother under duress or persons providing services to such women say about mothering under duress.

According to Nancy Campbell (1999: 918) “public policy configures social worlds.” In recent years, child-centred public policy discourse has emerged as a dominant frame within health and social policy, obfuscating the place of women and mothers. A strong foetus-centred discourse has also emerged in the forms of legal decisions and medical interventions that automatically affects women and their control over their bodies. We suggest three interconnected concepts—rights, risk and evidence—can be used to analyse these trends as these concepts are directly or indirectly used in developing and perpetuating discourses on mothering and on mothering under duress.

Mothering under duress appears to pit the rights of mothers against the rights of children, and sometimes fathers. Often, there is a pressure to separate these rights in making decisions, rendering judgements or reporting on cases. This individualization and compartmentalization of rights is particularly inadequate for understanding the mother-child relationship, or for assessing the relationship as an entity in itself.

In assessing risk, specific approaches to information collection are taken to underpin and form policy and protocol decisions concerning mothers, children and fetuses. While originally understood as involving both gains and losses, our contemporary understanding of risk is confined to negative costs (Lupton, 1995). The discourse of risk has led us to believe that unfortunate events are both predictable and avoidable.

Evidence is a key ingredient in the development of policy discourses. Evidence is what 'stands in for' or reflects reality and 'truth'. However, the nature of reality, what "counts" as evidence, validity, and the nature of truth are all contested ideas (see for example, Lather, 1994). Central to challenges regarding the nature of evidence in the production of knowledge have been the voices of 'others'. Analysts and advocates have sought to shift understanding of objectivity and subjectivity, calling into question whose "truth" counts, and how power shapes what is known and what can be known. In particular, they have argued for the inclusion of the voices of those whose lives are omitted or overlooked in dominant accounts—while recognizing that "experience" is not incontestable (Scott, 1991).

Given the close relationship between various categories of representation such as class, race and gender, and the privileging of particular interpretations, and their salience in dominant understandings of substance use, violence against women and mental illness, we were also concerned with how these categories of representation operated in policy discourses.

### **Methodology**

We examined the discourse in the context of three situations of mothering under duress in detail, from the three foci of risk, rights and evidence, using three main sets of data.<sup>1</sup> First, we reviewed key policy documents at the federal and provincial policies operating in British Columbia as well as the legislative framework underpinning policy with respect to each issue and how that legislation is interpreted in policies, procedures and practice. We also attended to other sources of policy discourse such as landmark legal cases or inquiries, medical research, and published literature.<sup>2</sup>

Second, we analyzed one year's Canadian newspaper coverage of the three situations of mothering under duress of interest. Specifically, we reviewed 60 articles that appeared from May 1, 1999 to April 31, 2000 in *The Globe and Mail*, *The National Post* and *The Vancouver Sun*, as well as the general newspaper coverage of mothers, mothering and related issues, which numbered over five hundred.

To understand women's experiences of policy discourse, we interviewed a sample of women and key informants. Some of these informants were situated on the "front lines" where policy is enacted. Others were the people directly affected by the policies, including women who had experienced mothering under duress in any of the categories as well as others closely connected to them or to the issues. In total, we directly accessed the experiences and opinions of 52 individuals. In addition, in the case of violence, we conducted over 60 hours of court observation.

On the basis of all of these materials, we found that there were features common to the portrayal of women and mothers across the issues of woman abuse, substance use and mental illness. However, we also identified unique features in the portrayal of woman as mothers depending on whether her circumstances involved substance use, mental illness or abuse.

## **Findings**

### *Newspaper Portrayal*

The newspaper portrayal of mothers under duress was dramatic. Sensational cases of child abuse or neglect made headlines whereas everyday stories of mothering were either invisible, relegated to the "women's" sections of the newspapers or challenged in letters to the editor as not being "news." Pregnant women or mothers with substance use issues, mental illness or in abusive relationships were the subject of news stories but these tales typically portrayed children as being at risk and mothers were predominantly portrayed as the risk. Being "at risk" meant being in danger of some sort of harm. Being "the risk" meant being likely to inflict harm or responsible for harm being inflicted. Children were variously seen to be in danger of emotional and/or physical harm.

Aspects of these portraits of mothering under duress are exemplified in an article about a mother with a mental illness whose child was apprehended shortly after birth on the basis that the mother was a risk to her child. A particularly sensational account of this event entitled, "Elizabeth Ando's Nightmare," offered a description of the events surrounding this woman and her child in fairy tale form, depicting the mental illness—obsessive-compulsive disorder (OCD)—as a "curse" rather than a medical condition and comparing her behaviour to that of the "broom that went berserk in Walt Disney's story about the magician's apprentice" (Hume, 1999: B5). In this case, a woman's excessive cleaning was deemed to put her child at risk. Ironically, the woman's symptoms had worsened during her pregnancy because she had complied with medical advice to protect her unborn child by stopping her medications.

The three cases differed in the degree to which mothers were held responsible for their own and their children's situation. Whereas women who were substance users were portrayed as wilful and abusive (particularly with respect to their foetus or children rather than of themselves), women with

mental illnesses were regarded as not being in control. Women in abusive relationships were portrayed as having done things to have brought their situation upon themselves. Thus, for example, we saw in the case previously described that the mother with OCD is not held wholly responsible for her behaviour because she is seen to be at the mercy of her unpredictable mental illness. In contrast, in a story describing a man who murdered a child, the headline is not about the perpetrator but about the mother who failed to protect her child: “One day, she told herself, ‘I will leave. Then he won’t hurt me or Jordie anymore.’ Thirty-six hours later, Jordan was dead” (MacKinnon, 1999: R1).

Depending upon the circumstances, we also saw distinctions in the degree to which the social, medical or legal systems were portrayed as responsible for the situation being reported. For women suffering from mental illnesses, there was some sense that the system was failing to provide for the women adequately and was therefore at least somewhat responsible when things went tragically wrong, such as when a woman’s unrecognized or untreated mental illness was associated with her harming her children. The system was less likely to be blamed in instances of either woman abuse—for failing to protect the woman—or substance use. Children in all three cases were consistently portrayed as “worthy” victims, whereas women were variously portrayed as “worthy” and “unworthy” depending upon the degree to which they were deemed responsible for their circumstances. For example, women who were substance users, were blatantly disapproved of and consistently portrayed as a harm to their children, reckless and irresponsible, as in the following item from *The Vancouver Sun*:

She lived in a trailer on the edge of Kemptville, a single mother and a lousy housekeeper. On the afternoon of December 4, 1998, while she waited for her three children to return from school, Angie Laceleve, then 27, got recklessly drunk on vodka martinis (Egan, 1999: A6).

In our analysis of the role of “risk,” we examined whether and how fear operated in relation to risk. With respect to mental illness, the articles suggested that mothers with mental illness are to be feared for their unpredictability and the potential risk they pose to others. Implicit in many articles and explicit in some (e.g., “Woman terrified neighbours, inquest told,” 1999: A7) was the idea that women with a mental illness are dangerous not only to their children but to society in general. Ironically, with respect to situations of woman abuse—where violence is a real risk—fear was not a feature. The risk of further violence to the point of homicide, legitimate fears that a woman should have in such situations, were not discussed.

This analysis illustrates that while everyday mothering is seldom within the gaze of the newspaper media, monster mothering makes news. The media participate in developing and sustaining understandings of women and moth-

ering in relation to woman abuse, substance use and mental illness that emphasize the individual responsibility of women, and overlook the ways social policies shape and constrain mothering. As monster mothers make news, so the news media participates in the creation of monster mothers as an image for use in wider social practices.

### **Policy**

The themes of competing rights, how “risk” is constructed and the role of expert knowledge or evidence were found across policies affecting mothers in the three contexts. A child-centered public policy discourse and discourse that constructs children’s interests as competing with the interests of mothers was a dominant theme in the policy documents examined.

Underlying the policy documents were particular ideas about families, women, children, and the value of each, supported by language reflecting particular understandings of gender, race and class. The central theme throughout was the need to prevent harm to children through assessment of risk, using an evidence-based approach. A more implicit theme was that of rights, in the case of child custody and access, between mothers and fathers, and in the case of child protection, between the mother and child. Notably, in the case of child protection policy, a child’s entitlement “to be protected from abuse, neglect, and harm or threat of harm” (*British Columbia Child, Family and Community Services Act, 1996: 11*) is achieved through limiting the rights of the mother, not through enhancing the mother’s health, safety and capacity to parent. A rights discourse is also embedded in mental health law and pervades discussions about the degree to which people with mental illness should have the right to make decisions about their lives and their course of treatment. Finally, “fathers rights” have overshadowed and deflected concern for the plight of women who experience violence as debates regarding child custody and access have pitted fathers’ rights against mothers, and aligned fathers rights with the best interests of children.

Central to the rights discourse is the near incontrovertible notion of “the best interests of the child.” However, this idea is seldom defined and often treats children as independent of their relationships with others. For example, the best interests of the child is fundamental to the *Divorce Act*, yet is not defined except to specify that “the court shall take into consideration only the best interests of the child of the marriage as determined by reference to the condition, means, needs and other circumstances of the child.” In the *BC Family Relations Act*, the “best interests of the child are paramount,” but the idea is not defined at all. The lack of definition leaves the interpretation of the best interests of the child open to the gender, race and class biases, with, as will be shown, profound consequences for women’s experiences. The centrality of the child, decontextualized from his or her relationships serves to pit the “rights” of the child against the “rights” of others.

The child’s interests must come first, and are treated as though they can be

determined in isolation from the interests of their mothers. No mention is made of women's rights to their children or more specifically their rights with respect to treatment and support when they experience violence, mental health or substance use problems, or other problems that bring them under the heightened surveillance of the state with respect to their children.

The use of language that obscures differences related to gender, race and class was apparent in each of the policies examined. For example, *The British Columbia Child, Family and Community Services Act* (1996) and the *Child Protection Risk Assessment Model* (British Columbia Ministry for Children and Families, 1996) favour gender-neutral terms like "parents" and "parenting" which belie the fact that it is primarily women who are assessed under these policies and women who are seen as responsible for the care and well-being of children.

### **Women's experiences**

We considered the impact of policy discourses as reflected in the way that women spoke about themselves and other mothers like them, as well as in how individuals who work with these mothers acted and spoke about policy and mothers. We also explored how the enactment of policy affected women who were struggling to mother under difficult circumstances through the actions of the medical, social services and legal systems. We found that each of the three cases of mothering under duress we investigated is embedded in a web of discourses that are largely but not fully shared by the women themselves.

In our three examples, women argued that their circumstances and the particularities of their lives were given inadequate attention in decision making by authorities. Each issue involved women in one way or another becoming a "case" in a system that introduced a particular framework of decision-making with varying levels of autonomy and control. In becoming a case, the mothers were subjected to a unifying, bureaucratic gaze that left out the specific aspects of a woman's situation from consideration in decision making, particularly with respect to the application of standardized assessment tools and procedures and the processes of child apprehension.

In becoming a "case," the women engaged not only with their personal problems of substance use, mental illness or abuse, but also found themselves forced to learn how to manage and engage with a depersonalized "system" of support and surveillance. Often, the system itself exacerbates rather than relieves a woman's duress, becoming another problem with which she had to contend rather than a means of support for being able to safely and effectively mother.

The women argued for consideration of a variety of factors than those currently employed or accepted as the basis for decisions. For example, some of the women with substance use problems argued that a woman's progress toward recovery was not taken into account when decisions were made about child apprehension. Similarly, mothers with mental illnesses reported that few

steps were taken to prepare them or their immediate social circle to be able to manage at times when their illness was acute, even if this was a predictable occurrence. In contrast, however, for women experiencing intimate partner abuse, the legal system itself, with its arcane processes, rules of evidence and procedures, was critical to women's experience of loss of control over their—and their children's—lives.

### **The web of discourses**

This study of three different cases of mothering under duress has surfaced many issues regarding the nature and interrelationships of media, policy, legal and public discourses. Questions remain about how these discourses have developed and how they may change in the future, but we can comment on how these discourses may be interacting and influencing decision-making in contemporary Canada.

Whether based upon the accounts of the women or observations by officials, it became clear that there are numerous instances in which the “system” fails women as mothers. By pitting the interests of the child against the interests of mothers rather than seeing them as interdependent, decisions are often made that limit women's capacity to mother and children's opportunity to be mothered.

As we saw in the media analysis and the discussion of policy instruments, mothers are constructed as a “risk” to their children in instances of mental illness and substance use and as not protecting their children from risk in instances of woman abuse. In all three instances, there is a stigma attached to the woman's failure to conform to the standards of good mothering that requires her to sacrifice herself for her child while maintaining sufficient autonomy and self-reliance to provide for her child. The core issues that unite the women's experiences of mothering under duress are child apprehension and child custody and access, issues that arise directly out of the discourses of “the best interests of the child” and the social construction of these particular mothers as unfit mothers. We heard reports of, and witnessed in court proceedings, policies and practices that purported to be in the best interests of the child while weakening opportunities to support the mother-child relationship.

The media, legal and public discourses are clearly interrelated. Cases that receive a high profile in the media are particularly likely to become critical points upon which public discourse shifts. At the same time, this process affects the political responses to both mothers under duress and their children, which then can effect change in legislation or policy. Subsequently, workers entrusted with the enactment of policy and protocol are affected by shifts in the political atmosphere that determine emphasis, interpretation and accountability.

At the same time, judges and other arbiters exist in this social world, exposed to media, politics and public opinion. Their decisions are added to the process of discourse development through case law, Supreme Court judgments or inquiries. Decisions emerging from the system at any one point are a

reflection of the mix of influences and critical incidents affecting the process.

But where are mothers and women in this web? The women we talked to in this study clearly support dominant values surrounding protecting and enhancing children's welfare. In so doing, they often identified themselves as the key responsible parties for the health and welfare of their children. They endorsed the view that, on occasion, children are in need of outside intervention to ensure their health and welfare and that intervention is entirely legitimate.

However, women, and particularly mothers under duress felt ignored, excluded and overpowered by the discourses and the decisions and practices that sometimes result from them. But, driven by a strong, persistent and equally overpowering desire to maintain and build the mother-child relationship, they often consciously chose to acquiesce to these more powerful players in the system.

While sometimes angry, the women responded in predictable ways, by conforming, behaving and assuming appropriate role behaviour—as patient, case, subject, plaintiff or defendant. They did not feel that they had agency in these discourses, or any way to affect the decision-making that resulted from them that concerned them or their children. This was particularly disconcerting as the women were unable to perceive themselves as separate from their child or children, whereas the system usually made this distinction. The only substantive exception to this was with respect to pregnant women under duress, where both the discourse and the systems insisted on treating the woman and the foetus as a unit.

The role of evidence in directing the behaviour of pregnant women or mothers is growing. Health promotion advice recommends that the woman be “smoke free” and “alcohol free” and adopt a healthy lifestyle before conception. As Laury Oaks (2001: 21) maintains, these “new rules of pregnancy” have reduced women to passive trustees of the foetus, not active makers of children. This distinction is significant, in that trustees are merely vehicles or stewards, working on behalf of society. This growing interest, research and intervention in the conduct of pregnant women is a significant example of the blend of evidence, a notion of calculable risk and limitation and denigration of women's rights.

Having said this, pregnant women themselves express a keen desire to do the right thing for their children, and want to create the healthiest conditions for their growth. They too see pregnancy or the birth of a child as a significant life event where positive decisions can be made about someone else's welfare and an opportunity exists for redirecting their goals and will. Indeed, substance-using women in our study remarked that their children were the best motivation for change, and the women who were experiencing violence expressed that often their key motivator was their child's safety.

## **Conclusion**

Our three cases illustrate extremes of the experience of mothers in our

society, all marked by intense scrutiny, a high degree of attention and state intervention. While we cannot generalize our findings to mothering in general, there are some notable indicators of trends with respect to mothering in contemporary Canadian society that provide a context for our conclusions.

Attitudes toward mothering have changed over time. In Canada, mothers did not have the right to petition for sole custody or even visit their children in the custody of their fathers until 1858 (Crean, 1988). In 1917, British Columbia was the first province to legislate that mothers had an equal right to custody as fathers (Crean, 1988). By 1920 case law began to promote a different approach favouring mothers. This evolved into the “maternal presumption” that has been severely challenged in the last decade in Canada. But these legal trends in custody merely reflect the prevailing social views of mothering throughout this time period. Maternal presumption, for example reflected the view that mothers were biologically suited to raising children, and that the ties between mothers and their children were sacred. While women’s roles have become more diversified in the last few decades, so have the views surrounding the importance of mothering, especially in relation to fathering.

At the same time, our collective notions of rights, risk and evidence have undergone considerable transformation. Our benchmarks or standards in each of these domains have shifted, explaining some of the contemporary responses to mothering under duress. In addition, political views shift with respect to issues of women’s rights and autonomy, and in the context of growing legal equality for women certain interests are threatened. We have invoked the importance of more and better scientific evidence, while not often critiquing the origins and the production of that evidence. We have embraced risk as advanced through epidemiology and actuarial science, but fail to explain the uncertainty of risk on an individual case basis, where there is not a one to one relationship between a behaviour and certain damaging results (Oaks, 2001).

Interventions in many diverse forms pepper a landscape where mothers are increasingly questioned, monitored, controlled or diminished. For example, mandatory treatment orders (for drug abusers), forced contraception (for child abusers), apprehensions of the foetus (for child protection), incarceration for the purposes of treatment (for child protection) and mandatory or standard medical treatments for foetal benefit (i.e, ultrasounds and C-sections) are medical-legal challenges to mothers’ and women’s autonomy. Custody disputes (challenging maternal presumption) and child apprehension practices (at birth and later) are all examples of legal and quasi-legal interventions that also indicate increased interest in traditional women’s domains. Within this context, contemporary mothers, “mothering under duress” find themselves caught in a particularly intricate web of discourses.

<sup>1</sup>Details of the methods and data sources can be found in the full-length report of this study, *A Motherhood Issue: Discourses of Mothering Under Duress* (Greaves

et al., 2002) supported by and available from Status of Women Canada at <http://www.swc-cfc.gc.ca>

<sup>2</sup>We examined key provincial and federal legislative and other policy documents to illuminate policy as it affects mothers. In each province and territory in Canada a mix of federal and provincial legislation and policy impacts on pregnant women and mothers with substance use, mental health and violence related problems. To make possible an in-depth analysis of the themes inherent in such legislation and policy, we limited our focus to provincial legislation in place in British Columbia: *The Divorce Act*, its adjunct, the *Federal Child Support Guidelines*, and its provincial counterpart, *Family Relations Act* (1996 #399); *The Child, Family and Community Services Act*, and its related practice documents, *The Risk Assessment Model for Child Protection in British Columbia* (1996 #347), and the *Protocol Framework and Working Guidelines Between Child Protection and Addiction Services* (1999 #348); the *Review of the Circumstances Surrounding the Death of Mavis Flanders* (1997 #349); *The Mental Health Act, Revitalizing and Rebalancing British Columbia's Mental Health System: The 1998 Mental Health Plan* (1998 #393), and its related tools *Foundations for Reform: The Mental Health Policy Framework and Key Planning Tools* (2000 #394), and the *British Columbia Mental Health Reform Best Practices* (2000 #395) guidelines.

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Joanna L. Radbord

## Equality and the Law of Custody and Access

The *Canadian Charter of Rights and Freedoms*<sup>1</sup> has had a significant impact on the direction of family law reform in this country. “Illegitimacy” has been rejected as a relevant legal concept.<sup>2</sup> Same-sex couples are free to enter into civil marriages in Ontario, British Columbia and Quebec.<sup>3</sup> The Law Reform Commission of Canada recently recommended that the distribution of benefits recognize non-conjugal relationships. In both our judicial and legislative responses to changing families and our jurisprudence in the area of substantive equality, Canada has been applauded as a world leader.

Despite Canada’s international achievements, in day to day work in the trenches of family law, practitioners often wonder whether *Charter* principles are really very meaningful in family law cases. Direct challenges questioning the constitutionality of legislation gain national and international legal attention. But what of the simple requirement that we view all of our cases “through the lens” of equality jurisprudence?<sup>4</sup> Does the principle of equal benefit of the law have any meaning for a mother with a disability on social assistance who is fighting for custody of her children? While the *Charter* applies to government action and does not directly affect purely private litigation, judges’ decisions are always to be guided by *Charter* principles.<sup>5</sup> Are the tenets of family law developing in accordance with our notions of substantive equality?

This paper is a brief survey of the impact of equality principles in custody and access cases. If “justice is blind,”<sup>6</sup> should the skin colour of a mother matter? Do mothers with disabilities face discrimination in claiming custody of their children? Fathers’ rights groups claim bias in favour of women and lobby for a presumption of shared parenting, arguing that differential outcomes in custody litigation are a sign of discriminatory thinking by judges. How should gender influence the best interests of the child test?

This discussion is divided by issues of sexual orientation, gender, disability, class, race. Life, of course, is more complicated. This segmented approach is necessarily an artificial one which threatens to conceal that categories of privilege and oppression are experienced simultaneously, as interrelated and overlapping. A South Asian middle-class able-bodied lesbian, for example, will experience sexism, racism and sexual orientation discrimination, as well as her class and able-bodied privilege, in a complex and integrated manner. As many academics have discussed, the ways in which forms of oppression interact in the life of any individual is not additive in nature—a woman of colour will not experience the same sex discrimination as a white woman *plus* the racism experienced by a man of colour. At the same time as there is danger in oversimplifying the experiences of oppression and privilege, it is necessary to make more basic generalizations in order to identify and target discrimination.

This paper is by no means a comprehensive review of caselaw attempting to document systemic discrimination in Canadian courts. Rather, it is written from an anti-oppression framework which recognizes that sexism, racism, ableism, classism, homophobia and heterosexism are systemic problems in Canadian society which shape legal discourse. It is to be expected that our constitutional ideals of equality will not always inspire family law decision-making, but this is a failure of justice.

*Charter* principles of equality should inform custody and access decisions. This is not an abstract requirement but an imperative absolutely crucial to protect and advance the best interests of the child. While the best interests test is “the *only* test” in child-related matters,<sup>7</sup> best interests cannot be divorced from the spirit and values of the *Charter*.

We must constantly work at developing family law in line with substantive equality principles. This means decision-making without recourse to “common sense” stereotypes or discriminatory ideas. It means considering the full social, political, and historical context of the case, with an eye to the realities of historic discrimination and disadvantage. Substantive equality requires that we attune ourselves to the perspectives of those traditionally silenced in legal discourse. Family law will only serve all families well when we take the time to be guided by the principles of substantive equality.

### **Substantive equality**

*Andrews v. Law Society of British Columbia*<sup>8</sup> was the first case decided by the Supreme Court of Canada under the equality guarantee of the *Charter*. The court adopted a notion of equality that is not strictly individualistic, but instead requires consideration of the broader social and political context to ascertain group disadvantage. Discrimination means more than differential treatment between similarly situated groups. A substantive approach to equality seeks to remedy historical disadvantage. The central concern is to ensure that the law respects the human dignity of all persons.

An equality rights claimant has the onus to show that the impugned

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provision is discriminatory. Discrimination was defined by Justice Iacobucci for a unanimous Court in *Law*, as follows:

First, does the impugned law (a) draw a formal distinction between the claimant and others on the basis of one or more personal characteristics, or (b) fail to take into account the claimant's already disadvantaged position within Canadian society resulting in substantively differential treatment between the claimant and others on the basis of one or more personal characteristics? If so, there is differential treatment for the purpose of s. 15(1). Second, was the claimant subject to differential treatment on the basis of one or more of the enumerated and analogous grounds? And third, does the differential treatment discriminate in a substantive sense, bringing into play the purpose of s. 15(1) of the *Charter* in remedying such ills as prejudice, stereotyping and historical disadvantage?<sup>9</sup>

The question of whether discrimination has occurred in a substantive sense must be viewed from the perspective of the person claiming a *Charter* violation. The central focus is the *effect* of the impugned provision on the disadvantaged group. This can be seen only by examining the larger social, political, legal and economic context and looking at the impact of the law on the lives of the individuals it touches.<sup>10</sup> This effects-based approach has allowed the Supreme Court to recognize that discrimination exists where society has been structured on the assumption that everyone shares the characteristic of a dominant group and where facially neutral legislation has an adverse effect on a historically disadvantaged group.

### **Charter principles and the “best interests of the child” test**

In *Young v. Young*,<sup>11</sup> the Supreme Court of Canada described the best interests standard as consonant with *Charter* values, stating that “it aims to protect a vulnerable segment of society by ensuring that the interests and needs of the child take precedence over any competing considerations in custody and access decisions.”<sup>12</sup> Again in *P.(D.) v. S.(C.)*<sup>13</sup> the Supreme Court held that the best interest test is consistent with the underlying values of the *Charter*. While valid custody and access orders made under the best interests test are immune from review under the *Charter*,<sup>14</sup> the best interests of the child test should be applied in a manner which is sensitive to *Charter* principles.

As McLachlin J. wrote in *Young v. Young*:

It has been left to the judge to decide what is in the “best interests of the child,” by reference to the “condition, means, needs and other circumstances” of the child. Nevertheless, the judicial task is not one of pure discretion. By embodying the “best interests” test in legislation

and by setting out general factors to be considered, Parliament has established a legal test, albeit a flexible one. *Like all legal tests, it is to be applied according to the evidence in the case, viewed objectively. There is no room for the judge's personal predilections and prejudices. The judge's duty is to apply the law. He or she must do not what he or she wants to do but what he or she ought to do.* [emphasis added]<sup>15</sup>

The application of the best interests test in light of substantive equality principles has two facets: judges and counsel must be attuned to the fact that discriminatory thinking is pervasive and will affect their own “common sense” and second, there must be a recognition of the importance and value of political identities associated with discrimination. A true understanding of the condition, needs, means and circumstances of the child requires full comprehension of the larger social and political context of the custody litigation.

A substantive equality approach to custody and access decision-making also requires that adults challenge ourselves to respect the autonomy, psychological integrity and dignity of children, without discrimination based on age. Children's equality interests have received limited attention in the development of equality jurisprudence. Indeed, the Supreme Court still considers it legitimate that children lack equal protection from assault.<sup>16</sup> Still, this is likely to be an emerging area in the development of substantive equality in family law requiring, for example, increased voice to children's wishes.

### **Gay and lesbian custody issues**

In one of our recent cases, a judge stated in open court that he had no problem with our client's parenting: it was her “lifestyle” that he had a problem with. Interim custody was awarded to the father, not our client—a devoted stay-at-home mother who had come out as a lesbian. This type of clearly discriminatory judicial reasoning is abhorrent and has no place in our system of justice. However, it still occurs with alarming frequency.

An equality-minded approach was adopted in the Ontario case of *Re K*.<sup>17</sup> In that 1995 same-sex adoption decision, Judge Nevins expertly summarizes an array of social science evidence and provides answers to common homophobic stereotypes about gay and lesbian parenting. There is now a wealth of sociological and psychological evidence demonstrating that same-sex parenting has no adverse impact on, and may in fact be a benefit to, children.<sup>18</sup> Two American sociologists, Professors Judith Stacey and Timothy J. Biblarz, recently released a comprehensive review of the studies, “(How) Does the Sexual Orientation of Parents Matter?”<sup>19</sup> It is an extremely useful and accessible piece of academic literature. The authors find suggestive superior benefits of lesbian parenting and no detrimental differences between same-sex and heterosexual parenting. The “no-harm” conclusion is unsurprising, since there is no credible theory that would reasonably lead scholars to predict harms to children parented by self-identified lesbians or gay men.

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After decades of research, there is every reason to believe that children parented by same-sex couples are at least as well parented, and their development is at least as successful, as children with heterosexual parents. This is the case even though same-sex parents currently confront disadvantages deriving from the non-legal status of their relationship, the frequent invisibility of the second parent's relationship and the social stigma with which both they and their children must contend. Stacey and Biblarz therefore conclude that there must be compensatory processes in gay and lesbian parenting that enable those children to develop as well as they consistently have been shown to develop.

In the past, most cases with issues of sexual orientation involved a straight parent against a gay or lesbian parent who had come out after the birth of the children. Now, we increasingly see disputes between (usually) lesbian parents whose children were born into the relationship itself. In these cases, judges seem all too eager to be "equality-minded" by awarding equal time and joint custody regardless of the facts of the case.

On a recent first attendance, for example, the judge insisted that temporary joint custody and shared time ought to be awarded after the breakdown of the lesbian relationship. There was no evidence from either parent before the court, since the former partner had just launched her application. The judge openly challenged us to appeal, not caring that the birth mother had been denied an opportunity to make her case, because he was so entranced with the idea of two equal mothers. While his decision was reversed, it is trite law that substantive equality does not require identical treatment. We must instead consider the lived circumstances of the parties, the larger social and political context, and the effect of the decision on the lives of the children. In this case, when she had an opportunity to give evidence, the birth mother stated that, while she had a spousal relationship with her partner, they had not parented together. The pregnancy was her own decision, and all care giving had been performed by her alone.

When I discuss this case with American attorneys, they are typically shocked and horrified that I take the position that the birth mother's account might be accurate, and if so, that joint custody and equal time would be inappropriate. In jurisdictions where non-biological mothers are denied any legal recognition, like most American states, their emphasis is understandably, and rightly, on recognizing and respecting non-biological parenting. There is no question that in many cases parenting is shared almost equally, and joint custody is a good option if the parties are able to communicate. Still, justice requires individual determination. It is entirely possible that a birth mother with a male or female spouse could parent almost single-handedly, and her special history of care giving should, in my view, be recognized post-separation. In particular, with very young children, I have no hesitation in arguing that we must appreciate a birth mother's period of pregnancy and breast-feeding as creating a history of attachment, whether in the lesbian or heterosexual context.

### **Trans parents**

Having a non-heterosexual sexual identity was regarded as a mental disorder until 1973. Today, a gay or lesbian identity is regarded as non-pathological. Transsexual/ transgendered people,<sup>20</sup> in contrast, are classed as mentally disordered under the diagnostic manual of the American Psychiatric Association, the DSM IV. Gender identity disorder (GID or GIDC in children) was introduced as a diagnosis in the 1980 edition of the DSM (DSM-III-R). Since the 1994 DSM-IV, the criteria for the diagnosis have expanded.

Adults who seek sex reassignment surgery and/or hormonal treatments rely on this classification in order to obtain insurance coverage for their treatments. At the same time, trans people rightly object to the characterization of their personal identity as pathology: a GID diagnosis stigmatizes trans people, fostering discrimination in all aspects of life. Particularly disturbing is the diagnosis of GIDC to “treat” children who do not conform to stereotype ie. girls who enjoy playing with trucks rather than dolls are classed as psychiatrically disordered. Treatment protocols for children diagnosed with GIDC include coercive therapy, behavior modification, forced institutionalization, and drugs.

In *Forresterv. Saliba*,<sup>21</sup> our client was a lesbian male-to-female transsexual father.<sup>22</sup> The mother alleged that the gender transition of the father constituted a material change in circumstances such that the parties’ shared parenting arrangement was no longer in the child’s best interests. She also argued that a change of custody was warranted as a result of the father’s depression and gender dysphoria at the time of the transition. The mother also unilaterally took the child for “testing” for GID and was permitted to continue doing so by interim order, despite our client’s objection. Our client was worried the testing would create an issue around gender where there had been none. In the end, the “experts” pronounced that the little girl was suitably feminine.

At trial, Judge Wolder held that the father’s gender transition was irrelevant to a determination of the child’s best interests. He also recognized that the father’s period of depression, now in remission, could not constitute a material change, justifying a new order. In this manner, the court rejected the traditional stigma of mental illness and confirmed that transsexuality is not a negative factor in custody determination. Rather than branding the father as flawed because of a period of depression, the court understood depression as an illness from which a person may experience successful recovery.

### **Custody and the parent with a disability**

Dominant social discourses label persons with disabilities as deviant, dangerous and incompetent. Ableism - the idea that persons with disabilities are less worthy than able-bodied people - is deeply entrenched and reinforced by the social, medical and legal discourses of our culture. When a judge considers the best interests of a child, how do mothers with physical or mental disabilities fare?

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Given the larger social context of ableism, it is no surprise that mothers with disabilities experience discrimination in maintaining and fostering relationships with their children. Our country has a shameful history of forcibly sterilizing people with disabilities.<sup>23</sup> Today, people with disabilities face discriminatory scrutiny by child protection agencies, prejudice in custody and access decision-making and a denial of access to justice due to systemic barriers.

Our office recently acted for a mother who is deaf in a child protection case. The mother had contacted the Children's Aid Society during her pregnancy on the mistaken assumption that the Society would provide her with some assistance in obtaining a crib and other necessities in anticipation of her child's birth. The Society opened an investigation and assessed her as an "intermediate risk" solely on the basis that she is deaf. The Children's Aid Society then took the child into custody on the basis that she was allegedly ignoring the child's crying. Although the mother was breast-feeding, the child was removed by the Society, without any sign-language interpretation, seriously damaging early bonding and establishment of the breast-feeding relationship.

Parents suffering from "psychiatric illness" are regarded as particularly suspect by courts. But there are progressive, equality-minded decisions, inspired by section 15 of the *Charter*. Once a mental illness is in remission or is otherwise under control, it should not affect a custody determination since it does not impact on the child.

In the case of *Henley v. Jamieson*,<sup>24</sup> the father was applying for sole custody on the basis that the mother's depression made her being unable to provide consistent positive parenting for their daughter. In granting the mother's request for joint custody, Dunn J. held:

Individuals with mental disabilities are to be afforded equal protection and equal benefit of the law....

Only when it is shown, on a factual basis, that some harm might come to the child as a result of symptoms or manifestations of the mental disability, can restrictions arise in terms of parental custodial rights....

There is no cogent evidence before me that would lead me to believe that there is any likelihood the respondent will have a sudden and immediate relapse or that such a relapse might cause [the child] harm....

Similarly, in *D.M. v. L.M.*,<sup>25</sup> the father attempted to vary the conditions of a consent order granting the mother custody. The father was seeking sole custody while the mother was prepared to accept joint custody. The mother had on many occasions conducted herself in very irrational manner as a result of a mental illness. Expert evidence established that her mental health had improved and the condition was under control. Her doctor gave evidence that,

although there was no cure for the condition, it could be controlled by medication. The Court ordered joint custody and stated:

Had the mother continued in her previous conduct there would be no question about the applicant's claim for custody, as she would not have been in a position to have assumed a role as a custodial or joint custodial parent in a significant way without serious implications for the child. If, in the future, her medical condition deteriorates and she is unable to continue to control her conduct, then that would be a material change in circumstances that would warrant a review by this court of the custody and access arrangements. Under her current regime of medical treatment, I find that she is an acceptable joint custodial parent.<sup>26</sup>

In *MacArthur v. MacArthur*,<sup>27</sup> the parents of two children had an agreement by which the mother had day to day care and control, and the father liberal access. The father then sought sole custody. He alleged that the mother, although generally a good parent, suffered from depression, had assaulted the father twice, and had attempted or threatened suicide three times over the past two years. Experts testified that she did not pose a risk to her children. In ordering joint custody, Martin J. stated that the "Court is in no better position than the psychiatrists who have been caring for the mother and are familiar with her condition." In light of the experts' opinions, there was no reason to award custody to the father.

As noted, most of these cases revolve around the assessment of a parent by mental health experts. While expert opinion is accorded significant respect in dominant legal discourse, the categorization and definition of "disability" is highly political. The notion of disability itself is a contested concept. Women are labeled with higher rates of depression and other forms of mental illness. In the U.S., nearly twice as many women as men are diagnosed with a depressive disorder each year.<sup>28</sup> This must be understood as part of the long history of characterizing women as hysterical, emotionally unstable, mentally ill.<sup>29</sup> It is also important to recognize cultural causes of depression: for example, women have the stress of multiple work and family responsibilities and greater frequency of sexual and physical abuse, sexual discrimination, and poverty. The accusation that a mother is depressed or otherwise "crazy" is frequently made in custody and access litigation. Mental illness is particularly stigmatized in our culture and the labeling, pathologization and "syndromization" of women is consistent with dominant sexist discourses.

One example is "parental alienation." Another variation of mother-blaming, women are routinely criticized when children are resistant to access. Dr. Janet Johnston and many other noted researchers remind us that conflicted access cases should be evaluated from the child's perspective. The child's age, cognitive capacities and the ongoing experience of the conflict contribute

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significantly to the problem. The answer is not wild, blaming litigation or demands for custody changes; in fact, litigation is ill-advised in cases of real conflict around access, since the court process is unable to “assert control” over a child or “solve” this problem. As with all cases involving legitimate concerns about a child’s mental and social development, a therapeutic approach is best.

### **Men’s claims to formal equality in custody decision-making**

The frequent allegations of “parental alienation” are closely related to the rise of the fathers’ rights movement. A vocal minority of divorced fathers has been setting the agenda of family law reform since 1997 when, in order to secure passage of the *Guidelines*, the federal government agreed to strike the Special Joint Senate-Commons Committee on Custody and Access.<sup>30</sup> Since the Committee report<sup>31</sup> advocating a presumption of shared parenting, men have experienced success in claiming that they are not treated equally in custody decision-making. They increasingly rely on the “friendly parent rule” to attack women who claim sole custody.

Fathers’ rights activists argue that “...the fact that men receive sole custody of their children far less often than women, even against the backdrop of a gender-neutral legal standard, suggests ‘judicial bias’.”<sup>32</sup> In order to rectify what they perceive to be a bias in the system, they argue that formal equality demands a joint custody presumption in child custody law. In support of their claims to joint custody, fathers also argue that mothers and fathers each bring unique, complementary qualities to parenting; any mother who fails to accept this is an access-withholding evildoer.

Although the government has not formally amended the *Divorce Act*, it seems that judges frequently rule as though there is a shared parenting presumption in custody cases. There is an Ontario Court of Appeal decision that joint custody is an exceptional order that should only be imposed where both parents agree to shared parenting.<sup>33</sup> It has been overruled in practice. Women, still charged with primary responsibility for the work of parenting, are expected to do whatever it takes to accommodate men’s access to their children. Courts will now order joint custody even where there is adamant opposition,<sup>34</sup> and many separated women now find themselves held hostage in the jurisdiction, unable to move because of the father’s “right to access.”<sup>35</sup>

The claim for equal treatment of fathers and mothers in custody cases relies on a misguided formal equality argument, an approach rightly rejected in our *Charter* jurisprudence. Substantive equality requires an examination of the full social and political context of the claim and focuses on the impact of a law in the lives of the affected individuals. Looking at the current context of parenting disputes through the lens of substantive equality, a presumption of shared parenting is revealed as both inappropriate and dangerous.

“[G]ender neutral” analysis ignores or obscures the inequalities and power relations that exist between men and women. The current

“gender neutral” analysis, which treats unequals as if they were equals, does not lead to equality and “justice” but more deeply entrenches inequality and power imbalances.<sup>36</sup>

The reality of the current social context is that women are generally primarily responsible for the care of children. Still, men succeed in almost half of the contested custody cases.<sup>37</sup> Any differential legal outcomes in favour of women are not a tell-tale sign that men are discriminated against in custody disputes, but rather are a natural consequence of the lived realities of a gender division in care giving.<sup>38</sup> Continuity of care is important to children.

A father frequently develops a sudden interest in the child’s life or indicates a desire to become more involved after separation. Promises of future behaviour are not the same as a history of daily care giving. Time at hockey practice is not the same as organizing your daily life and all of your choices around the children. On the other hand, once a gendered pattern of care giving is no longer possible as a result of separation, a parent may sincerely be interested in changing his priorities. It may be difficult to determine the sincerity of such wishes, however, in light of child support legislation.

In all too many cases, the onset of a father’s new interest in the children is inspired by his seeking to reach the 40 percent threshold of time that permits deviation from the child support tables. This provision of the *Federal Child Support Guidelines* has very negatively impacted custody and access litigation. Any connection between financial issues and access must be reconsidered. One method of evaluating claims for joint custody or equal time in negotiation—albeit an obvious and not always reliable one—is to ask the father directly if he would be willing to pay the table amount of child support even if he was awarded equal time.

Some men are interested in shared parenting because they want control of decision-making. Unfortunately, as many academics have noted, custody litigation is often a means to continue contact and control of the former spouse and children, rather than building a relationship with the children.<sup>39</sup>

The trend toward a presumption of shared parenting is often furthered by reference to the “friendly parent rule.” Section 16 (10) of the *Divorce Act* provides:

In making an order under this section, the court shall give effect to the principle that the child of the marriage should have as much contact with each spouse as is consistent with the best interests of the child and, for that purpose, shall take into consideration the willingness of the person for whom custody is sought to facilitate such conduct.

This section has been transformed into a “maximum contact principle,” losing sight of the plain language of the provision and the ultimate standard of the best interests of the child. For example, in *Hildinger v. Carroll*,<sup>40</sup> a father

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residing in New York City who had never lived with his one year old child was awarded joint custody and generous access, including visits of up to one week at a time. Although his case was decided under the *Children's Law Reform Act*, and therefore the court did not specifically aver to the maximum contact—or “friendly parent”—provision of the *Divorce Act*, the court mentioned several times that the child would “profit from growing up knowing both her parents.”<sup>41</sup>

In *Hess v. Hess*, the mother was criticized for not encouraging (as opposed to facilitating), the father-child relationship:<sup>42</sup> “There is a significant difference between facilitating such a relationship and actually encouraging it... I remain concerned about the ability of the wife to encourage actively the kind of relationship the children deserve to have...” (Notwithstanding that s.16 (10) of the *Divorce Act* explicitly uses the word “facilitate” and Epstein J. found that there was no doubt that Mrs. Hess did “facilitate” the relationship.)

The reality and seriousness of male abuse of women is another issue frequently disregarded by the courts.<sup>43</sup> Part of the reality of our current social context is that the abuse of women by male partners is widespread. A shared parenting presumption invites continued control of women by abusive men. Continuing conflict and perpetuation of abuse is not in children's best interests. A shared parenting presumption would enhance the use of litigation as an extension of the abuse.

Already, as a result of the new focus on joint custody, abused women “choose” not to leave their relationships for fear of losing their children or being locked into continuing struggles with the children's father. There are increasing numbers of women deciding to stay in abusive situations “for the sake of the children.” As Justice L'Heureux-Dube has written, “to deny the existence of the equality component in family law is to trivialize the very inequalities suffered largely by women and children.”<sup>44</sup>

Section 16(9) of the *Divorce Act* is also used to condone male violence against women. Section 16(9) of the Act prevents a court from considering any past conduct unless it is relevant to the ability of that person to act as a parent of a child. It provides:

In making an order under this section, the court shall not take into consideration the past conduct of any person unless the conduct is relevant to the ability of that person to act as a parent of the child.

Judges need to recognize that violence against a spouse is relevant to parenting ability, rather than dismiss abusive past conduct as irrelevant. The “friendly parent rule” exacerbates the dangers of failing to recognize the seriousness of abuse. It is not reasonable to require a custodial parent to facilitate contact regardless of past violence. While they are facially-neutral, ss. 16(9) and (10) have serious consequences for women and children.

In *Sherry v. Sherry*, the father was awarded unsupervised access despite the

mother's claims that he physically abused both her and the children.<sup>45</sup> The father deposed that he did punish the children by spanking them but never "struck the children with intent to injure them." Two assessors conducting assessments on two separate occasions recommended supervised access. The trial judge, purporting to follow the majority judgment of the Supreme Court in *Young v. Young*, framed the issue as a balancing exercise between risk of harm to the child versus the benefits of a free and open relationship with the access parent "as he or she is." He placed the onus on the custodial parent to prove not only that there is a risk of harm to the children, but that the risk was substantial.

In *Beck v. Balsillie*, a father with a history of violence and alcohol abuse was awarded unsupervised access against the wishes of the mother.<sup>46</sup> The father had six criminal convictions, five of which were for assault. Despite evidence of the assault convictions, the trial judge claimed that he had to decide the case solely on untested affidavit evidence. The conditions of the unsupervised access were that the father abstain from alcohol during the visits and that his new wife be in town, although not necessarily present, at the time.

### **Barriers of class and custody**

Although child abuse is equally prevalent across lines of race and class, poor families and non-white families are more likely to be subject to the scrutiny of child protection agencies.<sup>47</sup> This is a result of prejudice and stereotype, and the greater availability for inspection and supervision of those who are poor. Only the wealthy can afford privacy.

In custody and access cases, too, class has a serious influence on the results. If a mother is employed in a professional career or is self-employed, she is portrayed as a "bad mother" who has abandoned her mothering responsibilities; she is likely to be characterized as obsessed with her work and as deficient in her parenting. A father is not subject to similar negative judgments if he is dedicated to his career.

The bias against working mothers is illustrated by *Roebuck v. Roebuck*.<sup>48</sup> The father was a farmer, and his mother, who lived with him, was available to help with housekeeping and babysitting. The mother, by contrast, was employed. If she had been awarded custody, the child would have to have been placed in daycare. The father won custody.

At the same time, if a mother is *not* working in paid employment or is poor, she may be deemed unable to provide financially for the children. Very few women obtain support awards and many of those support orders are unpaid. In the year following separation, only 35 per cent of women with children receive support (child and spousal) payments.<sup>49</sup> As Julien Payne suggests, the issue of economic support post-separation requires a more systemic approach. Privatized obligations will never address the endemic poverty of women and children. More comprehensive socio-political changes are required.<sup>50</sup>

Economic inequality also jeopardizes claims to custody and access of children because lower income persons simply cannot afford to litigate. In *New*

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*Brunswick (Minister of Health and Community Services) v. G.(J.) [J.G.]*,<sup>51</sup> the Supreme Court of Canada held that a mother's section 7 rights were infringed by the denial of legal aid services for a child protection hearing. The Court held that section 7 does not provide "... an absolute right to state-funded counsel at all hearings where an individual's life, liberty and security is at stake, and the individual cannot afford a lawyer."<sup>52</sup> The considerations are: the seriousness of the issues at stake, the complexity of the proceedings and the capacities of the litigant.<sup>53</sup> Funded counsel must be ordered when a fair hearing would not take place otherwise. The majority judgment of Lamer J. considered such cases to be unusual.<sup>54</sup> The concurring judgment of L'Heureux-Dube J. recognized that such situations would not necessarily be rare.<sup>55</sup> Relying on *J.G.*, as well as principles of equality and best interests of the child, it is possible to assert a constitutional claim to state paid counsel in family law disputes more broadly.<sup>56</sup>

Economics also impacts on custody determinations because men re-partner more quickly than women post-divorce. Men are more likely to be able to afford to support the new partner as a stay-at-home parent.

[A] second wife or paternal grandmother may be held superior as a primary caregiver to mothers who have to, or choose to, work in order to support their children, or disadvantaged women in low paying jobs, who are on social assistance .... Thus, if the mother is poor, she may be deemed unable to provide financially; if she is employed in a professional career, she may be deemed to have abandoned her mothering responsibilities.<sup>57</sup>

The Supreme Court of Canada has recently commented on this issue in *Van de Perre v. Edwards*.<sup>58</sup> Although known more for its determination of the impact of race in custody disputes and the scope of appellate review, the class implications of the decision are also important.

In *Van de Perre*, the trial judge granted custody to the mother, who had been the child's primary caregiver since his birth. The appeal court reversed, not only on an appreciation of the importance of race, but seemingly influenced by classist ideology.

The father was a black professional basketball player who was married with two children. Due to his wealth, his wife was available to stay home to look after the children full-time. She was characterized as a strong black woman who held her family together, despite her husband's infidelities.

In contrast, the mother was described as follows in Mr. Edwards' factum:

From 1996 to trial in 1998, the Appellant continued to have multiple sexual partners, pursue basketball players, other professional athletes and celebrities, frequent clubs and go on trips leaving Elijah with multiple caregivers. She has little education or interest in obtaining more, a very poor work record, and a history of taking, not giving to

the community and others. Her promiscuity, partying, pursuit of athletes and interest in a “profit pregnancy”... are not dealt with by the trial judge....<sup>59</sup>

Essentially, the Court of Appeal adopted this view - the mother being portrayed as an unmarried, uneducated, unemployed woman motivated by dreams of a huge child support award—as sexually promiscuous so-called “white trash.”

The Court of Appeal invited the father’s wife to apply for joint custody and reversed the trial decision. Custody was awarded to the father and his wife, who had not been a party at the trial level. The appellate court held that the trial judge failed to consider all relevant factors in considering the best interests of the child. In particular, “he set aside the obvious superiority of the E.’s family situation....”<sup>60</sup> The Court held that the trial judge’s decision should have taken account the presence of the father’s wife, rather than comparing the father against the mother.

The Court of Appeal reasoned that the father and his wife could provide Elijah with a more stable environment than could Ms. Van de Perre alone: “Although both parents demonstrate above adequate parenting capacities, it is my opinion that the E.’s are more able to provide for [the child’s] best interest.”<sup>61</sup> The Court of Appeal complained that the trial judge ignored “the fact that [Ms K.V.] does not have her grade 12 education....”

Overruling the Court of Appeal decision, the Supreme Court of Canada restored the trial judge’s decision to grant custody to the mother. The Supreme Court held that a parent’s support network was relevant but “the objective in every case is to determine the parenting abilities of the specific person who will ultimately receive custody.”<sup>62</sup> The addition of the father’s wife as a party on the appeal court’s own motion was an error. For a unanimous court, Justice Bastarache wrote:

A trial judge cannot give custody to a father merely because his wife is a good mother. Her presence is a factor but, overall, the court must consider if the applicant would make a good father in her absence. Even if the family were stable, this would not be determinative... Here, it is Mr. Edwards’ personal capacity to exercise custody that must be considered, and the support provided by his wife is but a factor to be weighed in assessing these parental abilities.<sup>63</sup>

The Supreme Court’s decision on this point aligns with substantive equality principles. Hopefully, this reasoning will be helpful in protecting the interests of lower income working mothers.

Classism should not influence custody and access determinations. The reality is, however, that as long as poor and low income Canadians are denied access to legal representation, there will be no substantive equality in family law.

### Race and custody

Prior to the Supreme Court of Canada decision in *Edwards v. Van de Perre*,<sup>64</sup> there were few cases on the impact of race in determining the best interests of the child. Some decisions emphasized the risk of harm to children of colour if raised outside their own race and culture. Others minimized the impact of race on children's welfare. A brief survey of the case law follows.

In *Hayre v. Hayre*,<sup>65</sup> a non-Sikh mother was denied custody of her Sikh child. While framed as a religion issue, the court's reasoning actually turned on culture, language and race of the child. McIntyre J. stated:

This boy is a Sikh. He will always be regarded as a Sikh in this country. It will be well for him to be brought up a Sikh, to preserve his existing knowledge of the Punjabi language, to be schooled in the religion and traditions of the people with whom he will always be associated. It will, in my view, be possible for him to find a secure personal identity only in the Sikh community. It is the only identity our society will permit him. Let him, then, be a Sikh and be proud of the tradition and accomplishments of a proud and worthy race. No matter how much she loves him, his mother cannot accomplish this. I direct that custody of the boy be given to his father.

In *Camba v. Sparks*,<sup>66</sup> custody of a "very fair" mixed-race child was awarded to an English-speaking African Canadian mother, who encouraged French-language speaking in the home. The white French-Canadian father, who was less sensitive to the child's multi-linguistic and bi-racial identity, was granted access. The court expressly stated that the issue in a race and custody case is not the skin colour of the mixed race child. Rather, it is a determination of "which parent was most likely to support and encourage the mixed racial and multi-cultural background of the child."

Similarly, a white mother was awarded custody in *Ffrench v. Ffrench*,<sup>67</sup> because she was found to be more likely to promote access to the other parent, who was black. By contrast, the father was found to be more likely to concentrate only on the child's black heritage. The court said that the best interests test included a recognition that children who will likely be perceived as Black have an opportunity to develop their self-esteem by continued contact with their racial minority background.

Race was minimized as a factor in determining custody of a bi-racial child in *Hoskins v. Boyd*.<sup>68</sup> The British Columbia Court of Appeal upheld a custody order in favour of a non-Aboriginal father in Oregon on the grounds that "[t]he force and urgency of the [Aboriginal mother's] opinions based on race are much diminished by the child's mixed parentage."<sup>69</sup>

In *Singh v. Singh*,<sup>70</sup> an expert psychologist testified that "these boys look like Sikhs, they will be seen as Sikhs and most importantly they see themselves as Sikhs." He testified that without exposure to the Sikh religion from their

father, the boys would “grow up with a relatively insecure basis for their identity.” The judge nevertheless awarded custody to the boy’s white mother. The court relied on evidence showing that the children were “exceedingly unhappy” without their mother, who was their primary parent. Other relevant considerations were the fact that the mother claimed to remain an adherent to Sikh religion and intended to continue education of her sons in that religion and the Punjabi language.

The Supreme Court of Canada has now provided additional guidance on the role of race in custody cases, holding that race is relevant but not determinative of child custody decisions.<sup>71</sup> After much publicity and discussion, the decision is in one sense totally unremarkable. Of course, race is a relevant factor. Of course, race is not determinative. The test, as always, is the best interests of the child. There are interesting insights in the various judgments, however, which speak to the recognition of racism and the promotion of substantive equality in law.

The trial judge had only briefly commented on the issue of race in his reasons. He held it was important for the child to be exposed to his black heritage and culture, but stated “there is also the need of the child to be exposed to the heritage and culture as the son of a Caucasian Canadian.”<sup>72</sup>

The Court of Appeal, in contrast, treated the child’s racial identity as a central issue. Harking back to McIntyre J.’s analysis in *Hayre v. Hayre*,<sup>73</sup> the appeal judgment noted that:

If it is correct that E. will be seen by the world at large as “being black,” it would obviously be in his interests to live with a parent or family who can nurture his identity as a person of colour and who can appreciate and understand the day-to-day realities that black people face in North American society - including discrimination and racism in various forms... The Supreme Court of Canada has found that there is “systemic discrimination against black and aboriginal people” in Canada.<sup>74</sup>

The Court of Appeal found that it was important for the child to live with a family who could nurture his identity as a person of colour. The Court relied on the testimony of the father’s black spouse, who said that the child’s white mother “couldn’t teach him what it’s going to be like to be black, and how he is going to be seen in the world as being black.... And reading books won’t help.”<sup>75</sup>

The court also considered the social science evidence, which suggests that a child’s sense of self, the child’s well-being and the future of our society are “inextricably related to the colour of his or her skin.”<sup>76</sup> The court concluded that the race factor weighed in favour of assigning physical custody to the father but noted that issues of “culture, race and racial prejudice” are “not determinative.”<sup>77</sup>

Newbury J.A. observed that the trial judge “reached no resolution [on the

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race issue] because of what he regarded as the evenly balanced competing claims in this regard.<sup>78</sup> She noted that while issues arising from a child's race or ethnicity are not specifically adverted to in the Act, they are clearly subsumed under the best interests standard, in particular the consideration of a child's health and emotional well-being. She added: "With respect, I am not sure there is a 'Caucasian Canadian' culture...."<sup>79</sup> For these reasons, the Court of Appeal found that the trial judge erred in not giving proper weight to the issue of race.

The Supreme Court of Canada granted the mother leave to appeal. The mother submitted that there were five problems with the Court of Appeal's analysis of race.<sup>80</sup> First, there was no evidence before the court regarding the child's appearance, and therefore the court ought not to have engaged in an analysis of how the child "looked." Second, "given the infinite variety with which various racial characteristics may be expressed in human beings, it is impossible to contemplate how such an analytical requirement would be implemented in any meaningful way at the trial level." Third, mixed-race children cannot be pigeon-holed as belonging to either one race or another—they belong to both. Fourth, the court's observation that there is no such thing as a "Caucasian-Canadian" culture is unsupportable, "not least because there was no evidence before the court." Finally, race and ethnicity was not an issue that was argued at trial, nor were written submissions provided in the appeal.

The respondent father argued that, with regard to the issue of race, intervention by the Court of Appeal had been required. He argued that the trial judge applied a stereotypic view of the father as a black man, in particular a black NBA American athlete. This constituted an error of law which violated Elijah's rights under s.15 of the *Charter* to equal consideration of his custodial options.<sup>81</sup> The respondent observed that the purpose of the s.15(1) equality guarantee is to protect and promote human dignity: "[O]ne of the principal mechanisms by which the *Charter's* quality guarantee achieves that purpose is by barring the use of stereotypes."<sup>82</sup>

The respondent argued that the child was entitled to have the parenting capacity of all the parties treated equally. Instead: "The trial judge found evidence that fit the stereotype, made errors of fact, misapprehended other evidence in order to conform to the stereotype, and ignored evidence of Mr. Edwards as a person and parent that did not fit the stereotype."<sup>83</sup> The respondent goes on:

The historic stereotype of black men offends human dignity. It is of a lesser being: a feckless father, uncommitted to his family, irresponsible, full of ungoverned emotions. Black men in particular were to know and stay in their place, and not presume entitlement to wealth or social status. Fear of the sexual prowess of black men and protection of white women lays at the heart of racism; fear of miscegenation.<sup>84</sup>

The respondent also argued that Elijah would be identified as a black child

and man. The father was better positioned to assist the child in developing positive self-esteem, stating that “exposure to the Edwards’ Afro-American culture can only benefit Elijah, and that culture does not exist in Vancouver.”

The African Canadian Legal Clinic, the Association of Black Social Workers and the Jamaican Canadian Association were granted status as an intervener to make submissions on the role race should play in decisions regarding custody of mixed-race children. The intervener argued that from both the perspective of family and constitutional law, race is a “major” factor which “must be given explicit consideration and considerable weight in custody and access disputes.”<sup>85</sup> To ignore or minimize race as an important factor in custody and access disputes “is to discriminate against racialized children.”<sup>86</sup> The intervener invited courts to rely on judicial notice of race-related issues.

Bastarache J., for a unanimous court, found no indication that the trial judge was biased against black men generally or against black basketball players in particular. He noted that in a custody case, the child will continue to have exposure to both parents and therefore have contact with both parents’ cultural and racial backgrounds.

Bastarache J. added that, while some notice may be taken of racial facts, evidence will usually be important. General public information may not be sufficient to inform the trial judge on, for example, race relations in the relevant communities or the ability of the parents to address the issue of racial identity.

In *Van de Perre*, no evidence had been adduced at trial to indicate that race was an important consideration. Instead, the Supreme Court found that the issue of race “was given disproportionate emphasis at the initiative of the Court of Appeal.” The trial judge had considered the issue. His limited findings simply reflected the limited weight accorded to the issue by the parties at trial. Bastarache J. emphasized that race was just one factor, and “other factors are more directly related to primary needs and must be considered in priority.” The Court held:

It is important that the custodial parent recognize the child’s need of cultural identity and foster its development accordingly. I would therefore agree that evidence regarding the so-called “cultural dilemma” of biracial children ... is relevant and should always be accepted. But the significance of evidence relating to race in any given custody case must be carefully considered by the trial judge. Although general public information is useful, it appears to be often contradictory..., and may not be sufficient to inform the judge about the current status of race relations in a particular community or the ability of either applicant to deal with these issues.<sup>87</sup>

In summary, the Supreme Court in *Van de Perre* held that the importance of race as a factor varies from case to case. Expert evidence is likely required as to the race relations in various communities, the importance of race as a

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consideration in the circumstances, and the ability of the parents to meet the child's need to develop skills to deal with racism and to have pride in her heritage and identity.

By its emphasis on the need for individual consideration of race and the need for evidence in each case, the Court may be creating barriers to a meaningful discussion of race in custody and access cases. It is unquestionably true that race should not be determinative; custody cases absolutely require individual determination. The concern is that the Court placed less emphasis on another unquestionable truth: racism is endemic to Canadian society and children of mixed race parents are "racialized" individuals who need skills to cope with discrimination. As an aspect of its individualized approach to questions of race, the Court problematically suggests that race may be a relatively minor factor that does not always matter.

An individualized approach must not obscure the necessary identification of the realities of racism. Race is not a relatively minor issue in our society. It does matter. It should not be necessary to adduce evidence in every case to prove this basic premise. The analysis of systems of oppression like sexism and racism depends on an examination of the full social and political context to discern generalized patterns of power and privilege. Focusing exclusively on individuals, refusing to look at the common experience, may obfuscate systemic problems.

If it is necessary to adduce evidence with respect to race in each case, the cost and time barriers to developing the record may be prohibitive to a proper exploration of the issue. It is interesting to contrast the reflections of L'Heureux-Dube J. in *Moge*. In that case, the Court accepted that courts must take judicial notice of the economic impact of divorce on women. The Court recognized that litigants would likely not be able to afford the cost of expert evidence of the economic consequences of marriage breakdown.<sup>88</sup> L'Heureux-Dube J. wrote:

Based upon the studies which I have cited earlier in these reasons, the general economic impact of divorce on women is a phenomenon the existence of which cannot reasonably be questioned and should be amenable to judicial notice. ...[J]udicial notice should be taken of such studies, subject to other expert evidence which may bear on them, as background information at the very least.

In all events, whether judicial notice of the circumstances generally encountered by spouses at the dissolution of a marriage is to be a formal part of the trial process or whether such circumstances merely provide the necessary background information, it is important that judges be aware of the social reality in which support decisions are experienced when engaging in the examination of the objectives of the Act.<sup>89</sup>

In *Van de Perre*, Bastarache J. notes that courts have taken judicial notice of racism,<sup>90</sup> but less emphasis is placed on the judge's need to recognize this

social reality. Instead, the Court focuses on the requirement to examine individual cases to assess whether race is an issue. This may imply that racism is not an issue in some circumstances—the idea being that racism is a large scale problem obviated in individual contexts by well-intentioned equality-minded white people.

Regardless of our positive and progressive intentions, the reality is that all of us, whether we experience oppression or privilege in relation to an aspect of our identity, have been thoroughly schooled by discourses of discrimination.

### **Conclusion**

Family law is vitally important to the individual families it serves. It is also very much a dialogue about power in contemporary social relations. The discourses of family law work to define, prescribe and control our most intimate lives, in subtle and dramatic ways. And family law reflects and reinforces, sometimes challenges, dominant discourse in our pressing social struggles around discrimination.

A substantive approach to equality rejects the formalistic notion that “likes should be treated alike,” and so requires the rejection of simplistic demands for a one-size-fits-all presumption of “equal parenting” post-separation. Yes, there may be two parents, but that tells us almost nothing about actual relationships with the children.

Substantive equality requires us to look at individual circumstances, with an eye to the larger social and political context of the claim. It therefore reminds us that our lives and thinking are necessarily marked by systemic sexism/ racism/ classism/ ableism/ heterosexism/ transphobia. It should not be necessary to introduce expert evidence of the importance of race to a mixed race child.

Our ideal of substantive equality challenges us to abandon a “common sense” shaped by majoritarian ideals. We are instead required to give voice to those traditionally silenced and valorize the political identities associated with discrimination. So, while our trans client was repeatedly told by early settlement conference judges it was “obvious” she would fail, she achieved justice after a full trial. She had a chance to speak and be heard.

All mothers, all fathers, all children, all families, deserve to be treated with dignity and respect in family law. Substantive equality principles developed under the *Charter* help us achieve this ideal.

*With gratitude to Martha McCarthy for her gracious expert assistance. Thanks also to my spouse, Maretta Miranda, and our newborn son, Cameron Avery Miranda-Radbord, for showing me all that is good and beautiful.*

<sup>1</sup>*Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B of the *Canada Act 1982* (U.K.), 1982, c.11.

<sup>2</sup>Every constitutional challenge to the differential treatment of “illegitimate

children” (eleven in total) has been successful. See e.g. *Christante v. Schmitz* (1990), 83 Sask. R. 60 (Q.B.).

<sup>3</sup>*Halpern v. Canada (Attorney General)* (2003), 65 O.R. (3<sup>rd</sup>) 161 (C.A.); *EGALE Canada Inc. v. Canada (Attorney General)* (2003), 13 B.C.L.R. (4<sup>th</sup>) 1 (C.A.); *La Ligue catholique pour les droits de l'homme c. Hendricks et al.*, [2004] (No. 500-09-012719-027) (Que. C.A.) (March 19, 2004).

<sup>4</sup>*Hills v. Canada*, [1988] 1 S.C.R. 513 at 558.

<sup>5</sup>*Dolphin Delivery v. RWDSU*, [1986] 2 S.C.R. 573 at 603; *Canadian Broadcasting Corp. v. Dagenais*, [1994] 3 S.C.R. 835; and *Hill v. Church of Scientology of Toronto*, [1995] 2 S.C.R. 1130.

<sup>6</sup>Please excuse the ableist expression, but as long as it is problematized, I thought it was useful in the context of this paper.

<sup>7</sup>*Young v. Young*, [1993] 4 S.C.R. 3 at 117

<sup>8</sup>[1989] 1 S.C.R. 143.

<sup>9</sup>*Law v. Canada (Minister of Employment and Immigration)*, [1999] 1 S.C.R. 497 at 524 (para. 39).

<sup>10</sup>*Miron v. Trudel*, [1995] 2 S.C.R. 418; *Egan v. Canada*, [1995] 2 S.C.R. 513 at 603-604; *Andrews v. Law Society of British Columbia*, [1989] 1 S.C.R. 143 at 165, 152.

<sup>11</sup>*Young v. Young*, [1993] 4 S.C.R. 3 at 117

<sup>12</sup>*Ibid.* at 71, per L'Heureux-Dube J.

<sup>13</sup>*Droit de la famille - 1150*, [1993] 4 S.C.R. 141 (sub nom. *P.(D.) v. S.(C.)*).

<sup>14</sup>Although Sopinka J. agreed that the Act was constitutional, he disagreed that the *Charter* should be read down in the face of the best interests test. Rather, the test has to be reconciled with the *Charter*.

<sup>15</sup>*Young v. Young*, [1993] 4 S.C.R. 3 at 117

<sup>16</sup>*Canadian Foundation for Children, Youth and the Law v. Canada (Attorney General)*, [2004] S.C.R. 4.

<sup>17</sup>(1995), 15 R.F.L. (4<sup>th</sup>) 129 (Ont. Ct. Prov. Div.)

<sup>18</sup>See for example, *Gay and Lesbian Parents*, F.W. Bozett, ed. (Westport: Praeger Publishers, 1987); *Homosexuality: Research Implications for Public Policy*, J.C. Gonsiorek and J.D. Weinrich, eds. (Newbury Park: Sage Publications, 1991); C.J. Patterson, “Children of Gay and Lesbian Parents” (1992) 63 *Child Development* 1025-1042; S. Golombok and F. Tasker, “Children in Lesbian and Gay Families: Theories and Evidence” in *Lesbians Raising Sons*, Jess Wells (ed.) (Los Angeles: Alyson Books, 1997) 158; R. Green, J.B. Mandel, M.E. Hotvedt, J. Gray, and L. Smith, “Lesbian Mothers and their Children: A Comparison with Sole Parent Heterosexual Mothers and their Children” (1986) 15 *Archives of Sexual Behaviour* 167-184; C.J. Patterson, “Children of the Lesbian Baby Boom: Behavioural Adjustment, Self Concepts and Sex Role Identity” in *Lesbian and Gay Psychology: Theory Research and Clinical Applications*, B. Greene and G.M. Herek (eds.) Newbury Park, California: Sage) 156-175.

<sup>19</sup>(April 2001) 66: 2 *American Sociological Review* 159.

<sup>20</sup>Transgender persons are persons who identify themselves as belonging to a sex and/or gender different from that assigned to them at birth.

<sup>21</sup>(2000) 10 R.F.L. (5th) 34

<sup>22</sup>While our client identified as a woman, she also identified as a father because that is how her child had known her almost her whole life.

<sup>23</sup>See for example, *Sexual Sterilization Act*, S.A. 1928, c.37.

<sup>24</sup>*Henley v. Jamieson* (1996), Nfld. & P.E.I.R. 69 at para. 26, 32, 35 and 41 (Nfld. S.C. U.F.C.).

<sup>25</sup>*McNichols v. McNichols* (1993), 42 A.C.W.S. (3d) 699, [1993] W.D.F.L. 1406, [1993] O.J. No. 1973 (Ont. Prov. Div.) [*sub nom D.M. v. L.M.*]

<sup>26</sup>*Ibid* at para. 6

<sup>27</sup>[1998] A.J. No. 1338 at para.21 (Alb. Q.B.).

<sup>28</sup>Regier DA, Narrow WE, Rae DS, et al. The de facto mental and addictive disorders service system. Epidemiologic Catchment Area prospective 1-year prevalence rates of disorders and services. *Archives of General Psychiatry*, 1993; 50(2): 85-94.

<sup>29</sup>Astbury, J. *Crazy for You: The Making of Women's Madness* (Melbourne, Australia: Oxford University Press, 1996); Chesler, P. *Women and Madness* (New York: Harcourt Brace Jovanovich, 1989); Ussher, J. *Women's Madness: Misogyny or Mental Illness?* (Amherst, MA: University of Massachusetts Press, 1991).

<sup>30</sup>For a critical evaluation of these developments, see for example: M. Laing, "For the Sake of the Children: Preventing Reckless New Laws" (1999) 16 Can. J. Fam. L. 229-282; S. Boyd, "W(h)ither feminism? The Department of Justice Public Discussion Paper on Custody and Access" (1995) 12 Can. J. Fam. L. 331-365; A.H. Young, "Joint Custody as Norm: Solomon Revisited" (1994) 32 Osgoode Hall L.J. 785-816; K. Munro, "The Inapplicability of Rights Analysis in Post-Divorce Child Custody Decision Making" (1992) 30 Alta. L. Rev. (No. 3) 852; J. Cohen and N. Gershbnain, "For the Sake of the Fathers? Child Custody Reform and the Perils of Maximum Contact" 19 C.F.L.Q 121.

<sup>31</sup>Special Joint Committee on Child Custody and Access, For the Sake of the Children, Final Report (Ottawa: Public Works and Government Services Canada, 1998).

<sup>32</sup>J. Cohen and N. Gershbnain, "For the Sake of the Fathers? Child Custody Reform and the Perils of Maximum Contact" 19 C.F.L.Q 121 at 125-26.

<sup>33</sup>*Kruger v. Kruger et al* (1979), 11 R.F.L. (2d) 52 (C.A.).

<sup>34</sup>See for example, *McDonald v. McDonald* (2000), 13 R.F.L. (5<sup>th</sup>) 143 (S.C.J.).

<sup>35</sup>In a recent trial, the mother was denied permission to move with the children from Toronto to North Bay because the father's access would be compromised, even though the judge found that the mother acted as "primary parent" to the children. *Tumino v. Tumino* (June 24, 2002, Ont. Sup. Ct. J., Ct. file: 01-FP-270673)

<sup>36</sup>M. Laing, "For the Sake of the Children: Preventing Reckless New Laws" (1999) 16 Can. J. Fam. L. 229-282 at para. 24.

<sup>37</sup>*Ibid.* In the 1980's, fathers who petitioned for custody were successful 43% of the time. By the 1990s researchers estimate challenging fathers succeed in 50-60% of cases. See, Canada, Department of Justice (1990). Evaluation of the Divorce Act. Phase II: Monitoring and Evaluation. Ottawa: Bureau of Review. Wertzman determined that two thirds of fathers who petitioned for custody obtained it through negotiation with the mother. See, Susan Boyd, "Investigating Gender Bias in Canadian Custody Law: Reflections on Questions" (Feminism and Law Workshop Series no. WS. 92-93(2) (Toronto: University of Toronto, Faculty of Law, 1992) at 30; L. Armstrong, "The Home Front: Notes from the Family War Zone" (New York: McGraw-Hill, 1986) at 50-51 reports that in the United States, in 63% of contested cases, custody is awarded to the father; and P. Chesler, "Mothers on Trial: The Battle for Children and Custody" (Seattle: Seal, 1986) at 64ff finds that two thirds of fathers petitioning for custody received it.

<sup>38</sup>See, C. Smart, "The Legal and Moral Ordering of Child Custody," *Journal of Law and Society*, (1991): 485.

<sup>39</sup>C. Bertoia and J. Drakich, "The Fathers' Rights Movement: Contradictions in Rhetoric and Practice," *Journal of Family Issues*, 14, 4 (1993): 592-615.

<sup>40</sup>[1998] O.J. No. 2898 (Q.L.) (Gen. Div.).

<sup>41</sup>*Ibid.* at 8.

<sup>42</sup>(1994), 2 R.F.L. (4th) 22 (Ont.Gen.Div.) at paras. 15 and 22.

<sup>43</sup>M. Rosnes, "The Invisibility of Male Violence in Canadian Child Custody and Access Decision-making" (1997) 14 Can. J. Fam. L. 31-60

<sup>44</sup>L'Heureux-Dube J, "Making Equality Work in Family Law" (1997) 14 C.J.F.L. 103.

<sup>45</sup>(1993), 1 R.F.L. (4th) 146 at 154 (P.E.I.T.D.).

<sup>46</sup>(1994), 2 R.F.L. (4th) 91 (N.W.T.S.C.).

<sup>47</sup>See S. Boyd, "W(h)ither feminism? The Department of Justice Public Discussion Paper on Custody and Access" (1995) 12 Can. J. Fam. L. 331 at fnnt. 3.

<sup>48</sup>(1983), 45 A.R. 180, 34 R.F.L.

<sup>49</sup>See D. Galarneau and J. Sturrock, "Family Income after Separation," (1997) 9(2) Perspectives on Labour and Income 18 at 21-22; D. Galarneau, "Income after Separation — People without Children," (1998) 10(2) Perspectives on Labour and Income 32 at Table 4.

<sup>50</sup>J. D. Payne, "Family Law in Canada" in *Canada's Changing Families: Challenges to Public Policy* (Maureen Baker, Ed.) Vanier Institute of the Family, 1994; Ch. 2, pp. 13-28

<sup>51</sup>[1999] 3 S.C.R. 46.

<sup>52</sup>*Ibid* at para. 107

<sup>53</sup>*Ibid* at para. 75

<sup>54</sup>*Ibid* at para. 83

<sup>55</sup>*Ibid* at para. 125

<sup>56</sup>See M. J. Mossman and C. L. Baldassi, "A Constitutional Right to Civil

- Legal Aid in Canada?” Ontario Bar Association (May 6, 2002 - Toronto)
- <sup>57</sup>M. Laing, “For the Sake of the Children: Preventing Reckless New Laws,” (1999) 16 Can. J. of Fam. L. 229 at 260-61; see also, S. Boyd, “Child Custody, Ideologies and Employment” (1989) 3 Can. J. Women & Law 111.
- <sup>58</sup>*Van de Perre v. Edwards*, [2001] 2 S.C.R. 1014
- <sup>59</sup>Respondent’s factum. at para. 85.
- <sup>60</sup>*Van de Perre v. Edwards* (2000), 4 R.F.L. (5th) 436 para. 8.
- <sup>61</sup>*Van de Perre v. Edwards* (2000), 4 R.F.L. (5th) 436 at para. 33.
- <sup>62</sup>*Van de Perre v. Edwards*, [2001] 2 S.C.R. 1014 at para 26, see also para 25
- <sup>63</sup>*Van de Perre v. Edwards*, [2001] 2 S.C.R. 1014 at para. 30
- <sup>64</sup>*Van de Perre v. Edwards*, [2001] 2 S.C.R. 1014
- <sup>65</sup>(1973), 11 R.F.L. 188 (B.C.S.C.), aff’g (1975), 21 R.F.L 191 (B.C.C.A.).
- <sup>66</sup>(1993), 124 N.S.R. (2d) 321 (N.S.F.C.).
- <sup>67</sup>[2001] N.S.J. No.82
- <sup>68</sup>*Hoskins v. Boyd*, (1997), B.C.A.C. 111 at para. 13 (QL).
- <sup>69</sup>*Hoskins v. Boyd*, (1997), B.C.A.C. 111 at para. 13 (QL).
- <sup>70</sup>(1981), 26 R.F.L. (2d) 75 (Alta C.A.).
- <sup>71</sup>*Van de Perre v. Edwards*, [2001] 2 S.C.R. 1014.
- <sup>72</sup>*Van de Perre v. Edwards*, [1999] B.C.J. No. 434 at para. 80.
- <sup>73</sup>(1973), 11 R.F.L. 188 (B.C.S.C.), aff’g (1975), 21 R.F.L 191 (B.C.C.A.).
- <sup>74</sup>(2000) 4 R.F.L. (5th) 436 at para. 50.
- <sup>75</sup>*Ibid.* at para. 48.
- <sup>76</sup>*Ibid.* at para. 49.
- <sup>77</sup>*Ibid.*, at para. 52
- <sup>78</sup>*Ibid.* at para. 48.
- <sup>79</sup>*Ibid.* at para. 38.
- <sup>80</sup>Appellant’s factum at para. 122.
- <sup>81</sup>Respondent’s factum at paras. 64-87.
- <sup>82</sup>*Ibid.* at para. 74.
- <sup>83</sup>*Ibid.* at para. 77.
- <sup>84</sup>*Ibid.* at para. 78.
- <sup>85</sup>Intervener’s Factum at para. 3.
- <sup>86</sup>*Ibid.* at para. 8.
- <sup>87</sup>*Van der Perre v. Edwards*, [2001] 2 S.C.R. 1014 at para. 40.
- <sup>88</sup>[1992] 3 S.C.R. 813 at 871-872
- <sup>89</sup>*Ibid.*
- <sup>90</sup>[2001] 2 S.C.R. 1014 at para 38 citing *R. v. Williams*, [1998] 1 S.C.R. 1128

**Susan B. Boyd**

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# **Demonizing Mothers**

## ***Fathers' Rights Discourses in Child Custody Law Reform Processes***

Since 1997, a contentious law reform process relevant to motherhood after separation and divorce—and the social construction of motherhood more generally—has been unfolding in Canada. Canada still has an older style of custody and access legislation, as opposed to the new wave statutes that were introduced in the late twentieth century in jurisdictions such as England and Australia. These countries have jettisoned the language of custody and access, and moved towards shared parenting regimes after divorce or separation (Rhoades, 2002). Canada too has moved towards adoption of this type of legal regime, albeit more tentatively. Although apparently neutral on their face, such regimes effectively enhance fathers' rights in relation to children, given the social reality that most children continue to live with and be cared for by their mothers after separation or divorce. Even without legislative reform, the trend of enhancing paternal contact—and paternal authority—is already occurring in Canadian courts, sometimes in circumstances that endanger mothers and children, such as abuse (Boyd, 2003a; Cohen and Gershbain, 1999). Formal legislative reform that would move further towards shared parenting in Canada seems inevitable, although its timing is in question.<sup>1</sup>

In this article, I suggest that influential discourses emanating from the fathers' rights movement in the recent Canadian custody law reform process embody a demonizing of mothers. These demonizing discourses in turn promote mother blaming, which reflects a profound lack of understanding of the social realities of motherhood in modern Canadian society (cf. Turnbull, 2001). These discourses also represent a backlash against legal and social changes that are viewed as benefiting women. The term “backlash” signifies both resistance to feminist struggles for change and efforts to maintain and increase the subordination of women (Walby, 1993: 79). Especially relevant to

this article is the fact that a significant aspect of backlash discourse focuses on the damage that the women's movement has supposedly wrought on the family. Fears of single women—perhaps especially single mothers—operating outside the parameters of the patriarchal nuclear family have manifested themselves throughout the history of the women's movement. Currently, the ability of single—or, in our context, separated or divorced—mothers to obtain child support and raise children independently of fathers/husbands threatens the ideological code of the Standard North American Family, as well as of heterosexuality (Stacey, 1998: 55-56).

Dorothy Smith (1999) has identified the Standard North American Family as follows:

It is a conception of The Family as a legally married couple sharing a household. The adult male is in paid employment; his earnings provide the economic basis of the family-household. The adult female may also earn an income, but her primary responsibility is to the care of husband, household, and children.... The nuclear family is a theorized version of SNAF. (157)

Fathers' rights advocates generally endorse this traditional heterosexual form of family, asserting it as a remedy for the social ills they identify, and rarely talking about alternative family forms in any positive manner: "All children have two parents, not one, not three, but two" (Marc-André Pelletier, President, *Entraide pères-enfants séparés de l'Outaouais*, June 3, 1998).<sup>2</sup> Some fathers' rights advocates also raise a passionate critique of liberalized divorce laws, which are seen as threatening the traditional family (e.g. Hermina Dykxhoorn, Executive Director, Alberta Federation of Women United for Families, April 29, 1998). One such group has suggested that divorce should be discouraged and that introducing a joint custody norm might assist as a deterrent to divorce (Equitable Child Maintenance and Access Society (Edmonton), April 29, 1998).<sup>3</sup> Even when parents legally separate, mothers encounter considerable pressure, including legal directives citing the best interests of children, to do whatever possible to recreate the family unit that has been split asunder (Bourque, 1995; Smart, 1991). Separation of spouses no longer connotes a clean break or severing of familial ties when custody or access disputes arise in relation to children. Indeed, Gwendolyn Landolt for REAL Women has referred explicitly to family being "the traditional mother, father and children," regardless of whether separation or divorce had occurred (April 1, 1998).

The most recent catchword for this recreated family form is "shared parenting," while joint custody was its precursor. What is interesting is that advocates for shared parenting typically ignore the fact that genuinely shared parenting responsibilities do not exist in most intact families. Their rhetoric thus ignores mothers' caregiving responsibilities, which are reinforced by social

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and economic norms (Boyd, 2003a). The motto of the National Alliance for the Advance of Non-Custodial Parents is “kids need both parents” (Jason Bouchard, June 3, 1998). Since after separation or divorce the parents no longer reside together, the essence of most fathers’ rights arguments is that mothers should continue to do the work of primary parenting and fathers should continue to have control over the form that maternal parenting takes (Bertoia and Drakich, 1993; Kaye and Tolmie, 1998a: 189). This argument reasserts a traditional model of parenting under which mothers are accorded little autonomy or recognition for the conditions under which they perform the labour of motherhood.

### **Canadian child custody law reform**

The main reason child custody law has been seriously reviewed in Canada in recent years is that fathers’ rights advocates and their supporters in the Senate successfully blocked child support law reforms to the *Divorce Act* in 1996 until the federal government agreed to review custody and access law (Bala, 1999; Boyd, 2003a). Both areas were perceived as disadvantaging fathers. A Special Joint Senate and House of Commons Committee on Custody and Access was created as a result. The link between enhanced legal requirements that non-custodial parents (mostly fathers) live up to their child support responsibilities and their demand for more rights in relation to their children (specifically joint custody or shared parenting) was patent. Although many groups had concerns about the operation of child custody law, fathers’ rights discourse largely set the agenda for the Special Joint Committee (SJC) public consultations during 1998. The cross country hearings were dominated by Committee members who were sensitive to the concerns of fathers and often hostile to female witnesses (Boyd, 2003a; Diamond, 1999). One Senator was overtly sympathetic to fathers’ rights witnesses, who were often given more time to speak. Female witnesses—including those speaking on behalf of abused mothers—were asked more challenging questions and were sometimes heckled by men in the audience. The media seemed broadly sympathetic to fathers’ rights arguments. Despite active and thoughtful engagement in the law reform process by women’s groups—emphasizing mothers’ caregiving responsibilities and the relevance of abuse of women and children to custody decision-making—the Committee focused on gender bias against fathers.

In their testimony before the SJC, fathers’ rights advocates aligned the rights of fathers with the needs and best interests of children. They asserted a crucial need for the “children of divorce” to have contact with fathers in order to ensure their psychological well-being. This occurred despite the fact that “children of divorce” is increasingly contested as a category that is recognizable and discrete (Smart, 2003) and that studies indicate that continuing contact with each parent is only one factor associated with positive outcomes in children (Bailey and Giroux, 1998: 43-58 ). Other key factors are a close, sensitive relationship with a well-functioning parent (generally a primary

caregiver mother) and avoidance of parental conflict. Obviously, these factors can be in competition with each other in individual fact situations, particularly those involving high conflict between parents or spousal abuse. However, the discourse in child custody debates is often not based on evidence in studies, but rather on rhetoric (Boyd, 2001; Burton, 2000; Kaye and Tolmie, 1998a, 1998b). Thus, it is important to look at the key arguments made by fathers' rights advocates during the custody law reform process, as they had an impact on its outcomes, in part through their negative portrayals of mothers. I do not have the space to point out the many problems with the fathers' rights discourse (but see Kaye and Tolmie, 1998a, 1998b) but rather focus on identifying the rhetoric that pervaded the law reform process.

### **Fathers' rights discourse at the Special Joint Committee (1998)**

Eight themes that emerge from the presentations that fathers' rights advocates made to the Special Joint Committee hearings on custody and access in 1998 will be explored below.<sup>4</sup> They are:

1. The Ills of Father Absence
2. The Ills of Single Mothering
3. Mother Blaming
4. Anti-Feminism
5. Bias of the Legal System Against Fathers and in Favour of Mothers
6. Treat Fathers Equally: The Formal Equality Model
7. Child Support Orders Against Fathers are Unfair/Excessive
8. Remedies: Shared Parenting, Joint Custody, or Paternal Custody

Most of these themes reflect a negative assessment of mothering in contemporary Canadian society and fail to take account of the complex social realities of mothering (Turnbull, 2001). Most are also socially conservative in their approach to family, are anti-feminist, and adopt a problematically formalistic and simplistic approach to sex equality.

#### ***1. The ills of father absence***

The first theme is the terrible consequences of fatherlessness for children. Judith Stacey has argued that national rhetoric in the United States has shifted from an emphasis on the dangers of a motherless society (caused by women entering the workforce, for instance) to dangers of a fatherless society. This is not to say that mothers are not still excoriated in the new discourse. Indeed, as we shall see, mothers are blamed for father absence. However, the rhetoric about fatherlessness has been stepped up and the "two parental crises discourses are flourishing in tandem" (Stacey, 1998: 54). This trend appears to have crossed the border to Canada. Fathers' rights advocates at the Special Joint Committee consultations suggested that children suffer from the absence of their fathers, which leads to many social ills (Burton, 2000), including criminality:

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In the U.S., a too-large majority of long-term prison inmates grew up without fathers. (Carolyn VanEe, President, Equitable Child Maintenance and Access Society (Edmonton), April 29, 1998)

People talk about the boys turning to the gangs in L.A. and turning to violent TV, etc. The lack of good leadership and good fathers for men is an underlying cause of this. (David A. Campbell, Fathers for Equality, May 19, 1998)

The need for fathers as sexual role models was also cited, along with the consequences of failing to provide them:

[S]tatistical information backs up the high cost of fatherlessness or father absence. For girls, never feeling worthy of love from a man, it's teenage pregnancies [...]. For boys, it's not knowing how to be a man or how to interact with women. Often violence masks their anger in their father's absence. (Heidi Nabert, Director, National Shared Parenting Association, March 11, 1998)

The Alberta Federation of Women United for Families put this point a bit more neutrally, addressing the divorce context specifically:

For healthy development, children need and deserve both a mother and a father actively involved and present in their lives. [...] Custody and access problems are only the symptoms; divorce is the problem. (April 29, 1998)

## ***2. The ills of single mothering***

The corollary to the notion that children suffer from lack of contact with fathers is that children suffer from living with single mothers, who form the majority of single parents:

We could fill entire libraries with reports that specifically address the harm done to children after parental separation. Children in single-parent families are liable to experience two or three times as many problems as those in so-called normal families. (Gilles Morissette, *Entraide pères-enfants séparés de l'Outaouais*, June 3, 1998)

One group offered a legal explanation of how single mother families are formed, which indicated that for these groups, the term "single parent" really meant "single mother":

The term "single-parent family" is used to designate the family unit consisting of the custodial parent and the children. The term "single-

parent” means that the child has only one parent. Custody of the children is granted on the basis of the parent’s gender. The mother need only refuse to accept shared custody in order to immediately obtain sole custody. (Claude Lachaine, Director, Groupe d’entraide aux pères et de soutien à l’enfant, April 3, 1998)

The problems encountered by children living only with their mothers were said to include growing up in poverty and remaining poor as an adult, developmental and behavioural problems, emotional difficulties, learning difficulties, and early child-bearing: “In the end, they will end up involved with drugs, alcohol, violence, crime and, above all, suicide. Quebec has record suicide levels” (Gilles Morissette, Entraide pères-enfants séparés de l’Outaouais, June 3, 1998). The Executive Director of the Alberta Federation of Women United for Families stated that children in single parent homes suffered the following problems:

Boys, in particular, living with a separated, divorced or never married parent in 1986 were more likely by 1992 to be diagnosed with somatic complaints, identified as delinquent, aggressive, anxious, depressed or withdrawn. Similarly, compared to peers in intact families, girls [...] were more likely to suffer from attention problems in 1992 or to be labeled aggressive. Adult female children of divorce also experience a lack of self esteem, which according to the studies that have been done may be accounted for in terms of divorce’s impact upon parental access. (Hermina Dykxhoorn, April 29, 1998)

Taking a more extreme position, one group explained at length how single mothers were a burden on taxpayers, and suggested that single-father headed families (statistically far fewer in number than single-mother headed families) were far more efficient than those headed by mothers.

Partly it is that [single fathers] are a select group; partly it is that they take it enormously seriously; and I think partly it is that their kids know, because they are not getting paid to do it. Overwhelmingly, our social policy says that fathers are not paid for fathering. The tax credits are directed towards mothers, so the kids know that the fathers are doing it out of love. (Glen Cheriton, FatherCraft Canada, June 1, 1998)

In addition to suggesting that single fathers were superior to single mothers, this group stated that mothers give children over to fathers when the child becomes “a problem,” suggesting that mothers are fickle in relation to their desire to care for children. Another group referred to one of the benefits of the shared custody approach: “the mother is no longer overprotected”

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(Ghislain Prud'homme, Director, Groupe d'entraide aux pères et de soutien à l'enfant, April 3, 1998), implying that single mothers are pampered by government and legal policies.

### **3. *Mother blaming***

The negative portrayal of single mothers identified in the previous section is one version of mother blaming, but in child custody reform debates, another version arises. It was often suggested by fathers' rights advocates that mothers actively try to keep fathers away from children:

Fathers everywhere are desperately trying to be part of their family's life, and they are blocked by vindictiveness in most cases. [...] Most of the mothers do not understand the point that the father is absolutely necessary in the life of the child." (Malcolm Mansfield, President, Fathers Are Capable Too (FACT), March 11, 1998)

In today's reality, access is used by the custodial parent as a control mechanism. (Gilles Morissette, Entraide pères-enfants séparés de l'Outaouais, June 3, 1998)

Some pro-father witnesses stated that denial of access (by mothers) is a form of child abuse, even, for one witness "one of the most damaging forms of child abuse" (Joe Rade, individual presentation, June 1, 1998):

A severe form of child abuse is when one parent alienates a child from the other parent. Statistically, this is overwhelmingly mothers more than fathers. (Carey Linde, Vancouver Men, April 27, 1998)

If you have custody, then all of a sudden you have all the power, all the litigant power. [...] If you are going to abuse your child by refusing that child the right to maintain an ongoing relationship with both parents—so, since you're the custodial parent, you're saying, 'No, you can't see your daddy today'—that's harming the child. Then the court needs to address the fact that that is a form of child abuse. (Heidi Nabert, National Shared Parenting Association, March 11, 1998)

A common refrain was that mothers frequently use dishonest tactics such as parental alienation and false allegations of sexual abuse, and that they "abduct and alienate children as a privilege" (Gus Sleiman, President, Men's Educational Support Association, April 29, 1998):

False accusation seems to be the tool of choice in family litigation. (Malcolm Mansfield, Fathers Are Capable Too (FACT), March 11,

1998) (see also Parents Helping Parents, May 1, 1998; D.A.D.S. Canada, March 30, 1998)

One of the problems we're facing is that, before a judge, before the bench, we absolutely have to prove that we are good fathers or that we were good fathers, whereas the mother doesn't have to prove anything at all. The mother's mere allegations are sufficient for a judge to take custody away from the father or limit his access. (Claude Lachaine, Groupe d'entraide aux pères et de soutien à l'enfant, April 3, 1998)

Jay Charland, Spokesperson for Men's Education Network, talked about his own experience of a false allegation of violence having him removed from his home. Joint custody was later restored to him by a judge but he claimed he had not seen his child, implying that not only was the mother blocking his contact but that judges in Alberta did not enforce orders against mothers (April 29, 1998).

In a troubling parallel with the now notorious suggestion made by Mr. Justice McClung that the inordinately high rate of male suicide in Québec might be attributable to the judicial decisions of former Supreme Court of Canada Justice Claire L'Heureux-Dubé (Lessard, 1999), some fathers' rights advocates pointed to the connection between family and divorce situations and male suicide, suggesting that the lack of power that men experience in this context in comparison to mothers generates suicidal tendencies (Harvey Maser, President, Victoria Men's Centre, April 27, 1998; David A. Campbell, Fathers for Equality, May 19, 1998). As also happens in references to male suicide, it was suggested that mothers are greedy for money, which generates desperation in men: "I hate to say it, that there are a lot of greedy mothers out there" (Nardina Grande, President, Stepfamilies of Canada, March 31, 1998). Claude Lachaine for Groupe d'entraide aux pères et de soutien à l'enfant stated that stakeholders in the system favour the single-parent approach, that is the "single-parent mother/automatic bank teller father approach" (April 3, 1998).

Not only were mothers often blamed (including, quite vociferously, by other women such as those in Stepfamilies of Canada and Second Spouses of Canada, March 31, 1998), but punitive measures against mothers were suggested. Stacy Robb for D.A.D.S. Canada suggested jail time be considered in relation to false allegations of abuse (March 30, 1998). Carey Linde for Vancouver Men said, in reference to so-called parental alienation, that "[t]here should be criminal sanctions against alienating parents" (April 27, 1998).

This assigning of blame to mothers not only overstates the incidence of false allegations and parental alienation instigated by mothers. It also ignores the fact that fathers who feel alienated from their families and from their children sometimes have less than positive histories in relation to their own family responsibilities and conduct towards their spouse and children. Darrin White, a father who committed suicide in April 7, 2000 and quickly became a

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“poster boy” for fathers’ rights advocates who said that the family law system was responsible, in fact had been charged with assault, had taken most of the funds from the joint account with his wife, and had largely failed to support his children (Gordon 2000; Matas, 2000). Kirby Inwood, spokesman for the Coalition of Canadian Men’s Organizations (March 31, 1998), who complained he had not seen his son in 10 years, was convicted in the late 1980s of assault of his son and assault causing bodily harm of his wife. In the early 1990s, he was awarded supervised access to his son, but shortly thereafter he made public, threatening remarks regarding his wife. A second custody hearing denied him any access to his son because of the physical danger he posed to the mother and the danger of psychological or physical harm to the child.<sup>5</sup> Thus, some of the stories cited by fathers’ rights advocates to support their assignments of blame against mothers actually reflected behaviour on the part of fathers who failed to meet basic parental responsibilities.

#### *4. Anti-feminism*

Closely connected to the anti-mother theme in fathers’ rights discourses is anti-feminism. Feminists are portrayed as hostile to proper mothering within the traditional heterosexual family, which includes ensuring that fathers are closely connected with children, preferably by staying within marriages but if not, then by facilitating joint custody or shared parenting. Carey Linde for Vancouver Men suggested that “gender feminists”—the bad or “adolescent” feminists “with a political agenda of their own that doesn’t include children, at least not male children”<sup>6</sup>—should be contrasted to “equity feminists.” The latter, he said, are the majority of women, who would support fathers. Linde added:

The organized women’s movement, for all the good it has brought, gave up long ago on ideas like joint custody and shared parenting. Their silence is deafening. (Carey Linde, Vancouver Men, April 27, 1998)

Before the Special Joint Committee, some fathers’ rights witnesses argued that feminists have sought equality (for women) in the workplace but then have not sought equality (for men) in the home (FACT, March 11, 1998). Moreover, it was suggested that the legal system has responded to the former initiative for women, but not in favour of the latter initiative for men. In part this discrepancy was said to result from the fact that judicial education has been biased in favour of mothers, due to the undue influence of feminism:

In the last decade this sexism has markedly increased, after judges were taught that women seeking custody were at a disadvantage in the courtroom. Fathers who wish to parent their children post-divorce today have a situation even more pronounced than women entering

the workforce only a few decades ago. (Paul Miller, Member, Men's Educational Support Association, April 29, 1998) (see also Groupe d'entraide aux pères et de soutien à l'enfant, April 3, 1998)

In the fathers' rights worldview, then, the legal system has been infiltrated by feminists, who in turn favour mothers.

Fathers' rights advocates also invoked anti-feminist discourses in a way that downplayed the significance of male violence against women and its relevance to custody disputes (Jaffe, Lemon and Poisson, 2003). They stated that feminists hold excessive power in relation to social and political institutions such as women's shelters and hospitals, and that these institutions inappropriately influence mothers against the fathers of their children:

The feminist orientation of women's shelters and other support services for women have permeated the justice system to establish an ideology which suggests that women are incapable of violence or deceit, and men are all potential violent, sexual predators. (Louise Malenfant, Parents Helping Parents, May 1, 1998)

The first time the mother goes down to the women's shelter, that's just the first step where the process of indoctrination of gender feminism starts to take place [...]. (Gus Sleiman, Men's Educational Support Association, April 29, 1998)

[W]omen are encouraged to seek out feminist therapists, where ever possible, to substantiate and enforce the custodial parent's claim. (Joyce Owens, Secretary, New Vocal Man Inc., May 1, 1998)

The BC Men's Resource Centre actually invoked images of witchcraft in their critique of feminist "infiltration" of hospitals:

In the area of child abuse allegations, the Salem witch-hunts have taken their toll, as extremists have attempted to hang everyone in their path. The Children's Hospital has recently been advised of several self-admitted, gender-feminist medical staff practicing their witchcraft in this hospital, using children as both the bait and the weapon with which they have extracted the penalty for being the wrong gender. (April 27, 1998)

In an increasingly familiar challenge to feminist analysis of male violence against women and to statistics on male violence against women (DeKeseredy, 1999), William Taylor Hnidan for the B.C. Men's Resource Centre, stated that violence was not a gender-specific phenomenon (April 27, 1998). The Men's Educational Support Association (April 29, 1998) and Men's Equalization Inc.

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(May 1, 1998) echoed this theme. Harvey Maser for the Victoria Men's Centre said that "violence and domestic violence is, if not equal, slightly predominant by the mother or the woman in the family" and that "violence is very often translated into animosity toward the other partner in divorce" (April 27, 1998).

To redress the alleged favouring of feminist views in social and legal institutions, fathers' rights advocates argued that greater resources should be provided to men's groups, suggesting that women's groups are inappropriately funded by the state (e.g. David A. Campbell, Fathers for Equality, May 19, 1998). The Men's Educational Support Association recommended that "[a] legal action fund should be created to enable fathers to legally challenge their longstanding historical disadvantages in family law" (Paul Miller, April 29, 1998). In challenging feminist analysis of law, fathers' rights advocates thus implied that the legal system has favoured mothers, who have in turn selfishly exploited this power.

##### ***5. Bias of the legal system against fathers and in favour of mothers***

As shown above, fathers' rights advocates suggested that feminists, and thus mothers, have attained inappropriate power in various institutions, including law. They also argued that the legal system is complicit in keeping children from fathers because it has gone too far in favouring mothers:

[T]here is enormous bias in the legal system, and the result is fathers are excluded from the lives of their children. (Glen Cheriton, FatherCraft Canada, June 1, 1998)

The widespread gender bias of our courts empowers women to take any actions they feel compelled to take without the fear of consequences. (Gus Sleiman, Men's Educational Support Association, April 29, 1998) (see also New Vocal Man Inc., May 1, 1998; Parents Helping Parents, May 1, 1998)

Government was not exempt from this allegation of bias. The Men's Educational Support Association argued that government "removed gender bias against women only to replace it and make a gender bias against men" (Gus Sleiman, April 29, 1998). Kirby Inwood for the Coalition of Canadian Men's Organizations alleged bias against the Justice Minister at the time: "Anne McLellan [...] has written many articles that are strongly anti-father, anti-male in the past" (March 31, 1998).

However, the judicial system was the key target of fathers' rights advocates. Witnesses stated that mothers almost automatically receive custody of children and are always believed in court:

There's a definite gender bias [against fathers] [...]. I find if you go into family court as a father, you have to prove your worth to visit your

child. As a mother, you're deemed intrinsically better just by being. (Deborah Powell, *Fathers Are Capable Too (FACT)*—National Association, March 11, 1998) (see also D.A.D.S. Canada, March 30, 1998; Parents Helping Parents, May 1, 1998; Men's Educational Support Association, April 29, 1998)

Fathers' rights advocates invoked the language of sexual and systemic discrimination developed within feminist equality analysis, often citing custody statistics and suggesting simplistically that anything other than a 50-50 sharing of custody would be discriminatory (Groupe d'entraide aux pères et de soutien à l'enfant, April 3, 1998; Gilles Morissette, *Entraid pères-enfants séparés de l'Outaouais*, June 3, 1998).<sup>7</sup>

A key argument was that primary caregiving (which remains predominantly a maternal responsibility) is emphasized inappropriately by judges, which in turn disempowers fathers (Jason Bouchard, *National Alliance for the Advance of Non-Custodial Parents*, June 2, 1998). Fathers' rights advocates equated judicial emphasis on caregiving with a maternal presumption:

[F]athers are discouraged from obtaining joint custody through manipulation and intimidation, which accounts for the majority of sole-custody decisions favouring mothers. The historical doctrine of primary breadwinner, tender years, primary caregiver, and best interests of the child favour one parent and do not address the needs of the children. (Carolyn VanEe, *Equitable Child Maintenance and Access Society* (Edmonton), April 29, 1998)

The masters and the judges at the lower level still buy into the primary caregiver, the maternal preference, stability. (Carey Linde, *Vancouver Men*, April 27, 1998)

Glen Cheriton for FatherCraft Canada asserted that “there are a large number of cases where fathers are the primary caregivers and are losing to the mothers in court cases because of bias of the system” (June 1, 1998).

A lengthy critique by the National Shared Parenting Association (Saskatchewan) of the primary caregiver presumption (which does not exist in Canadian law: Boyd, *Child Custody*, ch. 7) included a disparaging of mothers' caregiving responsibilities as involving only cooking and cleaning, and a corresponding valorization of fathers' symbolic roles: “the courts have sacrificed continuity of the children's critical relationship with a parent for the continuity in terms of who cooks their meals and cleans their clothes” (Leonard Andrychuk, April 30, 1998).

Not only did fathers' rights advocates criticize custody and access orders for bias towards mothers, but the lack of enforcement of orders giving fathers custody or access rights was also said to empower mothers inappropriately:

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Judges in this province ... do not enforce any orders against the mother. (Jay Charland, Men's Education Network, April 29, 1998)

[T]here's nothing in this country to reunite a father with a child; it's only to tear them apart. (Deborah Powell, Fathers Are Capable Too (FACT), March 11, 1998).

As well, fathers' rightists alleged that governmental efforts to address domestic violence made men guilty until they find a way to prove themselves, thus criminalizing men who "just want to be fathers" (Parents Helping Parents, May 1, 1998). Men's Equalization Inc. suggested that men arrested under zero tolerance policies in Manitoba "have been robbed of their families" (Roger Woloshyn, President, May 1, 1998). No mention was made of the difficult circumstances under which mothers operate when they are either abused themselves, or fear that their children are being abused (Jaffe et al.).

#### ***6. Treat fathers equally: the formal equality model***

As a remedy for the alleged bias in favour of mothers and poor parenting practices of mothers, fathers' rightists argued that fathers should be treated "equally" by law. This vision of equality was a formalistic one rather than the substantive equality model that has been developed by feminists in order that law might take account of social realities such as women's unequal position in the family and mothers' disproportionate responsibility for child care (Turnbull, 2001).

Basically, both parents' right to be equal and to parent their children equally must be respected. (Marc-André Pelletier, *Entraide pères-enfants séparés de l'Outaouais*, June 3, 1998) (see also Victoria Men's Centre, April 27, 1998)

A program of affirmative action should be created within the judicial system to encourage awarding of children to fathers. ... A section should be added to the Divorce Act that overtly states that both sexes have equal ability to parent their children post-divorce. (Paul Miller, Men's Educational Support Association, April 29, 1998)

Several groups took a troubling formulaic approach, suggesting, for instance, that there should be no divorce without automatic joint custody and that no parent is only 51 percent parent or that a child with an English father and a French mother should have a 50-50 education in each language (e.g. FED-UP, April 3, 1998). One group suggested that presumptive shared custody should kick in automatically as soon as there is a marital breakdown, with the child's physical and social environment remaining intact. Each parent would have an equal share of the children's time and responsibility for the

children's upkeep. The kicker was that if either parent refused to comply with this formula, s/he would concede custody to the other (Entraide pères-enfants séparés de l'Outaouais, June 3, 1998). In other words, if a mother raised an issue about this 50-50 formula, she would lose custody.

Being treated equally implied that fathers should have equal rights in relation to decisions regarding children, regardless of caregiving patterns.<sup>8</sup> This notion has been much criticized by those who have shown that joint custody gives fathers rights—including the right to control women and children—without responsibilities (see Boyd, *Child Custody* 123). It leaves mothers with responsibility not only for childcare, but also for consulting with the other parent regarding decisions. Some witnesses were quite explicit about endorsing this unequal sexual division of labour. In recommending shared or joint custody, Gwendolyn Landolt, National Vice President of REAL Women said: "The mother may be the primary caretaker, but the father should have equal involvement with regard to medical concerns, education, health. The father should play a vital role in the child's life" (April 1, 1998).

Other fathers' rights advocates, in making their equal rights argument, explicitly asserted a model of parenting that reinforces traditional, gender-based, asymmetrical models of mothering and fathering:

[A]s soon as kids get up to a certain level... a lot of things that fathers do become of more interest to kids. I work a lot with visible minority men, and the gender roles are fairly well defined there. In most of these communities they have some sort of sense that at some point children must kind of break free from the mother—very much in the native community—and the father helps to bring them out into the world. (Glen Cheriton, FatherCraft Canada, June 1, 1998)<sup>9</sup>

What is more important? Coaching hockey or preparing the child's lunch? (Brian St. Germaine, Vice President, Equitable Child Maintenance and Access Society (Edmonton), April 29, 1998)

One group suggested that fathers should have rights based on biology alone, asserting an essentialist vision of parenthood that obviates the significance of social parenting, for which mothers tend to take more responsibility (Lessard, 2004):

I believe when a child is born, the child should have equal access to both parents.... I think it should be a law that both parents are on the birth certificate. I believe if the mother does not tell who the father is but if a man does come forward at any time, even if it's ten years later, and says "I am that child's father," that due diligence is done. It's simple to do. A simple test will prove if that man is the father, and then that man will have the opportunity to enter into that child's life in a

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productive role. (John Barson, Executive Director, Family Forum, May 19, 1998)

Ken Wiebe for the Dick Freeman Society used language that suggested that parental (paternal?) authority over the family was a key concern in the claim for equality:

The responsibility of the legislature and the courts in this issue is to ensure that there is a post-divorce situation that respects the equality, the parental authority, the integrity and the sanctity of the family [...]. (April 27, 1998)

He added, adopting an anti-state, libertarian approach, that he was not interested in having the legislature or the courts define his parental responsibilities for him, whether those be financial or time-related, and that “as a father, I have a pretty good idea of what those responsibilities are with respect to my children.” Overall, the equality approach asserted by fathers’ rightists implied a desire for paternal (patriarchal) authority over children and, thus, over mothers.

#### ***7. Child support orders against fathers are unfair/excessive***

As mentioned at the outset, the recent child custody law reform debates emerged largely as a result of governmental efforts to enhance and enforce child support obligations, which incited the ire of fathers’ rights advocates against not only the government but also mothers. At the Special Joint Committee, these advocates complained that fathers were suffering as a result of the new child support system, and that if they could only see their children more, they would pay more (BC Men’s Resource Centre, April 28, 1998). One group said: “The existing system culminates in the refusal of men to support their children, from who they are unjustifiably separated and their access excommunicated” (Gus Sleiman, Men’s Educational Support Association, April 29, 1998). Glen Cheriton for FatherCraft Canada argued that judges do not want to impose onerous child support obligations on mothers, so they give mothers custody instead (June 1, 1998). In general it was implied that mothers do not contribute to children’s expenses and, as we saw earlier, are greedy for money. William Levy for F.E.D.-U.P said: “Dump the kids on mom. Stick dad with the bill” (April 3, 1998). Cheriton also suggested that child support orders are not enforced against mothers in the same way that they are against fathers.

In addition to arguing for enhanced paternal rights, several groups argued for stepped up, even punitive, maternal financial obligations (e.g. Equitable Child Maintenance and Access Society, Calgary Chapter, April 29, 1998). For some groups, equal treatment of fathers and mothers appeared to mean not only equal rights in relation to children but also that child support awards should be

paid in the same amount by non-custodial mothers and fathers, regardless of the fact that women tend to earn less than men.

Women want equality. Okay, then let's have equality right across the board, not that men to pay this much and women don't even have to pay an iota. (Joyce Owens, New Vocal Man Inc., May 1, 1998)

Stepfamilies of Canada took an even more vengeful approach, suggesting that if mothers are going to get custody, then they should assume full financial responsibility for children:

If you're going to [...] give custody to the mother [...] it should be true custody. That means a complete financial obligation for the child, as well as taking care of the child's daily needs. [...] If women want the kids, give them kids. They'll have to be truly feminist and accept both financial [...] and emotional responsibility for the children. (Nardina Grande, March 31, 1998)

The child support discourse illustrated that fathers' rights arguments were not so much about the best interests of children as about regaining authority over mothers and children or, failing that, relinquishing responsibility altogether and allowing mothers to sink or swim on their own.

#### ***8. Remedies: shared parenting, joint custody, or paternal custody***

Although some of the fathers' rights recommendations focused on child support, the legal remedy most often proposed by fathers' rights advocates was a norm or presumption of shared parenting or joint custody, which in turn reinforces mothers' ties with partners from whom they may have separated for good reason. Danny Guspie for the National Shared Parenting Association said that children have a "God-given right" to shared parenting (March 11, 1998). The shared parenting remedy was typically based on an argument that such a norm would both benefit children and end discrimination against fathers, and in favour of mothers:

If this government is willing to end the injustices against children and men, if it is willing to reduce the emotional and financial costs of divorce created by litigation and re-litigation, it must act immediately to implement the equal-share parenting concept. Children need both parents. (Gus Sleiman, Men's Educational Support Association, April 29, 1998)

The first thing [the Committee] needs to do is to eliminate the parental inequity that is flagrant today, to set things straight, to clearly establish that parental equity is the norm today and that shared

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custody must be presumptive. (Marc-André Pelletier, *Entraide pères-enfants séparés de l'Outaouais*, June 3, 1998) (see also *Equitable Child Maintenance and Access Society* (Edmonton), April 29, 1998; *FACT*, March 11, 1998)

Several groups referred explicitly to equal parenting time as well as equal decision-making (e.g. *Men's Equal Access Society*, May 20, 1998). However, as discussed earlier, the fathers' rights concept of joint custody does not necessarily imply shared everyday care and responsibility. The equal rights embodied by the concept of joint custody would be granted presumptively, generally regardless of the history of care or uneven assumption of responsibilities. Moreover, fathers' rights advocates tended to assume that equality of parenting exists prior to separation. Ken Wiebe for the *Dick Freeman Society* stated that "the equality situation of parenting prior to divorce should be maintained after divorce in the fashion that is most applicable to the particular circumstances of the parents" (April 27, 1998). Yet equally shared parenting responsibilities in intact families rarely exist in practice. Perhaps Mr. Wiebe did not mean equal responsibilities, but rather equal rights. If so, a notion of rights without responsibilities was asserted that favoured paternal authority and maternal responsibility.

As well, arguments for shared parenting were sometimes linked to arguments for diminished child support obligations, which suggests that the fathers' rights rationale for instituting a joint custody norm might be to diminish financial responsibility as much as to enhance time with children. For instance, the *Equitable Child Maintenance and Access Society* (Calgary) suggested that "child support guidelines be based on a sliding scale for time spent with the child" (Marina Forbister, Past President, April 29). On this analysis, mothers who share custody with fathers might lose financial support even though their own expenses (e.g. housing that accommodates children, children's clothing) might remain relatively constant.

A few groups went beyond recommendations for joint custody/shared parenting to advocate granting sole custody to fathers. Glen Cheriton for *FatherCraft Canada* suggested it would be better—and cheaper—for fathers to simply be given sole custody, because single mothers require more financial subsidization than single fathers. Single father-headed families were therefore regarded as more efficient. The ostensible reason for their effective parenting, as we saw above under Theme 2, is "because [fathers] are not getting paid to do it" (June 1, 1998). When asked whether single-father headed families were more successful than single-mother headed families because fathers had more help (e.g. from grandmothers or step-mothers) raising the children, Cheriton agreed, but still attributed success to the father for having the extra help: "if the single father is involving, at no cost to society, no cost to the government, his sister, his mother, a new girlfriend, then we should credit him with that success..." (see also Cheriton, 1998).

Overall, then, fathers' rightists suggested that mothers cannot be trusted to parent effectively as sole custodial parents, and that in some, cases, they might better be removed from custody altogether on a financial efficiency argument.

### **Conclusion**

The fathers' rights arguments outlined above, which were voiced before the Special Joint Committee in 1998, not only invoked 'backlash' or conservative discourses on the family, but also diminished the key caregiving role that most mothers play in their children's lives. In the fathers' rights submissions, caregiving disappears and mothers become problematic figures: they produce delinquent children without paternal role models, they block paternal access, they make up stories about abuse, they are economically unstable, in short they generate numerous problems in their children and also in the fathers of their children. Moreover, they are encouraged in doing so by feminists, the legal system, and other social institutions. Fathers' rights advocates extracted equality rights discourse from feminism and constructed a picture of their own inequality within family law. They positioned themselves as a group that had experienced terrible discrimination in the legal system and that the Special Joint Committee had to help, and they linked this claim to the interests and rights of children. Only through shared parenting or joint custody norms, they suggested, would these problems be addressed, and children made healthy. Some even implied that if a father is keen to parent, it is more efficient to allow him to do so than to financially support a single mother. Mothers were demonized in these discourses.

These demonizing discourses have not completely dominated the law reform process, but they did influence the compromise reached by Canadian law reformers. For example, the Report of the Special Joint Committee (1998) had a section on gender bias that dealt only with bias against fathers in the family law system, not bias against mothers (Boyd, 2003a: 202). That section also portrayed mothers as manipulative and selfish. To rectify this perceived problem, imposition of a shared parenting norm was endorsed, despite conflicting evidence about its efficacy in England and Australia (Rhoades, 2002). As well, some SJC recommendations reflected the fathers' rights concerns about child support guidelines. Moreover, the tone of the SJC Report has influenced subsequent processes.

Arguably, the research commissioned by the Department of Justice after the SJC Report mainly reflected the SJC's preoccupations in relation to research needed on issues of particular relevance to fathers rather than mothers. None of the commissioned research papers dealt specifically with violence against women, the impact on children of witnessing violence, gender bias in family law, or the efficacy of using law to enhance shared caregiving responsibility. The research did include studies on topics such as allegations of child abuse, access enforcement, and assessment of the father/child relationship

following parental separation from the male perspective.<sup>10</sup>

As well, since the SJC Report, child custody law reform discourse emanating from the government has become strikingly gender neutral, with little mention of the gendered nature of domestic abuse or the disproportionate responsibility of mothers for childcare. This ostensibly neutral discourse arguably reflects a desire to avoid the criticism of fathers' rights advocates and to move away from polarized positions in the "custody gender wars" (Bala, 1999). At the same time, it means that the social realities of gendered parenting patterns, in particular mothering, will be more difficult to recognize and deal appropriately with in processes designed to create new laws and in dispute resolution processes (Boyd, 2003b).

The proposed amendments to federal custody and access law contained in Bill C-22, *An Act to Amend the Divorce Act*,<sup>11</sup> passed second reading in Parliament in 2003 before being shelved, at least temporarily, in February 2004 by the new Minister of Justice in Prime Minister Paul Martin's government (Tibbetts, 2004). The Minister has since indicated that he supports the principles of the Bill and is committed to bringing the Bill back after consultation with caucus and Cabinet. He highlighted the need to consider same sex marriage when reforming the *Divorce Act*. This factor may delay the bill for some time, as the Supreme Court of Canada will not hear the same sex marriage reference until fall 2004, meaning that a decision may not be rendered until sometime in 2005.

Bill C-22 revealed that the arguments of the fathers' rights advocates did not entirely sway law reformers: it took account of some points made by women's groups, for instance, the relevance of the history of care of a child and family violence. However, the very effort to embody a compromise between fathers' rights groups and women's groups was embedded in the Bill and weakened its impact (Boyd, 2003b; Neilson, 2003). For instance, in resisting the fathers' rights recommendations to introduce a presumption of joint custody, reformers chose not to introduce any presumptions whatsoever. This decision precluded, for instance, a presumption against shared parenting or joint parental responsibility in cases involving violence or abuse. Bill C-22 also dropped important wording in the November 2002 Final Report of the Federal-Provincial-Territorial Family Law Committee that emphasized that facilitating contact with both parents was in the best interests of children "*when it is safe and positive to do so*" [emphasis added] (*Final Federal-Provincial Territorial Report on Custody and Access and Child Support, 2002: Recommendation No. 8 at 19*).

Whether the social realities of motherhood might better be taken into account under future proposals for a new post-separation parenting legal regime is questionable, given the experience in other jurisdictions (Rhoades, 2002). Fathers' rights advocates indicated after Bill C-22 was shelved that they anticipated that any future bill would better reflect the recommendations of the SJC, for instance, for shared parenting (Tibbetts, 2004). In order to avert new

laws that compromise the position of mothers and children, particularly those who have been affected by abuse, efforts will have to be made to ensure that lawyers, mediators, and judges are educated about the systemically unequal position of mothers within families and society and how the legal system can take account of it. Indeed, regardless of whether the current legal system is changed or not, these educational measures need to be taken so that lawyers, mediators, and judges do not assume that joint custody or shared parenting is a panacea for the problems in the family law system or a way to generate equality of parenting responsibilities between fathers and mothers.

Fathers' rights discourse that demonizes mothers has played a role in diminishing societal attention to the world as mothers see it when they encounter the difficulties of post-separation parenting, and, in particular, disputes over post-separation parenting. Many mothers would agree with Moray Benoit of the Victoria Men's Centre that primary care of children should not be left solely in the hands of mothers, and with his critique of the super-motherhood phenomenon that "to be a super mom you not only have to work full-time, you still maintain responsibility for the children" (April 27, 1998). However, many would also argue that far more systemic extra-legal change than including shared parenting norms in custody laws is needed in order that men equally share childcare responsibilities (Boyd, 2003a: 181-183, 212-213). Until changes that would facilitate men to engage more actively in parenting are in place, such as socio-economic changes to workplace norms, it is risky to introduce the types of changes that most fathers' rights advocates endorse.

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<sup>1</sup>A Bill that would have embodied this reform in relation to Canada's *Divorce Act* was recently shelved by the Minister of Justice Irwin Cotler (Tibbetts, 2004). The Minister has since stated that he is committed to bringing the bill back after consultation with caucus and Cabinet colleagues ("Cotler likes custody reform package," 2004).

<sup>2</sup>All quotations from fathers' rights advocates have been taken from the transcripts of the 1998 public hearings of the Special Joint Committee on Custody and Access (SJC), available at <http://www.parl.gc.ca/InfoCom/CommitteeMinute.asp?Language=E&Parliament=1&Joint=1&CommitteeID=147>

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(accessed October 24, 2003)

<sup>3</sup>Presumably, the logic is that a mother would be deterred from obtaining divorce if she knew she would have to share custody with the father.

<sup>4</sup>I analyzed 34 such presentations, drawing on the SJC transcripts, *supra* note 2, and focusing mainly on groups rather than individual presenters. It should be noted that not all fathers' rights advocates are men. As we shall see, fathers' rights positions were sometimes presented by women before the SJC. In some cases, women's groups presented pro-family arguments that were similar to fathers' rights positions, e.g. Hermina Dykxhoorn of Alberta Federation of Women United for Families, April 29, 1998, who argued against liberalized divorce and for joint custody as the norm.

<sup>5</sup>See *R. v. Inwood* [1989] O.J. No. 248 (Ont. C.A.); *Inwood v. Sidorova* [1990] O.J. No. 1140 (Ont.H.C.J.); *Inwood v. Sidorova* [1991] O.J. No. 1417 (Ont.Ct.G.D.)

<sup>6</sup>This seems to represent a veiled reference to a stereotype of man-hating lesbian feminists.

<sup>7</sup>These statistical invocations are flawed (Boyd, 2003a).

<sup>8</sup>This simplistic notion of equality was also used in the 1984-85 presentations of fathers' rights groups to the Sub-Committee on Equality Rights of the Standing Committee on Justice and Legal Affairs. See Boyd and Young, 2002.

<sup>9</sup>This invocation of cultural and racial communities requires further analysis, as arguably it offers a stereotyped image of parenting in such communities.

<sup>10</sup>These reports are available from the Department of Justice, online: <http://canada.justice.gc.ca/en/ps/pad/reports/index.html>.

<sup>11</sup>Bill C-22, *An Act to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act, the Garnishment, Attachment and Pension Diversion Act and the Judges Act and to amend other Acts in consequence*, 2<sup>nd</sup> Sess., 37<sup>th</sup> Parl., 2002 (2<sup>nd</sup> reading 25 February 2003), online: Parliament of Canada, <http://www.parl.gc.ca/LEGISINFO>.

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**Michelle Hughes Miller**

# **Witnessing Good Mothering *Experts and Expertise in Family Law Decisions***

Experts serve an important role in the evaluation of mothers and in the incorporation of motherhood ideology into case law. I conclude elsewhere (Miller, 1997) that experts provide judges with a perceived objective interpretation of mothers that is subjectively grounded in the motherhood myths of maternal instinct, maternal self-sacrifice and maternal fulfillment (Schwartz, 1993: 51). These expert judgments then serve as part of the justification for judicial decision-making. Yet how are experts granted their expertise? Upon what criteria is expertise valued by the courts? In this paper I focus on one aspect of these larger questions: perceptions about court experts and expertise contained in judicial discourse. Specifically, I discuss perceptions of non-mother experts as hard-working and blameless, as the “true” child advocates in the system, and as accurate predictors of the future of mothers and their children. I argue that collectively these perceptions about court experts held by judicial actors contribute to the devaluation of the experiences and perceptions of mothers in family law decisions.

Evaluations and sanctions of mothers have recently entered a more politicized public debate. As John Meyer and his colleagues argue, “mother-child conflicts that were once the substance of folklore and common gossip have become items for public discussion and political regulation...” (1988: 138). Experts have played a central role in this discussion and regulation. For instance, both experts and the court evaluate mothers and make decisions within family law using the criterion of “best interests of the child.” This legally mandated standpoint perspective withdraws expertise from individual mothers and places it in the hands of the child advocates in the system. Further, scientific expertise has been brought to bear to define relevant terms and to provide advice, criticism, and support in such areas as breastfeeding (Wall, 2001: 604),

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balancing work and motherhood (Garey, 1999: 11) and general mothering practices (Hays, 1996: 51-70).

To this end, the establishment of courtroom expertise and perceptions about experts themselves should be considered, as it is through the guise of claimed expertise that mothers find their behaviors evaluated and punished. To help in this discussion, I present examples of United States case law derived from a larger study of judicial evaluations of motherhood. The larger study contains 311 United States family law cases decided between 1980 and 2001 generated from the Lexis/Nexis database system. I begin my analysis by presenting information on the role of experts and the expertise of mothers and judges in United States family law.

### **The role of experts**

Professional expertise has been incorporated into judicial decision-making and has been used to justify intervention into the private realm of motherhood. As *In re Kailer* articulates:

Under the law of the land the welfare and best interests of children are primarily the concern of their parents, and it is only when parents are unfit to have the custody, rearing and education of children, that the state as *parens patriae*, with its courts and judges, steps in to find fitting custodians *in loco parentium*.

The legal presumption is that motherhood is a private act, and remains necessarily so unless there is some compelling state interest that requires intervention. Identification of a compelling state interest, however, may require an invasion of the domain of privacy to assess the need for a more substantial intervention by the court. That initial intrusion, which later justifies court-ordered intervention and/or response, is frequently performed by experts.

The role of experts in judicial decision-making should not be underestimated. Although judges retain final decision-making authority, experts define good mothering, mediate conflicting reports on mothering activities, and provide ongoing assessments of mothers' attempts at improvement. Experts also serve as a primary source of information and evaluation about the interests and needs of children. The role of experts, then, may be fluid and ambiguous, while their testimony may be influential to the court.

Expertise is presumed to be held by a limited number of individuals who have received specialized training in fields related to the case. Medical personnel (Champagne, 1992: 6), psychiatric experts (Mosoff, 1995: 110), and social workers (Gothard, 1989: 65) dominate both in their use as expert witnesses and in their status as legally-defined experts. As Michael King describes, the role of "The Expert" "... allows a privileged status, a mantle of reliability, to be extended to professionals who are not members of the legal

fraternity” (1991: 313). For a judge to accept the expert testimony of an individual, he/she must be satisfied with the qualifications of the expert and the integrity, credibility and neutrality of the testimony itself. To a certain extent, then, a court’s evaluation of experts forces them to act like experts themselves.

The discourse of expertise reflects several distinct issues. First, scientific experts utilize a discourse of contingency as opposed to a discourse of truth (Jasanoff, 1993: 77). For instance, researchers often note the limitations of their methodology. These caveats serve as indicators of the validity and generalizability of the research. Such empirical contingencies are expected within scientific communities but in the courtroom they become problematic. King (1991: 314) argues that “subject[ing] one form of truth to the truth-validating procedures of another necessarily results in distortion...”

Second, competing discourses force legal personnel and researchers to both modify their language. Accordingly, researchers have found that experts, attorneys, judges and juries all agreed that one of the most important criteria in identifying “good” experts was their ability to translate technical information to the court (Champagne, 1992: 10). Yet, ultimately, judges must construct their own conceptualizations of expertise. As Sheila Jasanoff says: “the ultimate goal of the courts is the attainable one of dispensing justice, not the impossible one of finding objective truth” (1993: 80).

### **Judges as experts**

As the dissenting judge noted in *In the Interest of Angela Dee Holt*, judges hold an “awesome, Godlike” responsibility. Yet in making decisions, courts sometimes go beyond the mantle of expertise granted to them by their position. For instance, in deciding the financial divisions following a divorce, the court in *Granbery v. Carleton* assumed personal expert status by claiming his experience as a parent and an artist made him uniquely qualified to understand the parenting needs of an artistic and intelligent child. In doing so, the judge justified his criticism of the mother, despite the fact that custody had already been decided and the criticism was irrelevant to the case.

The expertise of judges usually, however, rests with the position they hold. In *Anonymous v. Anonymous* the court was asked to decide the best interests of a mentally retarded minor whose parents were seeking permission to have sterilized. The trial court did not find either the testimony of the family physician or the arguments of the parents compelling. Taking full responsibility and expertise upon themselves alone, the appellate court judges noted:

Ultimately, it is the duty of the court, and not the parents, to determine the need for sterilization.... While the parents’ duty of custody, care and nurture gives rise to their right to advise a child and participate in any decision, a decision relating to reproductive anatomy belongs to the child....

In claiming the authority to make the decision on behalf of the child, the court also assumed the expertise to appreciate her condition, her limitations, and her future. Without years of experience with the child, how is it that the judges' review of legal doctrine and interpretation of "best interests" becomes more important in a life-altering decision than the parents who raised the child?

### **Mothers as experts**

Within the courtroom, the privileges affiliated with the expert role are associated with the ability of the person, so endowed, to state her/his *opinion* about the issues at hand. Others, identified by King (1991: 314) as "non-experts," are required to provide only "factual" testimony. Mothers are rarely granted expert status; instead, they "may describe how the child has been behaving, but they are not allowed to give any opinion as to why the child behaves as she or he does or what will be the best way of dealing with the child's behavior" (King 1991: 314). In short, a mother's expertise may be constrained to the role of witness.

In *Brooks v. Hitch*, both parents were seeking custody of their five year old daughter. This meant that the court was faced with competing interpretations of the child's behavior and claims about which parent could better address the behavior. The mother argued that her daughter's encopresis was best cured with time and love and that her temper tantrums would decrease as she gained stability in her life. The mental health experts and the father disagreed. Vilifying the mother's close relationship with the child to the point of "smothering," and criticizing the mother for her failure to complete a questionnaire on parenting as part of his evaluation, one expert defined both the child's problems and their source— inappropriate mothering. Building their decision upon this expert's opinion, the court granted custody to the father, soundly chastising the mother in the process: "Perhaps the most difficult aspect of this case is that it is Mother's attachment to her daughter—which comes close to a dependency—this is most destructive to this child..."

In another example, in 1979 a 19-year-old unmarried woman with an IQ of 73 gave birth (*In the Matter of Martin E. Borst, Jr.*). She asked her caseworker to arrange for adoption of the child. The caseworker refused, concluding that the mother "could manage the role of motherhood with guidance." Two years later, the same social service agency sought to terminate the mother's parental rights in the child (with whom she had by then developed a relationship), testifying that "there is some question whether she is mentally capable of... planning" for her child's future. After initially requiring the mother to be a mother despite her wishes to the contrary (an endorsement of the myths of motherhood), the agency then claimed that the mother was not fulfilling her obligations toward her child. The court acknowledged the mother's failures as described by the experts, but postponed termination of parental rights. In doing so, the judge initiated a process for the experts to gather more evidence about

the mother's failings. Instead of rejecting the experts' judgment (both in terms of the adoption and parental termination), the decision reinforced the expertise of the agency by granting them the obligation to further evaluate the mother's behaviors.

### **Perceptions of experts**

I discuss below three perceptions endorsed by courts related to experts and expertise: 1) that experts are hard-working and blameless for the failures of their clients; 2) that experts are the "true" child advocates in the system and, as such, are a better source of information about the "best interests" of children; and 3) that experts are able to accurately predict the future for mothers. Each of these perceptions serves to remove expertise from mothers.

#### ***Perception 1: experts as hard-working and blameless***

Sometimes, defining the qualities of mothering means confirming the quality of the experts involved in their case. In *Brand v. Alabama Department of Pensions and Security*, the courts concluded that the social services department had done everything they could to encourage the mother's relationship with her child, from whom she had recently had her parental rights terminated. Despite efforts by agency staff to schedule visitation between mother and child, the court noted that it was the mother's own history of drug use, prostitution and other inappropriate choices that led to the termination of parental rights. Similarly, the court-ordered friend in *In re Adoption of K.F.H. and K.F.H.* testified that she had been "frustrated" many times while attempting to coordinate visitation between the non-custodial mother and her infant twins. The court concluded that despite the best efforts of the court-ordered friend, the mother failed to have any contact with the children for over a year, hence justifying their adoption by the custodial father's wife. While the court acknowledged the mother's difficulty in maintaining contact with pre-verbal infants when they lived out of state, they discounted the mother's claim that the distance and age of the children made a mediated relationship with her children a necessity.

What these cases signify is the reluctance of the court to blame experts involved in the evaluation of mothers. Rarely did a majority court remark on inappropriate or less than superior actions on the part of experts. Occasionally, a dissenting judge would ironically point out that, as did the judge in *In the Interest of Angela Dee Holt*:

[There is] little evidence in the record of efforts made by the state to help [mother] herself straighten out her emotional problems and find employment. Apparently Health and Welfare's only positive actions were to give her the very psychological tests which would later be used as evidence against her in the child forfeiture proceeding.

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Overall, the subtext of court decisions relies upon an assumption of experts actively and effectively performing their respective duties. Generally, the court presumed the integrity and commitment of the experts hired to ensure the “best interests” of the children in the court. In doing so, they reinforced both the validity of the opinions expressed by these experts and the externality of the mother’s perspective and experience to the court proceedings.

***Perception 2: experts as the “true” child advocates***

The tendency of the court to place the advocacy of “outsiders” in higher esteem than the advocacy of insiders (read mothers), may rest upon values of neutrality and objectivity which, for obvious reasons, mothers are perceived not to have. Nevertheless, such claims are also a not-so-subtle denigration of mother’s perspective, grounded as it is in her lived experience. For instance, in *In re the Marriage of Kleist and Mendez*, the parents were arguing over custody. In deciding, the court turned to a court-appointed expert for her opinion about the best placement. The expert claimed that her recommendation was based upon a strategy whereby she sought a decision “that is fairer for the child than it is for either of the parents.” In other words, the expert ignored the parents’ claims of knowledge about their child’s best interests. Notice that this negation of expertise is true for both parents, including the one that the expert recommended for custody (in this case, the mother). Hence, the court, in accepting the expert’s strategy and her recommendation, endorsed the expert’s role as the “true” child advocate and silenced the mother’s and father’s voices in the process.

While *Kleist* involves custody, this issue is more poignant for parental termination, where the adversarial expert voice has little or no experiential involvement with the child. This fungible expert enjoys an assumption of knowledge because of her/his universalistic experience with mothers and children, while the mother’s particularistic knowledge of her child is negated.

***Perception 3: experts as prescient beings***

Courts sometimes presume that experts hold unique prescient capabilities about mothers. This presumption is important because judges must make decisions that rest upon their ability to predict the “best” outcome. Indeed, the appellate court in *Young v. Young* chastised the trial court for its apparent disregard of the testimony of a court-appointed psychiatrist, a law guardian (the court-appointed child advocate), three pediatricians, caseworkers, and an expert hired by the mother (qualifications unspecified), noting that it behooves courts to give significant weight to the conclusions drawn by credible, neutral witnesses, or to justify themselves when they ignore such experts’ recommendations. Reliance, therefore, upon experts who have been granted expertise partly because of their willingness to make predictions about the future behaviors of mothers is seen as appropriate. Yet the willingness to predict itself is controversial; some mental health practitioners argue experts must never

decide the outcome of facts (by predicting the future) but instead they should solely testify to the accuracy and objectivity of facts (Wolfe, 2003: 344).

The goal of expert testimony in *In re Interest of D.L.S. v. J.S.C.*, was to diagnose the mother's failures and outline her potential for recovery. The State had petitioned for the termination of mother's parental rights noting, *inter alia*, that the mother was incapable of proper parenting "because of mental illness or mental deficiency" which they believed would "continue for a prolonged indeterminate period." Two psychologists testified that the mother had a "dependent personality disorder" characterized by an inability to "make decisions on her own." They predicted a lengthy recovery process. Using this information, the majority court terminated the mother's rights, arguing "[w]e cannot gamble away an additional two years of this child's life on the speculative hope that the mother can overcome the deficiency which she, albeit through no fault of her own, brought to motherhood." *D.L.S.* demonstrates how important this prescient ability is. By predicting a long recovery the experts presented to the court the image of a child kept perpetually in foster care. Despite the court's recognition of the mother's lack of blame for her condition (ironically reflecting her inability to make good decisions herself), this image dominated their decision.

Family law decisions sometimes involve contrasting different conclusions drawn by individuals with similar qualifications. For instance, in *In re Stephanie* two social service agency caseworkers, two psychiatrists, a psychiatric nurse, a clinical psychologist and a neuropsychologist testified regarding the termination of a mother's parental rights in her infant daughter. While the mother's mental health diagnosis varied depending upon the expert, at issue was the mother's ability to care for her child in the future. The neuropsychologist claimed that the mother's ailment was temporary and "improvement could well become realized within a four to six week treatment period." The other experts predicted a long, potentially fruitless treatment. Both the trial and the appellate courts terminated the mother's parental rights immediately, rejecting the need to take more time to assess the long-term prognosis (and failure) of the mother.

In general, courts deferred to experts' predictions generated from their diagnoses of mothers' mental illness, intelligence, failure with previous children, inability to meet the experts' recommendations, or a perceived unwillingness to try to improve mothering behaviors. What all of these issues have in common is the willingness of the experts to presume knowledge of future events based upon present circumstances. Interestingly, a survey of research on the accuracy of mental health experts' predictions of clients' behaviors conducted by David Faust and Jay Ziskin (1988: 34) suggested that professionals were no more accurate in their predictions than laypersons. Nevertheless, the confidence by which mental health experts expressed their opinions led to judicial and jury bias, in that both entities were prejudiced toward the conclusions drawn by credentialed experts despite their relative inaccuracy and their incredible cost (Faust and Ziskin, 1988: 35). In other words, because judges and

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juries engendered experts with expertise, their predictions were endowed with greater validity than research would warrant.

### **Conclusion**

If we allow for the recognition that an ideology of motherhood exists in the United States' system of justice, the question becomes: What role do experts play in supporting this ideology? Experts contribute in a number of ways to the judicial decision-making process, yet their role in defining and evaluating mothers is complicated. In general, expertise is granted only to those perceived credible by the courts. This certification process involves embodying experts with three expertise-affirming perceptions: 1) that experts are hard-working and blameless for the failures of mothers; 2) that experts are the "true" child advocates; and 3) that experts can accurately predict the future of mothers. Each of these perceptions serves to further endorse the voices and claims of experts in the courtroom. As Peter Schuck states: "...scientific facts are not immanent in an objective reality waiting to be discovered by any scientists who look in the right place. Instead, they are constructed and validated through a social process dominated by those in the scientific community who possess authority to do so" (1993: 15). Through this social construction, the voices and experiential knowledge of mothers is devalued and their perceived adversarial positions are negated.

In this paper I have considered the establishment of expertise in U.S. family law. I have argued that courts rely upon expert testimony in making decisions about mothers and, in doing so, often rely upon myths about motherhood that have little relationship to the lived experiences of mothers. By finding their voices silenced in comparison to the voices of experts, mothers can do little to shatter these myths or to claim their own knowledge about motherhood. The outcome is mothers as non-experts and a reinforcement of the ideology of motherhood.

Addressing the restrictions on mothers' voices and expertise in family law decisions is complicated, as the silencing occurs within an adversarial, male-dominated system of law that is able to invoke—*by statute*—a paternalistic relationship to its charges. And, existing experts may be complicit in the process; Sol Gothard (1989: 65), for instance, urges social workers to strive for expert status in the courtroom, because doing so enhances the prestige of the field of social work. In short, transforming perceptions of mothers' expertise may require a shift in power relations, between mothers and judges and between mothers and those who evaluate them. As Laureen Snider (1994: 97) notes:

*Laws have the potential to be interpreted in ways which hurt women because women lack the power to resist such interpretations (emphasis in original).*

At a minimum, this shift could involve acknowledging the bias endemic

to all expert testimony. This would serve to make obvious in the courtroom that which researchers have argued for a long time: that knowledge is subjective. Within this framework, the lived expertise of mothers could be interpreted as no less valid than—although distinctive from—the learned expertise of psychologists. It is also important to reject the adversarial structure of the judicial decision-making process that puts mothers, perhaps for the first time, outside the circle of concern for her children. In a court system that so often presumes mothers' and children's interests to be aligned (as in the issue of child support), it is ironic that mothers in family law cases are sometimes presumed to be arguing in direct opposition to the "best interests" of their children. Avoiding competitive claims of "true advocacy" by acknowledging all perspectives in the decision-making process would further reduce the impact of these decisions on mothers.

Finally, while the transformation of the judicial decision-making process may improve the status of mothers in the court, it is important to recognize that structural inequities outside of the justice system continue to affect mothers' lived realities and will continue to enter into the court decision-making process. The power differentials within the courtroom are therefore reflective of power differentials in the greater society and, as such, may not easily be reduced.

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## **Force of Nature, Force of Law Regulating Midwifery in British Columbia: An Ecofeminist Testimony**

The birth of my second child is re-making me as a mother, though I thought I already was one after having my first. I thought I could sit still in the knowledge of already being a mother. But instead I am re-made again. I am newly edged. The borders that I thought encompassed who I am, was, were, are dissolved and dissolving since this daughter's birth. I am taken apart and re-arranged, literally re-newed cell by cell. I lost a lot of blood after her birth and had to build myself, my blood-self, up again. I spent many weeks at home in bed thereafter. I lay there with my little newborn girl, in drenching night sweats and fear for my slow recovery, endlessly mentally processing the birth. This is a story of how I came to this birth, to this bleed, this blood story of birth bleeding.

(adapted from *Birthdance, Earthdance*, Jordan, 2002)

### **Midwifery politics: force of nature, force of law**

In 2002 I completed my Master's thesis. In 2002 I was also pregnant and gave birth in Vancouver, B.C., during the court hearings of my chosen home birth attendant Gloria Lemay. The British Columbia College of Midwives pursued legal action against Gloria's home birth practice through the use of spies in one of Gloria's year-long study groups and one of her week-long "Wise Woman Way of Birth" workshops. These two women posed as students within the courses. One of the spies surreptitiously attended a mother giving birth at home. They gathered evidence that led to charges against Gloria of criminal contempt of court. On July 24, 2002 she was handed a five-month prison sentence with one-year probation.

Since the formation of the B.C. College of Midwives in 1998, Gloria had

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remained unregistered, and consciously so. She preferred to answer to the individual needs of the women she attended in the sanctity of their own homes, and not to the dictates of a professional midwifery or government *body* (personal communications with Gloria Lemay, 1998-2002). Professional *body*, government *body* ... *body* of literature, *body* of thought, *body* of work, your *body*, her *body*, my *body*, whose *body* is it anyway?

Registered midwives were now working in hospital environments and were at times caught in medical protocol and testing, with its attending pathological focus on women giving birth. Gloria could no longer call herself a “midwife.” This title was restricted to registrants of the B.C. College of Midwives only. She made it clear to women who sought out her services since 1998 that she was not a member of the College.

Though the court proceedings focused on Gloria’s visible profile in B.C.’s home-birth community, her activities are indicative of the many invisible women who continue to choose to give birth outside the practices of regulated medicine and even midwifery itself.

### **Midwifery and me**

I attended my first home birth during my teenage years in the 1980s with then un-regulated Toronto midwives. Since then my politics, advocacy and work have largely centered around women giving birth. Attending this first birth as a teenager woke up an ancient calling in me, an awareness and love of the awesomeness of women’s capabilities at this time. I studied midwifery and attended home births with Ontario midwives in the late 1980s and then with Gloria and others since 1994 in British Columbia, pre-regulation days in both provinces. I have worked for years in community toward a humanizing, or “womanizing” of birth. Though the dictionary definition of “womanize” connotes “illicit” sexual activity (*The Pocket Oxford Dictionary*, 1978) it could apply to the quasi-unlawful ends many women have gone to in order to wrest their birth experiences from an otherwise paternalistic and overly medicalized grasp in North American society.

The history/herstory of this activity is immediately recognized in the lay midwifery renaissance that occurred throughout North America since at least the early 1970s (Gaskin, 1977; Arms, 1994; Chester, 1997). As with other North American legal and social transformations, from the abolition of slavery in the United States to granting women the vote, laws and cultural imperatives have the tendency to work for dominant and often hegemonic forces within society. Laws must necessarily be broken at times when upholding justice of an order other than the law imposing limits to its experience. This is true for the revival of midwifery where women began to support other women to give birth as subjects and not objects of their birth-giving experiences, exercising their own authority, usually at home and away from medical scrutiny. This created a freedom of sensational (of the senses), emotional, mental and spiritual experiences for birthing mothers otherwise denied them in highly regulated

hospital environments where public shaving, enforced bondage, episiotomy and sensation denying drugs were routine.

My Master's thesis focused on the interconnection of ecofeminism, midwifery and women's home birth experiences. The coincidence of Gloria's court proceedings in relation to my own second pregnancy and work on this thesis added sometimes painful and complex personal depth to many of the issues I was dealing with in both my thesis and my reproductive life. Because of the story-based research methodology I had chosen, *Organic Inquiry* (Clements, Ettlting, Jenett, and Shields, 1999), I was able to fully explore and articulate these connections within my writing.

I incorporated the birth experiences and stories of three friends into my thesis. These were women in my community who I had met, worked with, and befriended through pregnancies and/or birth experiences. These women became my "co-researchers" in *Organic Inquiry* style. I explored the sensational (of the senses) aspects of their birth experiences under midwifery or "woman-centred" type care. I considered the satisfying, integrating and emancipatory effects of these experiences for them (Jordan, 2002). They were equals within my research process, though my own story remained central to the text, mediating the research materials throughout. *Organic Inquiry* affirms the research process as sacred, personal, relational, chthonic and transformational. It includes the subjective and socially transformative qualities of feminist research in its scope (Clements et al., 1999).

### **Ecofeminism: force of nature, force of law**

My involvement with midwifery and home birth has gone along with an awareness of the ecological crisis produced by capitalism and militarism within largely Northern Hemispheric, Western societies. This awareness, combined with my personal need to spend time in wild or less cultivated "nature" outside of the cities into which I was born, a necessarily healing aspect of my life, drew me to ecofeminist theory and literature in my early twenties. I quickly intuited the links between ecofeminism and midwifery, finding that ecofeminism described for me the parameters of the dominant patriarchal forces that keep women giving birth under such tight control and manipulation. As I saw it, these parameters were nothing less than our destructive social, cultural and physical relationship to the Earth itself.

Ecofeminism asserts the physical materiality of life and traces the origins of the nature/culture, female/male dualism and its effects on women's embodiment (Mellor, 1997). As poetically described by ecofeminist Susan Griffin (2000 [1978]), women's physical experiences of menstruation, sexuality, birth, and breast feeding, were socially constructed as "natural" and denigrated in social and religious customs in European history since the Greek philosophers. This was in opposition to the socially upheld male activities of "culture" in art, religion and literature, and the historical male control of governance, law and the business of analyzing, amassing and trading the Earth's resources. Espe-

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cially since the European Renaissance, Reformation, witch-hunts and Scientific Revolution, the naturalizing of women and culturing of men became the standard of development for Western capitalism and industrialization (Merchant, 1980; Spretnak, 1999). Ecofeminism posits the connection between women's oppression and the material and ecological exploitation of the Earth, its peoples and resources by Western or Western-style economies (Merchant, 1980; Diamond and Fenman Orenstein, 1990; Mies and Shiva, 1993; Mellor, 1997). Ecofeminism stretches singular definitions of feminism by looking concurrently at the twin oppressions of women and nature.

The conditions surrounding women giving birth in North America became for me a point of illumination into the conditions of female embodiment. The need to control and manipulate women giving birth is integral to the forging of an economy based on the control and manipulations of nature "herself." In this way, women's bodies giving birth are the theater on which practices of bodily disconnection and hyper-rationality are played out. Birth practices become both symbolic and material, lived expressions of our deepest cultural values.

Through ecofeminism, I began to see that midwives were shifting the social fabric itself in working to empower and support women's birth experiences outside of the medical system. Ecofeminism gave me the ground from which to theorize the larger implications of social change in North American birth practices. If women's bodies have been a focal point in European and American history in the mapping of the Earth's destruction and ecological imbalance, then we can literally re-map our way to more connected, relational and sacred understandings of our place in "nature" through shifting birth practices.

### **Embodying politics: writing a thesis and having a baby**

The twin processes of writing a thesis and having a baby were so interwoven in my life that the reality of my research materials on the interrelation of ecofeminism, midwifery and women's birth stories, were lived experiences for me. Though the intention of my thesis was to base it within personal experience in midwifery and birth through my practical work as a home birth attendant and doula, I was not prepared for the shock of political and legal circumstances around my own second birth-giving experience.

Because of the actions of the B.C. College of Midwives against Gloria, the question of connection between ecofeminism and midwifery more clearly formed for me into wondering what *is* really at stake in women's personal embodied experiences of birth? Within this emerging conflict of midwives/women against women, to focus only on "midwifery" as the hallmark of "natural" birth actually belies the real body politics at stake in women's birth giving experiences in North America. Midwifery assisted births have attracted the focus of being the viable alternative to hospital/medical birth, making the "midwife" the site of discourse and taking attention away from the

actual bleeding, gestating, birthing, milking bodies of women themselves. In light of the B.C. College of Midwives' prosecution of Gloria's home-birth practice, the registered professional midwife is to be the only option to "deliver" the hoped for "natural" birth experience to women in British Columbia. This leaves women caught in a web of ideologies when they cannot bypass medical protocols or regulated procedures found within the realm of regulated midwifery practice. I began to wonder, what are the sensations, feelings and capabilities that women experience when giving birth at home to their babies without medical or regulated midwifery attendance and intervention that are so radical as to threaten the mythology of birth in North America (Jordan, 2002)?

In my own analysis, what calls midwifery from its grassroots to regulated form, are the dilemmas of its survival within dominant social and cultural qualities/values/beliefs that I have reviewed in ecofeminist theory as the subjugation of both women and nature. These are driving women's birth experiences and the collective fear of women's bodies at this time as gatekeepers to both life and death. Birth transgresses standard North American cultural investments in timeliness, orderliness, rationality, bodily desensitization, objective distance and known outcomes. Birthing women can experience extremes of physical, emotional, mental and spiritual sensations, altered states of consciousness and a disrupted sense of time (or no time), reacting as the crying, laughing, rocking, moaning, emotional, or inward-focused-intense, sweating, leaking, bleeding, subjective *bodies* that giving birth demands. Even where midwives as professionals may hope to affect standard desensitizing birth practices, they themselves are affected by joining professional *bodies* that are subject to dominant beliefs with attending legal and political obligations. I want to re-focus a dialogue back onto women's *bodies* and experiences to remember and re-mind who is at the centre of such heated control issues (Jordan, 2002).

### **Giving birth: finding form, losing form**

Giving birth to my first daughter was a "classic" natural birth experience in the sense of being empowered by the simplicity of owning her birth for myself. I was able to enter a deep and uninhibited trance state during my most intense phase of dilation in which I completely surrendered to the intensity of the sensations, moving energy through my uterus and out of my hands. I was ecstatic. This was in 1997, pre-B.C. midwifery regulation. I was at home and surrounded by my loved ones and with Gloria Lemay as my birth attendant. By my second pregnancy of 2001 and 2002, Gloria was facing legal action from the B.C. College of Midwives. The dates of this pregnancy seemed to follow her various court appearances until Gloria was forbidden to be in the presence of, talk to, or assist in any way pregnant and birthing women.

I was about six weeks from my due date at this time, had developed high

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blood pressure, and was now without the support of my chosen attendant. Knowing what I did of medical protocol, I would not seek regular medical attention, be categorized as high risk and end up with a cascade of testing and interventions. The thought of going to registered midwives who would also view me as high risk for home birth, and whose College was acting to put Gloria in jail, was psychologically distressing to me at best.

Despite my refusal to seek standard kinds of care I was worried “sick” about my blood pressure. I ate a high protein diet, took calcium supplements and closely monitored my baby and myself with the help of now un-named friends. A silence of no-naming exists at the heart of my story and in the present context of lay birth attendant persecution/prosecution in British Columbia by the B.C. College of Midwives. This culture of silence and paranoia developing around traditional birth attendants in British Columbia is an issue I have not adequately addressed. It deserves to be closely watched for its implications on the women and their families who continue to choose unregulated birth in B.C. and the women who support them in this choice.

My blood pressure remained consistent, high but not incredibly so. No other symptoms arose. My pregnancy became a true psychic *descent* in the Sylvia Brinton Perera (1981) sense of the word. Though I was constantly and easily reduced to tears during much of my early pregnancy, I was overtaken with intense grief. The state of midwifery, women fighting women, and the lengths to which the B.C. College of Midwives was willing to go to undermine its unregulated forms alarmed me greatly.

My years of midwifery involvement and experience did little to protect myself or my baby from the effects of the actions of the College of Midwives. They were willing to completely disregard Gloria’s pregnant clients. I could not psychically separate from the dynamics of this conflict. I could find no “form” to hold or comfort me as a pregnant woman, in either the practices of midwifery or medicine, and because of fears around my blood pressure I would not take comfort in birth’s “unassisted” (Parvati Baker, 1996) variety. I ended up labouring at home and transferring to the hospital, arriving there fully dilated and in excruciating pain, something I had not experienced with my first daughter’s birth. I had not necessarily planned to go to the hospital, but had been weighing this possibility due to fears around my blood pressure.

It was piecemeal pre- and peri-natal care that I created for myself, constantly assessing in the moment with whom and what I would and would not come into contact with. Though I felt myself to be caught in a web of midwifery politics that I could not separate from, I was also in a strange sense still holding what I could for myself and my daughter in this birth, making choices from the inside out.

Ultimately the friends who initially attended my birth were not able to provide the kinds of support that I needed to continue the birth at home. They brought a palpable level of fear and paranoia of being “found out,” due to Gloria’s case, into my birthing chambers. At a key point they thought my

birthing process was “stalled,” and tired themselves, they left me to rest with my family on an edge I could not proceed from. I could barely stand what had become “pain” for me. I was actually in active labour and caught in mental loops of thinking if this is what “stalled” labour feels like how will I survive? With my partner at the wheel of the car, I took myself to the hospital instead.

The whole situation points to the dance a birthing woman does with those around her as she births, what motivates, supports or limits her movements towards releasing her baby. In my case I was living not only the personal effects of Gloria’s court case, but its impact on those I chose to have around me as I gave birth. It is no coincidence that mammals seek solitude, quiet and safe undisturbed environments in which to give birth. A disruptive, psychologically difficult or overly intervening environment limits the capacity to surrender and allow the birth process to take over.

After my daughter’s birth in the hospital and her placenta’s arrival, I began to bleed profusely and required oxytocin intervention. Whether this was from extreme grief or in physical response to the stress of my pregnancy and an over extended uterus, I can only conjecture. My blood pressure read as completely normal upon arrival at the hospital.

As I lay on a hospital bed after the birth of my daughter, they moved her to a tray at my side. Far enough away that I couldn’t have touched her by reaching out my hand. They wiped her and felt her and measured her and touched her. I had only been holding her on my chest after the birth for minutes or moments. I held her as she came out of me. I was shaking, ecstatic and noticing how all of her was there upon my chest and in my arms, a whole tiny perfect person. And I thought “two daughters. two daughters....” As I now watched the touching activity around my baby on the warming tray they had moved her to I felt a familiar pain. A tightening in my uterus signaled the birth of the final organ to come out of me, our placenta. I pushed and witnessed the mystery of this large magical veinous blood pie emerge out of me and into the metal bowl between my blood streaked legs. The doctor and I inspected it, healthy and complete, not at all compromised by the unbeknownst-to-this-doctor high blood pressure that had haunted me in the weeks leading up to this moment.

All through this placental activity my baby lay on that tray in the distance of the room. I ached for her small body to be next to mine. She was so naked in only a way I could recognize, as naked as myself in these moments. Somewhere in this time I began to bleed. Blood was slowly, steadily, flowing out from my uterus, my womb which so recently held for so long her small and wiggling form. Did I bleed from this aching to hold her? Was I calling her to me with my blood? “If I keep bleeding you will know that I am here, I made you from this

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blood, it is yours as much as mine....”  
(adapted from *Birthdance, Earthdance*, Jordan, 2002)

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# **Unfair Guidelines**

## ***A Critical Analysis of the Federal Child Support Guidelines***

Child support guidelines and support tables were introduced in Canada in 1997 as part of a comprehensive strategy developed by the federal and provincial governments to address growing concerns about increasing numbers of children in poor, single parent families. Child support awards under the previous child support system varied widely from province to province, court to court; awards were also inadequate and in many cases went unpaid. The federal and provincial governmental response to these concerns was a legislative package, introduced May 1, 1997, that changed the way child support amounts were determined, taxed and enforced (Department of Justice, 2002). In April 2002, the Department of Justice tabled in the House of Commons *Children Come First: A Report to Parliament on the Provisions and Operation of the Federal Child Support Guidelines*, a report completed after the first five years of the new legislation, which purportedly established that the reformed child support system was “working well,” a “solid success” (Department of Justice, 2002: v-1). Research commissioned for this government evaluation of the Guidelines did not directly address the impact of the Guidelines on the lives of those persons most affected by the changes, namely parents and children; it focused instead on the opinions and experiences of legal actors (judges, lawyers, mediators). This paper, therefore, offers a gendered analysis of the Child Support Guidelines, which will argue that the benefits of the new legislation are likely to be gendered and class-based.

The objective of this paper is to challenge some of the claims made in *Children Come First* by showing that the new child support system is not such a “solid success.” In particular, the claim that the Guidelines have established a “fair standard of support for children” will be countered by providing evidence that the interpretation and application of the Guidelines is in fact “unfair” to

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custodial mothers. A gendered analysis reveals how the principles of gender-neutrality and self-sufficiency featured in the emerging legal discourse serve to mask the subordinating effects of marriage and divorce on custodial parents, most of whom are women. If children's needs are truly "at the heart of" this new legislation (see Department of Justice, 1996), then there must be greater acknowledgement that women are typically the primary caregivers following divorce, and that women face economic barriers both during marriage and after its breakdown that make gender-neutral goals, like "economic self sufficiency" and parental "joint financial obligation," difficult to attain.

This paper advocates a gender-based evaluation of legal reforms that focuses on the language, concepts and arguments that are used in the application of legislation (Status of Women Canada, 1996). It explores whether, and how, the legislative "talk," or discourse, challenges or reinforces existing power structures based on gender. The research included in the government's evaluation of the Guidelines gives no consideration to the gendered experiences of marriage, child care, work or divorce—experiences that make it difficult in many cases to treat men and women, fathers and mothers as gender-neutral subjects. Therefore, after outlining the justifications for a gendered analysis of the Guidelines, I will highlight the major claims and evidence presented in the government's evaluation. This will be followed by my own claims and evidence derived from a gendered analysis.

Methodologically, this paper rests on analyses of two sources of data: the written reasons for judgment given by judges in a sample of child support cases, and interviews with custodial mothers and facilitators of support groups for single mothers. Fifty child support cases decided between May 1997 and December 1998<sup>1</sup> were analyzed, plus 12 qualitative, semi-structured interviews conducted with seven single mothers and five facilitators of support groups for single mothers.<sup>2</sup> An analysis of child support cases is the best means of observing the application of the Guidelines, both in terms of the patterns that are being developed in judicial decision-making and in terms of observing any judicial discussion of the effects of the new Guidelines on women as custodial parents. Interviews with single mothers and support group facilitators allow for the inclusion of the voice(s) of custodial mothers in an analysis of the impact of the Guidelines.

### **"Looking at child support in a new way"<sup>3</sup>**

Ensuring consistent, adequate and paid child support became an important policy objective of the Canadian government because of the recognized impact that child support awards have on the standard of living of children and their custodial parents. A child is more likely to be poor if he or she lives in a single-parent family headed by a woman (Canadian Council on Social Development, 1999). Single parent families are more likely to be headed by women (Boyd, 2003).<sup>4</sup> The implementation of the guidelines in Canada arose out of concern for the lower standard of living of children and their custodial parents

(Family Law Committee, 1991). Because the differential impact of divorce is characterized primarily by a decline in family income and standard of living for women, which further perpetuates the inequality between men and women (L'Heureux-Dube, 1992), the Guidelines, therefore, must be evaluated in light of their ability to promote the goals of substantive gender equality (Mossman & MacLean, 1997).

Law continues to be a site of struggle for feminists because legal regulation continues to play an active role in shaping social relations (Cossman & Fudge, 2002; Smart, 1989). In the area of family law, second wave feminists maintained an emphasis on law and legal reform as a “major vehicle” for women’s equality (Chunn, 1999: 246). Reforms since the 1960s, influenced by liberal egalitarianism, have been based on the assumption that if women were assured equality of treatment and opportunity in the public sphere, equality of condition would follow (Chunn, 1999). Beginning with the reforms to the *Divorce Act, 1967-68, c.24, s.3(d)*, federal and provincial legislation has incorporated principles based on gender neutrality and formal equality, such as the no-fault grounds for divorce, the “best interests of the child” doctrine, the equal division of marital property and the self-sufficiency principle. More recently, in the current climate of neo-liberal restructuring, feminist inspired reforms have been utilized to facilitate the reprivatization of the costs of social reproduction; for example, the definition of spouse has been expanded to include same-sex relationships, spousal and child support obligations have been enhanced through legislation, and enforcement of these private support obligations have been intensified (Cossman, 2002). Yet, as some legal feminists have argued, legal guarantees of equality are meaningless if substantive equality does not yet exist between men and women. Susan Boyd (1989) has drawn attention to the fact that “the perpetuation of patriarchal relations continues despite the removal of the legal barriers to women’s formal equality,” and legal reforms are “futile” if they are conducted without corresponding social and economic reforms (114). While there is potential for feminists to use the legal system or law reform as a strategy to improve the economic, political and social conditions of women (Snider, 1994), it must be done in such a way as to “contribute to the implementation of a ‘social responsibility’ model of family (Chunn, 1999: 257), one that focuses on “minimizing inequalities that are the result of being married or being a parent instead of on [formal] equality” (Eichler, 1997: 130).

The 1997 revisions to the child support system introduced guidelines and tables to be used for the calculation of basic child support amounts. The tables establish the basic amount of support that a paying parent should contribute toward his or her children, taking into account three main factors: level of income, number of children, and province or territory of residence (Department of Justice, 1997). Please see Table A for an example of the child support tables. To these basic amounts may be added “special or extraordinary” expenses, including childcare, medical and dental insurance premiums, medical and health-related services, primary or secondary school education, post-

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secondary education and extracurricular activities. The assumption is that the table amounts will be ordered unless this amount would be inappropriate or inadequate; for instance, circumstances that would lead to a variation of the table amounts include undue hardship caused by applying the child support tables, a child over the age of majority, shared custody, split custody and payor with an income over \$150,000 (MacDonald and Wilton, 2003). New rules have also been established for the taxation of child support payments. Following revisions to the *Income Tax Act, R.S.C. 1985, c.1 (5<sup>th</sup> Supp.)* in 1997, child support payments may now be deducted from the receiving parent's taxable income but must be declared by the paying parent. Lastly, amendments to enforcement mechanisms have strengthened the government's ability to collect support. For instance, to facilitate the garnishing of wages, Revenue Canada databases can now be searched not only for the addresses of delinquent payors but also for the names and addresses of their employers. Other amendments allow for federal licenses and official documents (passports, and aviation and marine licenses) to be suspended, revoked or denied when child support is unpaid. Similarly, many provinces' enforcement practices also include the suspension or cancellation of drivers' licenses when a payor is in arrears.<sup>5</sup>

### **Children come first**

The Guidelines have been designed to ensure that children will be as little affected by divorce as possible, or, in other words, "to put children first."<sup>6</sup> The need to establish fair levels of support for children from both parents upon marriage breakdown in a predictable and consistent manner is the stated objective of the Guidelines. One component of the federal government's monitoring of the implementation of the Guidelines—which was completed in 2002 with the release of *Children Come First: A Report to Parliament on the Provisions and Operation of the Federal Child Support Guidelines*—has been the measurement of the "fairness" of the new child support system (Department of Justice, 2002). This has involved asking three questions: one, do parents and professionals see the Guidelines as fair? Two, are the Guidelines being applied in most cases? And three, how do the child support amounts awarded under the Guidelines compare to pre-Guidelines amounts (Department of Justice, 2002)?

### **Are the Guidelines "fair"?**

The Guidelines were intended to establish "fair" child support payments by ensuring that orders are consistent and predictable. Uniform child support levels were thought to be the best means to generate a sense of fairness and satisfaction towards the system; if parents (payors) see the Guidelines amounts as fair, the hope is that they will be more likely to comply with court orders (Family Law Committee, 1991: 5). Survey data conducted during the government's evaluation suggests that while professionals (judges, lawyers and mediators) rate the Guidelines "highly in terms of fairness to children and parents," parents have not been as positive. For example, in one study of parents, 56

percent of receiving parents and 41 percent of paying parents felt that the child support amounts were fair<sup>7</sup> (Department of Justice, 2002: 6). No attempt was made in these surveys, however, to define what “fair” meant to each group of respondents.

Discussions of fairness raised in my interview study offers a significantly more detailed understanding of what “fair” means to parents. While some of the women felt that the Guidelines appeared to offer a fair method of child support determination, they were quick to add that it was only a start towards a better system. Some women suggested that in order for children to benefit from the reforms, the Guidelines must be seen as fair by the non-custodial parent (the payor), and this is strongly linked to the amount of child support to be paid. If the non-custodial parent does not feel that the child support order is “fair,” they will often refuse to pay:

I hope that they [non-custodial parents] think it's fair. They probably think what's fair to them is what they want to pay and what they can afford to pay. (Carla, single mother)<sup>8</sup>

On the other hand, custodial parents' perceptions of fairness was seen as related to the extent to which the child support award alleviated the disproportionate burdens they faced:

I think that it is still too lenient on one parent. I think that the burden is again falling on the woman, and it's always the custodial parent and I really think that's not fair ... It scares me to think this is the way it's going and unfortunately the burden will fall on women. (Emily, single mother)

I think these are favoured more towards the non-custodial parent because there are a lot of things that aren't monetary that are involved in bringing up a child and I don't think that is taken into consideration ... There's a lot more to raising children than the monetary value. Like being present for that child, staying up all night, all those things. Missing work because the child is sick. Only the custodial parent experiences those things. (Bridgit, single mother)

Fairness for the custodial mothers, therefore, centered around creating a system where the economic and non-economic costs of a family breakup were more evenly distributed between the two parents. The Guidelines will likely not establish absolute parity between the custodial and non-custodial households, however, the “fairness” objective is nevertheless one which custodial parents support—in other words, the mothers all strongly believed that children need and deserve whatever financial support *both* parents can give them. They see the heavy emphasis now placed on protecting the “interests of children by ensuring

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parents live up to their responsibilities for child support payments” (Department of Justice, 1996) as a helpful development.

### **Are the child support tables a “ceiling” or a “floor”?**

With the implementation of the Guidelines, the child support system has shifted from a “needs” based to a “means” based approach to determining child support amounts. Child support amounts are now based on what is understood to be the amount that each payer can afford to contribute. This is meant to be a “fairer” method of determination in that the amounts assessed are within the capabilities of the payors to pay; the figures in the tables have been calculated by considering that portion of a person’s income that the average parent would normally contribute to the care of children in their household. Another test of the “fairness” of the Guidelines has been to determine the extent to which courts have adhered to the amounts in the support tables; in other words, have courts treated the support tables as a “floor” (minimum acceptable amount) or a “ceiling” (maximum acceptable amount)? In *Children Come First*, data indicated that, in the majority of cases, awards did correspond with the support tables. One study revealed that the awards were less than the tables in 4.5 percent to 5.5 percent<sup>9</sup> of cases, 65.6 percent of the awards were equal to the table amounts and 28.9 percent to 30 percent of the awards were greater than the table amounts (Department of Justice, 2002: 8). The government report concludes that “it is clear that parents, judges, and lawyers view the table amounts as the minimal acceptable amount in the vast majority of ... cases” (8)—in other words, the tables are treated as a “floor,” which means success in that the courts are not setting orders lower than the tables. I would strongly disagree, however, with the government’s claim that this evidence is “strong evidence that the table amounts have been viewed as a ‘floor’ in virtually all cases” (Department of Justice, 2002: 10). If only the table amounts were awarded in the 65 percent of the cases reviewed, then this means that in the majority of cases, only the “basic” table amounts are being awarded. If the table amounts were in fact a “floor,” then it would (should) be expected that a higher percentage of cases would involve orders that were higher than the table amounts.

While the outcomes of my sample of cases followed a different pattern to the data presented in *Children Come First*, I would still argue that the support tables are being treated more as a “ceiling” as opposed to a “floor.” Please refer to Table B for a comparison of my data with that of the Department of Justice.<sup>10</sup> For instance, awards were less than the tables in 12 percent of cases, 32 percent of the awards were equal to the table amounts and 48 percent of the awards were greater than the table amounts. While it is true that orders lower than the tables are rare, so too are orders that are higher than the tables, leaving “basic” child support amounts as established by the tables as the rule. The Guidelines are being applied in a conservative manner, despite the discretion to vary the table amounts and despite requests to do so from custodial parents. This is discon-

certing in light of concerns raised that the amounts stipulated in the tables are not adequate to meet the basic needs of children. Critics of the law reforms have noted that the data used to devise the child support tables did not include the non-monetary costs that are borne by the custodial parent (NAWL, 1996; Zweibel, 1994). Household tasks, child care tasks, need to be near schools, and constraints put on the custodial parent's employment availability, for example, may be non-monetary expenses when the family is intact, but they have significant monetary impact for a custodial parent following separation/divorce (NAWL, 1996). Similar concerns were raised by the women in the interview study. Many of the women suggested that the reason that child support awards are typically insufficient is because many of the costs that the custodial parents assume are not acknowledged in the Guidelines.

The other parent has to realize that everything that the child does incurs a cost. Everything.... They have to pay to get on a bus. If the mother has a vehicle, then that has to be taken into consideration because this is also transportation for the child. Gas, clothes, books, reading materials, games.... I just don't believe it should just be on the mother and that's the way it's been—everything is put on the mother. The mother has to be the sole provider, the sole care giver, and I don't like it. (Emily, single mother)

The failure to recognize the hidden costs of parenting is best demonstrated in the treatment of daycare expenses under the new law. One section in the Guidelines gives discretion to the court to provide for an amount to cover childcare expenses "incurred as a result of the custodial parent's employment, illness, disability or education or training."<sup>11</sup> Where parents would be sharing the actual cost for the daycare, the custodial parent, however, will likely be solely responsible for many indirect costs related to any daycare arrangement. For instance, transportation to and from the daycare is the responsibility of the primary caregiver. Also, if the children are unable to attend daycare due to sickness, the custodial parent (mother) is responsible for finding other arrangements or taking time off work to care for the children. In addition, daycare services tend to be restricted to "normal" working hours, which could compromise the custodial parent's paid employment. Finally, if daycare is needed for any other reason not stipulated in the Guidelines (e.g., attendance in family court, visits with lawyer, support groups, leisure activities, etc), the full cost must be assumed by the custodial parent.

Many women interviewed stressed this last "hidden cost" associated with raising a child as particularly frustrating. For instance, many mothers indicated that it is important to be able to take "time out" from their children.

The challenges are incredible. I never get a break from my son. Hardly ever. He's with me every hour, except for the day care. Thank god, I

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get away every once in a while. I can't plant him at people's houses very often so it's exhausting.... I just wish there was a little more freedom to go out. (Georgina, single mother)

The daycare, that is what the women are struggling the most with—the high cost of daycare. And I really think that the fathers should definitely pay a high amount of money to also give the mother a break from the child. And that costs money.... [M]ost of these women are with the children seven days a week, and it's not only one [but] two, three, four, five children. So they're exhausted. So if they had money, for everything, more money for everything, that would really, really give them an incredible break. (Lana, support group facilitator)

This common experience means that there needs to be some form of child care cost to cover this “challenge,” as some of the women described it; this specific stress associated with single parenting existed for the mothers regardless of access exercised by non-custodial fathers, or assistance from others. These sorts of “hidden costs” associated with child care mean, therefore, that there still is not a “fair” or equal sharing of child care responsibilities as the Guidelines promise, and the greater burden remains with the custodial parent.

#### **Are the child support amounts enough?**

One objective of the 1997 reforms was “to yield *adequate* and equitable levels of child support [emphasis added]” (Department of Justice, 1990: 7;), as research has consistently revealed that low levels of child support have a “direct and essential impact on the standards of living of children” (3).<sup>12</sup> Prior to the Guidelines, the discretion granted to judges to calculate child support amounts was blamed for the inadequacy of the orders. Consequently, with guidelines, (mandatory) minimum child support levels could be established. Monitoring pre- and post-Guidelines awards, therefore, became an important research objective. Evidence published in *Children Come First* suggests that “post-Guidelines amounts were generally higher than the pre-Guidelines amounts”<sup>13</sup> (Department of Justice, 2002: 9). For instance, the claim is made that for low-income families, “median and mean amounts were *considerably higher* in post-Guidelines cases [emphasis added]” (9), yet no pre- and post-Guidelines figures were provided. The assumption made, therefore, is that so long as the child support levels under the Guidelines are greater, this is evidence of a positive outcome. However, there are several problems with such a conclusion. To make this claim, the government has relied on two weak assumptions: first, that the amounts ordered in legal proceedings are actually paid or paid in full, and that the ordered amounts are actually sufficient to meet children's reasonable and basic needs.

Without specific numbers, it is difficult to argue with the claim that child

support levels are now “adequate” to meet the basic costs of raising children. While child support awards for middle and higher income payors may well provide adequate amounts of support, there is reason to believe that child support paid by low-income payors are insufficient. The reaction of the mothers I spoke with in the interview study provide evidence to suggest that the table amounts alone may not provide adequate support for single parents and their children. After calculating what they were or should have been receiving using the tables, three of the twelve women quite adamantly stated that the amounts were too low. In their experiences, the child support amounts in the tables would barely cover basic costs (rent, food, utilities), let alone “extras” like clothing, activities, and day care. One mother in particular called the amount that she would receive according to the Guidelines “ridiculous,” “horrible,” “it’s nothing” she said (Diane, single mother).

Finally, the government’s claim that child support awards have increased does not necessarily lead to the conclusion that the system is now “fair” for children. Built into the child support table amounts is “the expectation that the custodial parent will contribute an appropriate share of his or her own income to meet the costs of raising the child” (Epstein, 1997:3). This expectation, however, is based on the assumption that both parents are or can become economically independent following divorce or separation (Rogerson, 1990; Sheppard, 1995; Zweibel, 1993 ). Women often face economic disadvantage from having assumed unpaid family responsibilities during the marriage/relationship, and from the economic implications of continued post-divorce/separation care for children (Rogerson, 1990), which create barriers to women contributing “equally” or sufficiently for their children. Assuming, as the Guidelines do, that “the custodial mother is already solidly self-sufficient so that an appropriate standard of living for the child can be achieved simply by adding a proportionate child support contribution from the father” fails to account for the economic opportunity costs of the custodial parent (Zweibel, 1993: 379).

While there is discretion for judges to acknowledge some of the consequences of the gendered nature of parenting assumed by many women, the manner in which the Guidelines were applied in the sample cases, however, showed little sensitivity to the unique realities of custodial parents. Analysis of the sample cases demonstrated that judges seldom recognized how the realities of women’s paid work often seriously compromise a custodial mother’s ability to support her children. Under the Guidelines, as the focus is primarily on the non-custodial parent’s income and not the needs of the custodial household, there is little room for the courts to engage in decision-making that could involve consideration of differences between each household’s standard of living. The only attention given to the economic situations of custodial households is typically when “special expenses” are requested.<sup>14</sup> The manner in which judges deal with these expenses involves calculating the proportion of each parent’s income of the total available income. Using that figure, the costs

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for any “special expenses” are apportioned between the two parents. The following quote from one case illustrates the typical amount of attention given to the comparison of parents’ incomes in the written reasons for judgment:

There will be an order that the petitioner contribute to the annual cost of the testing in the same proportion as his respective income in accordance with s. 7(2) of the Guidelines ( $\$158,000/\$197,000 = 80\%$ ) upon presentation to him of documentation confirming the actual cost (*Nataros v. Nataros* [1998] B.C.J. No. 1417).

Even though judges in these instances cannot help but note the differences between the custodial and non-custodial parent’s incomes, evidence indicates this process remains strictly a mathematical comparison in the overwhelming majority of cases, rather than a substantive comparison of the standards of living of both households.

The interviews with custodial mothers, highlighted that poverty continues to be the reality for many single mothers. As the primary parent responsible for the well-being of a child or children, obtaining a well-paying job is crucial to establish a “decent” standard of living. Yet these women experience many barriers to securing good paid employment. Many women cannot secure anything but unstable, temporary work; in other words, work that makes economic self-sufficiency difficult and often elusive (Armstrong & Armstrong, 1984; Luxton & Reiter, 1997). One mother’s frustration with the challenges of trying to make ends meet with this type of work was quite evident when she said,

I want to get out of the circular thing that happens where I get work, then I don’t have work, and I try to find work, and I run out of UI, and I go on assistance, and I go back to my seasonal job. I’m not increasing my wages. It never goes up (Georgina, single mother).

Low wage, “bad” jobs have few benefits and no security. When the custodial parent is the sole income earner, even a temporary loss of job has significant implications. For example, one of the mothers I spoke with had been injured at work a few days prior to the interview. While she was receiving some compensation from work, she was not receiving child support regularly and she admitted that she would therefore not be able to pay her rent that month. Time spent outside the paid labour market for childcare responsibilities also makes it difficult to secure reliable employment. Some women spoke of what they called “sacrifices” to their own careers that they made as a result of becoming mothers. One mother described how caring for her young son combined with being compelled to shift provinces and jobs to comply with court imposed requirements to give an ex-husband access to their child all had a profound impact on her standard of living:

I've sacrificed a lot just to be here, so he could have his son. I could be back in [Alberta] with a job, with several jobs that would open up to me there. Support, you know... I wouldn't have to pay for child care because I've got my parents there and just the standard of living. I could live a lot better life there financially than I'll be able to do here (Fiona, single mother).

When evaluating the adequacy of child support levels, the connection between the custodial parent's standard of living and that of the child(ren)'s necessitates that there also be some acknowledgment of the implications of the ongoing care performed by the custodial parent, i.e., its impact on the custodial parent's ability to engage in paid labour (Rogerson, 1988). My study reveals that the Guidelines have been applied in a formally equal, gender neutral and conservative manner, which served only to obscure the link between the standard of living of custodial mothers and the well-being of children. The Guidelines do nothing unfortunately to encourage a more contextual, gendered approach to the examination of the differential impact divorce has on women. For instance, the Guidelines do little to credit the custodial mother for her increased contribution to childrearing costs at any income level, let alone acknowledge the economic strain on the low-income custodial household particularly when it is dependent upon a female wage earner.

### **Conclusion: unfair guidelines?**

Gendered assumptions about child care and gender-neutral assumptions about work serve to mask the subordinating effects of marriage and divorce particularly for women. There seems to be a gap, therefore, between the rhetoric of a "fair standard of support" entrenched in the Guidelines and the reality that, for many custodial mothers and their children, the child support amounts mandated under the Guidelines may not be adequate. In the end, however, the government's final word on the 'fairness' of the Guidelines, as presented in *Children Come First*, was positive: "There seems little doubt that in the vast majority of cases the child support tables have gone a long way toward ensuring that children receive a fair amount of support" (Department of Justice, 2002).

The lived experiences of a group of single mothers was used to demonstrate how the reality of poverty or low-income status negates the intended outcomes of reforms, and in particular, the creation of a "fair standard of support" for children following divorce. In the interview study, those mothers who received child support reported that the awards did little to improve their economic situations. The majority of women interviewed were not economically independent or self-sufficient; they depended on social assistance, child support, family assistance and/or their own poorly paid labour. All of the women wanted to be able to better support themselves and their children and they all recognized the need for improved and alternative assistance in order to do so.

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For some custodial parents, the Guidelines will help. The Guidelines legislate basic levels of child support and emphasize the non-custodial parent's responsibility for his/her children. The Guidelines strengthen the principle that parents should not be allowed to walk away from their responsibilities towards their children. On the other hand, the ability of child support orders under the Guidelines to reduce the number of poor and financially insecure custodial households is limited. For families with low incomes, even if child support is paid, child support orders will likely not be enough to maintain a reasonable standard of living for the custodial household.

The child support law reforms have been constructed to encourage the efficient use of private resources to ensure the economic well-being of children following divorce/separation. The reliance on this type of public policy strategy, however, serves to reinforce women's economic dependence on a male income-earner as primary importance is put on maintaining the private responsibilities of family members (Boyd, 1994; Sheppard, 1995; Zweibel, 1993). A privatized system of support cannot adequately address or challenge the underlying causes of women's ghettoized status in the paid labour force nor the unpaid and undervalued nature of domestic labour (Boyd, 1994). Without greater acknowledgement within the current legal discourse that children share the same standard of living as their custodial mothers, the poverty that many children face or could face is not going to be targeted. It was the goal of this paper to counteract the government's positive evaluation of the Guidelines by suggesting that it is questionable whether child support awards under the Guidelines are actually producing "fair" levels of support—in other words, levels of support that will bring custodial households out of or protect them from poverty. It should be a priority to create a system that is fair to all children. To do so, however, would necessitate a more thorough recognition of the feminization of poverty than what is possible or likely within the current era of guidelines in Canada.

<sup>1</sup>The sample of cases was derived from a search of all available child support cases in the QuickLaw data base. A key word search was used to derive the total number of cases that involved sections where judges have discretion to override the table amounts: support for children the age of majority or older (Section 3(2)); extraordinary expenses for childcare (Section 7(1)(a)); extraordinary expenses for extracurricular activities (Section 7 (1)(e)); shared custody (Section 9); and undue hardship (Section 10). A stratified sample was used to generate a sample representative of the nature of child support cases brought to the court.

<sup>2</sup>Letters were sent to various support groups and services for single parents to solicit participants from Vancouver (and surrounding area), B.C. All participants self-selected to participate in the interview study. Two respondents were referred to the researcher by other respondents. Five of the seven mothers were

**Table A**  
**Simplified Tables of Federal Child Support Amounts**  
**British Columbia**

**Monthly Award (\$)**

Income (\$)	Number of Children			
	1	2	3	4
7,000	5	6	7	8
10,000	83	97	111	124
20,000	171	297	399	483
50,000	426	696	911	1,088
70,000	568	920	1,202	1,432
100,000	761	1,222	1,592	1,894
120,000	888	1,420	1,846	2,195
150,000	1,079	1,717	2,228	2,646

*Source: Federal Child Support Guidelines, As established May 1, 1997 (SOR/97-175), As amended, effective November 1, 2000 (SOR/00-337). Complete tables for all provinces are available through the Department of Justice - <http://canada.justice.gc.ca/en/ps/sup/index.html>.*

**Table B**  
**Correspondence of Child Support Orders to the Child Support Guidelines Support Tables**

	Less than Support Tables	Equal to Support Tables	Greater than Support Tables
Department of Justice (2002) Consent / Uncontested Orders (n= 10,574)	5.5 %	65.6 %	28.9 %
Judicial Orders (n=1,438) Robson (1999)	4.5 %	65.6 %	30.0 %
Judicial Orders (n=60)	12.0 %	32.0 %	48.0 %

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divorced, four of them shortly after the birth of their children. Their children ranged in age from eight months to 13 years. The other two women were in short term relationships when they became pregnant. The mothers are all of white, European ancestry. The two women with the youngest children were on social assistance at the time of the interview; one other mother would be on assistance when she was unemployed from her seasonal job. Two of the mothers were attending university or college. Four mothers were employed; three full time, one seasonally.

<sup>3</sup>See Department of Justice (1998) *The Federal Child Support Guidelines: A Workbook for Parents*.

<sup>4</sup>Until the 1990s, women received sole custody between 70 to 80 percent of the time. While maternal sole custody orders are now decreasing (for example, 60 percent of contested cases in 1998), they are being replaced by joint custodial arrangements. In many joint custody arrangements, however, children reside primarily with their mother (Boyd, 2003: 7).

<sup>5</sup>This includes Alberta, British Columbia, Manitoba, Nova Scotia, Ontario and Saskatchewan as of December 2002.

<sup>6</sup>Justice Bastarache in *Francis v. Baker* (1999) 3. S.C.R. at 39.

<sup>7</sup>It is not clear whether this meant they saw the Guidelines as fair to children, to the payors and/or the recipients. The surveys used to generate these statistics merely asked respondents to rate on a typical Likert scale their agreement with the statement "The Guidelines establish a fair standard of support for children that ensures that they continue to benefit from the financial means of both spouses after separation" (i.e, a simple re-wording of stated objectives of the Guidelines). Thus, there was no opportunity for respondents to articulate why they found the Guidelines "fair" or "not fair."

<sup>8</sup>All participants have been given pseudonyms.

<sup>9</sup>This range is due to the comparison of consent/uncontested cases to contested cases in the study.

<sup>10</sup>The Child Support Tables provide the starting point in the determination of support for the majority of separated families. It is generally accepted that the courts will adhere to the table amounts except in clear cases where to do so would provide too much or too little money to meet the child's reasonable needs. If courts were routinely adding to the table amounts, the tables would be treated as a "floor." Conversely, if the courts rarely ordered additional support on top of the amounts mandated, the tables would be treated as a "ceiling." There are no rules governing the discretion the courts have to override the table amounts in these ways. Consequently, there is no standard for what would be the absolute maximum or minimum amount of child support that could be ordered in any case given the income of the paying parent.

<sup>11</sup>Section 7(1)(a).

<sup>12</sup>Citing 1988 figures, approximately two-thirds of custodial mothers and their children had total incomes below poverty lines with child support included (Department of Justice, 1990).

<sup>13</sup>After controlling for tax treatment, inflation, payor and number of children (Department of Justice, 2002: 9).

<sup>14</sup>Section 7(1)(a-e)

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**Beth Osnes**

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## **Mothers Acting Up** ***A Political Force to be*** ***Reckoned With!***

Mothers Acting Up's (MAU) trademark is a mother on stilts with children held high on her shoulders, an undeniable impression of mothers as exuberant, protective, visible, and large. MAU is inviting mothers to walk tall and be a powerful political force in ensuring rights for all children. Mothers Acting Up is a movement to inspire, invite, and educate mothers to create systematic change by becoming politically active on behalf of children's well being around the world. It was started by four of us mothers in Boulder, Colorado just a year and half ago because we could no longer bear the discrepancy between how we are able to raise our children and the conditions under which other mothers must try to raise their children. We want nothing less than total political upheaval in which children will no longer be the bottom priority in our world's governments, but, rather, a top priority. We're packing our kids into station wagons, driving them to our government offices, asking questions, and generally making many a senator's assistant sweat beneath the collar. We're busy ringing the phone off the hook at the White House Comment Line advocating for specific issues affecting children in war torn nations. We're marching in parades, meeting in coffee houses, networking with other movements across the nation, joining together and sharing our burning desire for systematic justice and protection for all the world's children. We've even been written up in the New York Times, we admit modestly to all we meet.

But where did it all begin? To launch our movement, we had our first Mothers Acting Up Mother's Day Parade on the Boulder Pearl Street Mall in 2002. This was inspired, in part, by the words of Julia Ward Howe, who in 1870 called for women to rise up and oppose war in all its forms, thus, she declared a Mother's Day for Peace. She asked women of her nation "Why do not the mothers of mankind interfere in these matters, to prevent the waste of that

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human life of which they alone bear and know the cost?" (qtd. in Richards and Elliott, 1925: 159). She continually inspired women to focus on that which unites over that which divides. In just that spirit, we asked mothers on Mother's Day to forgo a day of pampering and, instead, get out on the streets and declare themselves a visible and vibrant force speaking out and acting up on behalf of children's rights throughout the world. Hundreds heeded our call! Amid audacious costumes of every sort, many of us donned stilts in the parade to show mothers as large, impressive, and a force to be reckoned with! We had letters to our representatives for people to sign, voter registration cards, and, to the delight of all, free cake. We asked people to sign on to the movement and commit to at least one hour of action a month as set out on our website.

News of our website has spread like wildfire. It has become the backbone of our movement and an incredible tool for reaching out nationally and internationally to other concerned folks who likewise feel that the priorities of their government do not reflect their priorities, especially concerning children's welfare. We continue to improve upon and maintain our website, [www.mothersactingup.org](http://www.mothersactingup.org), that provides easy actions each month that specifically address some crisis facing children toward which our actions will most likely have the greatest effect. By increasing our membership we bring all our voices together to speak out on specific, timely issues and get noticed on the political radar screen due to our sheer numbers and the moral authority mothers possess.

But, we know, for those who don't live within driving distance to Joellen's kitchen table where we meet, it takes more than a website to feel connected. So this past January we posted a "Parade Packet" on our website that included an entire recipe for putting on a MAU parade in any community, from sample press releases to designs for stilts. We encouraged anyone who nibbled at the idea to email or call us to receive a flood of encouragement. The result was that just one year after the inception of MAU, eleven cities throughout the country, including New York City, Los Angeles, Tampa Bay, Cincinnati, Albuquerque and Vashon Island, WA hosted Mothers Acting Up Mother's Day Parades, to celebrate mothers claiming their voice to speak out for the rights of children. These courageous mothers who organized parades, several while still nursing babes, overcame their own doubts and fears to make visible their commitment to protect the kids everywhere.

Naturally, these communities who hosted parades want to keep the ball rolling and are now forming their own local MAU groups. United together in a community that meets regularly, they are supporting each other in their commitment to act up and to create local actions that benefit children in their own communities and beyond. Back at "MAU Central" here in Boulder we are hard at work, continuing to grow and respond to the needs of our members, learning much from their experiences. Soon to appear on the site is a new packet, "How Now New MAU: How to Form a MAU Group in Your Community." Also in the works is a new program we are launching entitled

“Political Fitness 101: Flexing Our Mother Muscle for the 2004 Elections!” Recently several MAU members traveled to South Africa to work with AIDS relief workers there and to bring their stories home. They met Winnie, Cora, and Lulu, elderly African women who daily tend to the suffering with a spirited, weary, yet rock-solid faith.

We mothers have been sleeping giants long enough. Excuses for inaction, be damned. We’re rolling up our sleeves and getting to work. The house is a mess, not to mention the senate. The gargantuan momentum created by mothers moving from concern to action has the potential to catapult us to a better future, one in which children’s needs are prioritized and their rights protected. Let us whisper this to each other, sing it on the streets, yell it from our roof tops, and declare it in our houses of government: we will protect our children with our personal and political strength wherever they live on earth!

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## **“It Takes a Community” Constructing Aboriginal Mothers and Children with FAS/FAE as Objects of Moral Panic in/through a FAS/FAE Prevention Policy**

In this paper, I provide a feminist, anti-colonial, and anti-ableist analysis of the primary texts of the *First Nations and Inuit Fetal Alcohol Syndrome/ Fetal Alcohol Effects Initiative* (hereafter referred to as “the Initiative”). This analysis is structured by a close reading of the two documents outlining the goals and scope of the Initiative, *Framework for the First Nations and Inuit Fetal Alcohol Syndrome and Fetal Alcohol Effects Initiative* and *A Resource Manual for Community-based Prevention of Fetal Alcohol Syndrome and Fetal Alcohol Effects*. These documents were published together by Health Canada in 1997, under the title *It Takes a Community* (FAS/FAE Technical Working Group, 1977). I show how specific discursive strategies are employed in these texts to position young Aboriginal mothers and Aboriginal people diagnosed with Fetal Alcohol Syndrome/Fetal Alcohol Effects (herein FAS/FAE) “outside” the membership of the nation-state and projects of nation building in contemporary Canadian society (Bannerji, 1987). I argue that these discursive strategies are best understood as activations of *moral panic*, in which an identifiable, usually marginalized, group or behaviour comes to stand as a signifier of generalized social crisis and is represented by hegemonic institutions as threatening or antagonistic to the morals, values, or interests of “society as a whole.” (Cohen, 1972; Hall et al., 1978; Roman, 2001; Thompson, 2001). I begin by introducing the goals and scope of the Initiative and providing a brief review of the literature exploring the social constructing of “bad mothers.” Herein I pay specific attention to the ways in which ideologies of gender, “race,” class, and dis/ability inform hegemonic depictions of substance-using, Aboriginal mothers. I then attend to the ways moral panic is invoked in the symbolic and material regulation of FAS/FAE as a “social problem.” I argue that positioning the “problem” of FAS/FAE in Aboriginal

communities through totalizing and pathologizing medical discourses draws critical attention away from the institutional and structural considerations that inform the construction of FAS/FAE. Moreover, invoking the discourses of moral panic not only effects the depoliticization of FAS/FAE as a “social problem,” but also functions to (re)produce the social, political, and economic relations that naturalize the subordination of young Aboriginal mothers and people with disabilities. I conclude by considering the material implications suggested by the ideological practices that inform the development and implementation of FAS/FAE prevention policy for Aboriginal women and people with disabilities.

### **Introducing the initiative: the goals and scope of the First Nations and Inuit Fetal Alcohol Syndrome/ Fetal Alcohol Effects Initiative**

In 1999, the Government of Canada unveiled a commitment of \$11 million dollars to develop and implement “a national strategy on community-based FAS/FAE prevention, awareness, and surveillance programming” (FAS/FAE Technical Working Group, 1997). Dubbed *The First Nations and Inuit Fetal Alcohol Syndrome/ Fetal Alcohol Effect Initiative*, this strategy provides targeted funding to enable First Nations and Inuit communities to develop and implement programming in six areas: public awareness and education, training and capacity development for health and social service providers regularly coming into contact with “at risk” or “high risk” pregnant Aboriginal women, early identification and diagnosis, coordination of services, surveillance, and a strategic project fund administered by Health Canada’s Population Health Fund. In 2001, an additional \$25 million over two years was allocated to continue the work of the Initiative. While the stated intention of the Initiative is to “increase awareness” of FAS/E in the “general” First Nations and Inuit “community,” the policy documents outlining the programming objectives of Initiative funding specifically identify young Aboriginal women living on reserves as being particularly “at risk” and the primary “targets” in need of “interventions.”

The Initiative has two main goals. First, the Initiative seeks to “prevent FAS/E births,” and second, to “increase the knowledge, skills, and quality of life of FAS/E affected children, mothers, fathers, and families.” These objectives are to be accomplished mainly through the initiation of a public education campaign grounded in the distribution of “culturally-sensitive information” for Aboriginal communities underscoring the causes and consequences of FAS/E, and for professional development programs aimed at increasing the identification of FAS/E and knowledge of how to “prevent the birth” of “FAS babies” (FAS/FAE Technical Working Group).

### **Constructing the “bad mother”: gender, race, dis/ability, and the substance using mother**

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Feminist and anti-racist scholarship on the social construction of mothering has highlighted the numerous ways in which women, and most particularly those further marginalized by race, class, dis/ability, and sexuality, are punished through State-sponsored disciplinary regimes for failing to conform to Western European ideologies of “good mothering.” According to these highly gendered, racialized, class-specific, and hetero-normative ideologies, a “good” mother is one who displays an unfailing dedication to homemaking and ensuring the welfare of her children and husband. A “good” mother is self-sacrificing, self-disciplined, morally irreproachable, and capable of meeting the physical and emotional needs of her children, husband, and relatives without assistance (c.f., Anderson, 1991; Arnup, 1994; Collins, 1991; Kline, 1993; Oakley, 1980; Rich, 1977; Smith, 1999). As such, mothers who use alcohol or drugs, and most particularly those who use them during pregnancy, are considered “unfit” mothers, posing simultaneous threats to their children, their communities, and the institutions of the Nation-State (Boyd, 1999; Humphries, 1999; Gomez, 1997; Swift, 1994). Boyd correctly observes that similar concerns regarding the possible dangers posed by substance using fathers have remained marginal to non-existent in the literature, thereby further underscoring the gendered nature of these ideologically-mediated constructs. The power, influence, and authority to define and position maternal substance use as a social problem must therefore be acknowledged as emerging from a broader social context, in which epistemic power and privilege are differentially conferred on the basis of race, culture, nation, gender, class, sexuality, and dis/ability.

For Aboriginal women, who have for generations struggled against the forced removal of their children by various agencies of the State under the auspices of assimilationist “child protection” policies, the image of mothers as transmitters of physical, moral, and cultural contagion remain particularly salient. As Kline has observed, these ideologies of motherhood have a significant impact on First Nations women, in that evidence of “bad mothering” (i.e., maternal substance use) is frequently isolated by agents of the State as individual behavioural “choices,” rather than locating them within the broader contexts and lived experiences of on-going colonial and racialized oppressions of First Nations peoples (see also Swift, 1994). This is particularly apparent in the case of alcohol use, in that the introduction of alcohol to First Nations has been acknowledged as a tool of colonialism (Anderson, 1991; York, 1990). As Marjit Stange (1994) argues, the presentation of alcoholism as a “disease” to which First Nations peoples are particularly inclined continues to pathologize individual Aboriginal mothers as “sick,” and Aboriginal families and communities as unconscious and uncritical perpetrators of “disease.”

### **Invoking moral panic: the symbolic and material regulation of “social problems”**

In contemporary Canadian public discourse, young Aboriginal mothers

and people with disabilities are frequently constructed as social problems. As conduits for popular "common-sense" making about FAS/FAE, these discourses often provide a rationale for simultaneously privileging hegemonic understandings of the causes and consequences of maternal substance use while excluding young Aboriginal women, their children, and people with disabilities from advancing and articulating their own experiences, interpretations, and understandings toward improving their material conditions on their own terms. Accordingly, constructions of FAS/FAE evidenced in the texts of the Initiative position young Aboriginal mothers and people diagnosed with FAS/FAE in pathologizing terms as being "at risk" and potential "dependants" on "Canadian society" and the institutions on the nation-state. However, in so doing, these discursive and material practices eclipse or subsume the structural considerations that perpetuate the marginalization and subordination of young Aboriginal women and people with FAS/FAE by gender, "race," class, age, and perceived "dis/ability." But what is it about the ways in which these social problems are constructed and articulated through public discourse that fuels these "common-sense" exclusions?

In his work on the construction of social problems, Murray Edelman has noted that

"Problems come into discourse and therefore into existence as reinforcements of ideologies, not simply because they are there or they are important for well-being. They signify who are virtuous and useful and who are dangerous or inadequate, which actions will be rewarded and which penalized. They constitute people as subjects with particular kinds of aspirations, self-concepts, and fears, and they create beliefs about the relative importance of events and objects. They are critical in determining who will exercise authority and who will accept it." (1988: 12)

Therefore, as Joseph Gusfield (1996) notes, employing the language of "problems talk" in a claim to represent a societal consensus requires the positing of a "society" which is homogenous, with shared interests and values, against which the "problem" situation can be contrasted. This feature of "problems talk" is well evidenced in the texts of the Initiative, in which the needs and interests of "FAS affected individuals," "FAS children," and "FAS babies" are positioned as oppositional and threatening to the needs and interests of "society as a whole," "the Canadian people," and "their communities." Leslie Miller (1993) argues, "just as there are discursive practices or strategies that politicize [problems] talk, thereby putting problems *on* the agenda, so there are strategies that depoliticize talk and keep them *off*" (355). In this way, the texts draw attention away from the institutional and structural aspects informing the construction of FAS/FAE as an "important health and social issue," thus effecting the depoliticization of FAS/FAE as a "social problem." These

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practices place limits on what Leslie Roman (2001) has called the “epistemic space” available to marginalized groups, including Aboriginal mothers, youth, and those diagnosed with FAS/FAE, to name, speak, and be heard in articulating their lived conditions and experiences as knowledge claims. This issue becomes particularly salient when considering the discursive and material effects of moral panics for marginalized groups.

Moral panics are composed of five key elements (Cohen, 1972; Thompson, 2001). First, a group or practice is singled out for public scrutiny, and is defined as a “threat” to the hegemonic values or interests of a given society or community. As such, these groups come to be seen as “dangerous” to the interests of the dominant society and its citizenry. Second, this threat is portrayed in an easily recognizable form by the media, in public policy, and in other forms of public discourse. This often results in the hypervisibility of the subjects of the panic, in which the “threat” presented by the subject is seen to be everywhere, all the time. As has been noted by Hall et al, this in turn prompts a consolidation of hostility directed at the subject of the panic from those occupying positions of privilege. Third, an identifiable surge in public concern occurs in response to the “threat.” Fourth, authorities respond to the panic, generally in a manner that is disproportionate to the “actual” danger posed by the subject of the panic. Finally, the panic recedes or generates societal changes. Most often, these changes result in increased surveillance, social regulation, or control fueled by a demand for a return to “traditional” (or hegemonic) values and forms of social organization.

According to Roman (1996), moral panics may be best conceptualized as a subset of official discourses in that they emerge in the context of state policy making. In this context, the discourses of moral panics operationalize ideologically-charged codes to advance interested knowledge claims through establishing cause and effect relations toward a conclusion that comes to be seen as “inevitable” and “commonsense” (c.f. Gramsci, 1992). As Roman (1996) demonstrates, there are three semiotic features of moral panics that allow for their (re)production in common-sense terms. First, moral panics reify differences between the subjects of the panic and those constructing them. This process is also referred to in feminist and anti-racist scholarship as “othering.” Second, the subjects of panics are rendered objects of pathology, deviance, or blame. Third, discourses of moral panic normalize those in power by “regularizing their so-called positive attributes of character, demeanor, cultural and socioeconomic background, and so on” (11).

### **It takes a community: constructing FAS/FAE as a moral panic**

These features of moral panics are well evidenced in the texts of the Initiative. The symbolic politics of moral panics involving FAS/FAE operate in medicalizing terms, which provide a mechanism for both obscuring and entrenching “common sense” able-isms, racisms, and sexism. For instance, on the opening page of the document, *It Takes A Community*, which outlines the

policy and programming objectives of the Initiative, the authors state:

"As a result of their organic brain differences, individuals with FAS/FAE, their families, and their communities experience a number of challenges and difficulties... The extra lifetime costs to society associated with an FAS/FAE individual have been estimated at US\$1.4 million... It is beyond question that FAS/FAE affected individuals require extraordinary health care, social services, corrections, and educational services that represent significant monetary costs to society. The economic and social costs associated with FAS/FAE are significant, impacting Canadian society as a whole" (FAS/FAE Technical Working Group, 1997: 1)

This passage exemplifies a number of the semiotic features of moral panics that function discursively to position Aboriginal youth with FAS/FAE, and Aboriginal mothers who "transmit" FAS/E to their offspring, as threatening to the institutions of the Canadian nation-state. This in turn establishes the need for the federal government intervention via the Initiative. First, the authors reify "FAS/FAE affected individuals" as legitimate subjects of moral panic by establishing fundamental differences between those with FAS/FAE and the rest of "Canadian society." In this case, this is done by appealing to the irrefutability of medical-scientific discourse diagnosing their "organic brain difference."

Next, the authors pathologize that difference in biologically deterministic terms as requiring substantial treatment and regulatory interventions, including "extraordinary health care, social services, corrections, and educational services." This renders "FAS/FAE affected individuals" abnormal in comparison to "ordinary" Canadians, who apparently advance fewer or no such claims on these institutions. Similarly, in the document, *It Takes A Community*, the authors state that "Individuals affected by FAS/FAE often experience secondary disabilities such as mental health problems, disrupted school experience, involvement with crime, substance abuse, dependant living, and employment difficulties" (FAS/FAE Technical Working Group, 1997: 3).

It is important to note that, as current diagnostic criteria for FAS/FAE are highly subjective and open to misapplication (see Canadian Centre on Substance Abuse, 1996), other options are available to the authors of these texts for assessing the behaviours noted above. For instance, it has been repeatedly demonstrated that Aboriginal children and youth frequently find mainstream public school curricula irrelevant, biased, and exclusive of Aboriginal peoples. Thus, it is curious that issues such as "disrupted school experience" are never considered in the texts of the Initiative to be possible manifestations of resistance to the curriculum and institutional practices of non-Aboriginal, middle-class education, rather than evidence of a significant psychosocial disturbance (c.f. Kelly and Gaskell, 1996; National Indian Brotherhood, 1973; Willis, 1977). Likewise, the authors fail to consider the ways in which the

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social, political, and economic marginalization of Aboriginal peoples, the impact of on-going colonial relations enforced by the Canadian State through the *Indian Act*, and the structural disadvantages experienced by Aboriginal youth related to employment, might mediate experiences of “dependant living,” “involvement with crime,” “substance use,” “mental health issues” and “employment difficulties” experienced by Aboriginal people diagnosed with FAS/FAE (Anderson, 1991; Royal Commission on Aboriginal Peoples, 1996; Turpel, 1993; York, 1990). Indeed, rather than viewing them as effects of colonial subordination which call into question the legitimacy and beneficence of the contemporary Canadian nation-state in its relations with Aboriginal peoples, these behaviours are pathologized as the “disabilities” of individual people diagnosed with FAS/FAE. This leaves the structural factors mediating their experiences intact and unquestioned.

Moreover, “FAS/FAE affected individuals,” and by proxy the mothers who gave birth to them, are singled out as objects of blame, for the “extra lifetime costs” they incur to “society.” In this instance, these costs are enumerated at US\$1.4 million, which are presumably more urgently required or may be more usefully spent elsewhere. This is further underscored by the fact that at no point in the text do the authors point to the benefits society incurs by including “FAS/FAE affected individuals” or the women who give birth to them in its membership, or the ways in which people with FAS/E contribute to the strengthening or improvement of health care, social services, corrections, education, or other institutions of the Nation state.

Finally, we see the normalizing of those in power, those without FAS/FAE, as having legitimate concerns (“It is beyond question...”) regarding the “significant” “economic and social costs of FAS/FAE,” as they are “impacting society as a whole,” and thus require the same “society” to take action. In this way, the allocation of resources to “society as a whole” is rendered normative in compared to the non-normative “extraordinary” allocation of “significant” resources to those with FAS/FAE, which it seems threatens to overwhelm the institutions and resources of “society” so as to render them unavailable for other unnamed collective purposes. Furthermore, it regularizes some claims to societal resources, those expected to be available to “society as whole,” and valorizes “society as whole” as being comprised of individuals who do not advance “extraordinary” claims on the institutions of the Nation-state (c.f. Fraser and Gordon, 1997). At the same time, the language of moral panic is invoked to legitimate the allocation of resources, via the Initiative, toward the “prevention” of FAS/FAE. This passage unproblematically attributes the characteristics and behaviours associated with FAS/FAE to a totalizing pathology, absent of historical and contemporary structural considerations. Cloaked in the “objective” and normalizing mantle of medical science, the construction of FAS/FAE evidenced in the Initiative may be seen to reproduce and naturalize the subordination of Aboriginal peoples, young women, and people with disabilities.

Utilizing medicalizing discourses, individuals with FAS/FAE are positioned discursively and materially as objectified Others, requiring interventions and supports that are substantively different from the "norm" and that place extraordinary demands on "public" institutions. This not only supports the allocation of "public" funds to policies such as the Initiative, but also provides justification for measures designed to "prevent the birth" of FAS/FAE affected individuals and to render "at risk" pregnant women as objects of on-going surveillance. Decisions to take up these discourses in the implementation of public policy has decidedly gendered implications that may undermine women's struggles to achieve human rights and reproductive autonomy. Indeed, given that privileged definitions of the causes and consequences of FAS/FAE regard the disability as being caused solely by maternal alcohol assumption, it is clear that efforts to provide "support" to FAS/FAE affected individuals aimed at "reduc[ing] the chance of those individuals having FAS/FAE children themselves" may involve direct interference with women's agency and decision-making regarding reproduction.

However, the texts of the Initiative obscure these important human rights considerations in favour of economic assessments of the impact the birth of individuals with FAS/FAE have on the resources of their communities and the institutions of the nation-state. For instance, in appealing to the "extra lifetime costs" associated with FAS/FAE and the impact individuals with FAS/FAE have on their community, the authors of *It Takes a Community* argue for the need to continue funding to FAS/FAE identification and "risk reduction" programs:

[T]he extra lifetime health care, education, corrections, and social services costs to society associated with an FAS/FAE individual have been estimated at US\$1.4 million.... This estimate illustrates the potential costs that FAS/FAE represents. Take the extra lifetime costs per FAS affected individual (US\$1.4 million) and multiply it by the incidence of FAS (potentially 740 FAS births a year in Canada). The total is over US\$1 billion; this represents the total cost (in monetary terms alone) of FAS to Canadian society for one birth cohort alone (group of children born in one year). This cost needs to be balanced against the continuing annual funding allocated to the Initiative (CND\$1.7 million) when making FAS/FAE funding decisions in the future. (FAS/FAE Technical Working Group, 1997: 23).

Defining the "problem" of FAS/FAE in this way holds significant implications for the substantive citizenship interests of Aboriginal women and those diagnosed with FAS/FAE for several reasons. To begin, the statement above considers the interests of "FAS/FAE affected individuals" purely in terms of the economic drain they present to the institutions of the nation-state. This

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functions discursively to suggest that people diagnosed with FAS/FAE and substance-using Aboriginal mothers who give birth to children diagnosed with FAS/FAE have interests that are antagonistic and threatening to the interests of the institutions of the nation-state. As a result, they are positioned as legitimate “targets” of “interventions” to modify their behaviour and infringe upon their reproductive autonomy, as supported by the implementation of the Initiative. Moreover, it proposes that individuals with FAS/FAE have “extra” needs that cannot be met, nor should they be expected to be met, through the resources available to institutions of the nation-state. Given the orientation of the contemporary Canadian welfare state toward a collectivist ethos, that presumes that the resources of the state should be made available to the whole of “Canadian society,” the needs and interests, and indeed the existence, of persons with FAS/FAE are therefore seen as being at odds with the needs, interests, and expectations of “Canadian society.” As a result, young Aboriginal mothers, substance using women, and people diagnosed with FAS/FAE are rendered invisible, irrelevant, and absent, and as having needs, expectations, and interests that exclude them from “Canadian society.”

#### **Conclusions and directions for further research: implications for young Aboriginal mothers and people with disabilities**

Using medicalizing discourses to define FAS/FAE as being caused solely by a pregnant woman’s decision to consume alcohol has significant implications for the citizenship interests and human rights of women. Indeed, hegemonic conceptions of motherhood invest a pregnant woman with the sole responsibility and obligation to protect her fetus from harm, and define that harm in very narrow terms. These ideologies fail to consider the context in which women become pregnant, give birth, and parent their children, and have allowed for the on-going surveillance of women in their child-bearing years (Mitchell, 2001). These ideologies have also reproduced discourses that position women’s interests as antagonistic to those of her fetus, that have in turn enabled legal interventions providing for the confinement of substance-using pregnant women and the apprehension of infants diagnosed with impairments related to maternal substance use (Boyd, 1999; Gomez, 1997; Humphries, 1999). They have resulted in an over-representation of women of colour and an under-representation of white women being administered perinatal drug and sobriety tests in hospitals (Humphries, 1999: 48-9), an over-representation of Aboriginal children and under-representation of middle and upper class white children being diagnosed with FAS/E and NAS (Boyd, 1999) and a disproportionate number of Aboriginal children being apprehended to foster care for issues assumed related to maternal substance use (White and Jacobs, 1992: 50-1). Given this, what might be the consequences for young Aboriginal mothers of one of the objectives of the Initiative, to increase the ability of doctors, social workers, teachers, and other professionals to engage in diagnosis and “surveillance” of young Aboriginal women “at risk” for transmitting FAS/E to their

fetuses? This concern is also particularly salient at this time, as during the present legislative session Canadian Alliance MP Keith Martin introduced a private members bill (Bill C-233) which would amend the Criminal Code to allow for the summary conviction and involuntary confinement of pregnant women using substances "known to be harmful to the unborn child" for the duration of her pregnancy.

Second, what implications do these discursive and ideological practices have for continuing efforts by the State to effect the moral and institutional regulation of young Aboriginal women and their families? It is widely documented that the reserve system has been used to justify continuing colonial incursions of the Canadian state into First Nations families and communities and to effect the moral regulation of Aboriginal mothers and youth, and that the introduction of alcohol to First Nations communities has been used as a mechanism to colonize Aboriginal Peoples in Canada (Royal Commission on Aboriginal Peoples, 1996; Dempsey, 2002). It is therefore important for feminist and anti-colonial scholars to examine the effects of policies such as the Initiative, that single out young Aboriginal women living on reserve as the intended "targets" for "intervention," and that have an explicitly moralizing subtext regarding alcohol use. Likewise, as the popularization of FAS/E as a "social problem" emerged at the same time as First Nations and Inuit organizations renewed their efforts toward achieving self-government and restitution for the devastating abuses incurred as the result of colonial policies including loss of traditional territories and residential schooling, further research is warranted to uncover how initiatives for FAS/E prevention might be related to projects of Canadian nation-building as well as First Nation-building.

Fetal Alcohol Syndrome and Fetal Alcohol Effects are not simply value-neutral, psycho-medical diagnoses. Rather, FAS/FAE can and ought to be located firmly in larger social, cultural, political, economic, and historical contexts. For Aboriginal women, children, and communities, this includes a context of persistent colonial practices of the Canadian Nation-State, unequal and oppressive gender and race relations, inadequate access to resources and services on and off reserves, political under-representation at the local, provincial, and national levels of government, poverty, and on-going State intrusion into their families and communities. For those deemed to be "disabled," this context also includes the institutionalization of ableist ideologies, discourses, and practices that have been oppressive to people with disabilities. Most importantly, efforts to support the health and well-being of Aboriginal women and children require their full enfranchisement and participation at all stages of policy development and implementation, and a transformation of the oppressive social, political, and economic practices that perpetuate the erasure of their voices and experiences from the national policy agenda.

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**Rhonda Shaw**

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# **Anecdotal Theory, Morality and Inappropriate Breastfeeding**

It may appear, on first view, that breastfeeding and the law have very little to do with one another. Nor has it been primarily concerned to document factors, such as increased labour-force participation and the need to return to work soon after childbirth, as contributing to the decrease in breastfeeding rates. Even where no legislation exists to regulate or delimit infant feeding practices, the law finds a way to put breastfeeding in its place. A recent incident in the state parliament of Victoria in Australia, 2003, where a female Member of Parliament (MP) was removed for breastfeeding her eleven-day-old infant, illustrates my point.<sup>1</sup> On this particular occasion, the female MP's maternal breastfeeding body was viewed as contravening the limits of autonomous, unitary political citizenship, and her baby was deemed "a stranger" in the house. This body of feminist work focuses on the ways in which breastfeeding has been talked about in the infant feeding literature, with a view to analysing the discursive and institutional construction of breastfeeding as a set of practices (Carter, 1995; Ryan, 1998). Here, the legitimate legal-political model of self is clearly determined by its autonomy and separateness from the bodies of others, rather than as a mode of embodied being that acts and exists in relation to others.

Since the mid to late 1990s, feminist scholars have become increasingly interested in the disruptive ambiguities the activity of breastfeeding elicits, especially vis-à-vis publicly held conceptions of appropriate moral conduct and the law. This article is intended as a contribution to this on-going discussion, and will focus on practices of breastfeeding and lactation where the intersection with morality and the law appear to be most pronounced. A central topic of discussion will be the controversial practice of cross-nursing, where women breastfeed other women's infants, with or without their consent.

Unlike much of the breastfeeding advocacy work that has been published in the last couple of decades, expressly feminist research on the subject of infant feeding does not engage with the topic from a health promotion perspective in the first instance. It has not been primarily concerned to document factors, such as increased labour-force participation and the need to return to work soon after childbirth, as contributing to the decrease in breastfeeding rates either. While the importance and urgency of the latter needs to be acknowledged and addressed, and valuable research in this area is being undertaken (Galtry, 1997, 2002, 2003; Galtry and Annandale, 2003), the feminist work on breastfeeding to which I am referring is more concerned to interrogate the meanings that infant feeding has for women (and men) in their daily lives. It has also identified as a key area of interest, the social, cultural, and ethical relationships that impact on the lives of breastfeeding women and the ways in which discourses surrounding breastfeeding promotion and support contribute to the production and creation of certain sorts of maternal subjects (Lupton, 2000; Murphy, 1999; Stearns, 1999). In this respect, it often focuses on the ways in which breastfeeding has been talked about in the infant feeding literature, with a view to analysing discursive and institutional construction (Carter, 1995; Ryan, 1998).

Although it is still the case that breastfeeding, as a subject area, receives less attention in the feminist literature than pregnancy, childbirth, and body image, there is growing evidence of a shift to studies researching infant feeding in the lives of women. This work seeks to address the absence of breastfeeding as a subject within existing theoretical frameworks, as well as interrogate the symbolic significance of lactation and its invisibility in contemporary western cultures. While some of this research emphasises semiotics and/or discourse analysis (Carter, 1995; Hausman, 2003), there is also an interest in phenomenological approaches (Giles, 2003; Schmied and Lupton, 2001) that focus on the ordinary lived experiences of breastfeeding women. Not only have scholars begun to undertake in-depth qualitative research that seeks to represent women's actual voices and stories, they have also trail-blazed a unique cultural studies approach to breastfeeding and lactation analysis. As Fiona Giles points out in *Fresh Milk: The Secret Life of Breasts*: "the details of how we fit breastfeeding into our lives, or decide that it doesn't fit, are not well known. And the meaning of breastfeeding—as opposed to its nutritional content—is rarely discussed outside mothers' groups and pediatricians waiting rooms" (2003: xii). Giles goes on to say that "there is much more breastmilk in our lives, in our bodies, and in our cultural imaginary, than we realize" (2003: xv).

The stories in *Fresh Milk* certainly testify to a rich, underground oral history of lactation. For feminist scholars, the beauty of such stories is that they are empirically saturated, real-life events that occur as part of the drama of women's everyday lives. While some of these accounts are unusual because their circumstances are extreme, such as the efforts of women to induce lactation for the purposes of adoptive mothering, others, such as establishing

post-partum infant feeding are ordinary by contrast. What link these breastfeeding accounts are their anecdotal quality, and the way in which they have been overlooked as illustrations of contemporary ethical life in the pursuit of ostensibly more universal examples of moral agency that would better serve the purposes of grand theorising. However, just because breastfeeding reproduces human life at the level of the mundane and quotidian, this does not mean it simply repeats it, or that it is beyond insight or reflection. Indeed, as Jane Gallop (2002) argues, there is value in writing that recounts an anecdote from everyday life and then attempts “to ‘read’ that account for the theoretical insights it afforded.” Although, says Gallop, we might assume that “‘anecdote’ and ‘theory’ carry diametrically opposed connotations: humorous vs. serious, short vs. grand, trivial vs. overarching, specific vs. general” (2), Gallop’s position is that “anecdotal theory would cut through these oppositions in order to produce theory with a better sense of humor, theorizing which honors the uncanny details of lived experience” (2). If the uncanny details of infant feeding experiences were once overlooked by academics and such stories left untold, due to the belief that there was nothing spectacular or particular noteworthy about the everyday world to which they belong, then this is certainly no longer the case.

One area of interest for feminist breastfeeding work concerned to redress this oversight is to account for the ways in which maternal subjects and their bodies are constructed as either good or bad, and praise- or blame-worthy (Lupton, 2000; Murphy, 1999; Stearns, 1999). The hidden subtext of these debates is the often-occluded issue of sexuality and the question of desire and the erotic. It is not surprising, therefore, that it does not easily fit within the purview of health-care perspectives on infant feeding, which tend to take a much more pragmatic and instrumental, guide-book approach to the issue. These debates about infant feeding and sexuality are often played out in the public arena and often in simplistic terms that pitch constructions of “good” and “bad” maternal bodies against one another. This crude dichotomisation is mapped onto the symbolic division of the breast itself into two; on the one hand, the so-called sexual breast, and on the other, the maternal or lactating breast (see Galupo and Ayers, 2002). According to Marilyn Yalom (1998: 4), the “good” breast model tends to accentuate the power of the female body to nourish or give and sustain life, whereas the “bad” breast signifies sexuality, and even violence.

Part and parcel of this division is the unambiguous separation of maternity and motherhood from sexuality. This separation of maternity and motherhood from sexuality has historical precedents in the *Maria Lactans* imagery of the nursing virgin, whose status as a religious cult figure became increasingly significant in the Middle Ages and is depicted in Renaissance painting from this period onward. Traces of the kind of lactational symbolism that defined the paintings of the Nursing Madonna are also present in many contemporary representations of breastfeeding women, even though these latter images are

presented as departing from earlier Christian views and as free from contradiction and ambivalence (see Giles, 2002; Warner, 1976).<sup>2</sup>

Despite the existence of this (albeit compromised) breastfeeding iconography in our contemporary cultural imaginary, feminist scholars point out that the lactating and nurturing breast has, for the most part, been absent from public view. Not only are there few images of healthy breastfeeding women circulating in the popular media, breastfeeding in public in western society, is often fraught with tension and met with varying degrees of disapproval (Bartlett, 2002; Stearns, 1999). The recent release, for example, in New Zealand during World Breastfeeding Week (2002), of the poster of international actress Lucy Lawless (aka *Xena Warrior Princess*), breastfeeding her son, is a case in point.

The Lucy Lawless poster marks a promotional effort on the part of *Women's Health Action* in New Zealand to reclaim, and make public, the absented breast from its marginalised status in the private enclaves of men's and women's lives. While the Lawless image domesticates and sentimentalises the nursing dyad in ways that take the *Maria Lactans*' imagery beyond that of the earlier strictly religious symbolism, the composition nonetheless retains traditionalist vestiges (see Warner, 1976: 201-03). Lawless strikes a pose that is typical of the Madonna-child union; her gaze is downcast, and her attire—at least from the waist up—demure. Yet what is striking about this particular representation of maternity is that it is not entirely devoid of sex and sensuality. Indeed, the details of Lawless' dress—she wears a white puff-sleeve front buttoning blouse, short black skirt and fashionable black fishnet stockings—incongruously combine sacred, maternal, and erotic elements that many people do not customarily read as belonging to the nursing mother. This combination of classic maternal comportment with up-beat fashion sense and understated sexuality have not been to everyone's liking, however, and this has caused minor, but notable, offence among diverse groups of the New Zealand population who do not feel comfortable with the combination of voluptuous flesh, sex, and motherhood (Shaw, 2004a).

This kind of offence reiterates Iris Marion Young's insight from her famous "Breasted Experience" essay, that breasts are scandalous "because they disrupt the border between motherhood and sexuality" (1990: 190, 199). They are particularly scandalous, argues Alison Bartlett (2002: 111), when "breast-work" is performed in public and taken outside the home.

Again, another example from the New Zealand context illustrates Young's point well. This situation, which attracted controversy, is one in which a prostitute and the parlour she worked for advertised breast-milk tasting as part of the prostitute's repertoire of services. What is purportedly scandalous about this particular situation is the way in which it de-contextualises the nurturing function of the breast by re-infusing it with the erotic and sexual breast from which it is usually cleaved. When this case was aired on national New Zealand television (on the 18<sup>th</sup> of July, 2003, on the *Holmes* show, as an item called

“Breast Milk used in brothels”) the article was framed by the presenter, Susan Wood, in the context of the recent decriminalisation of prostitution. Wood claimed that this lactation incident revealed an immediate decay of moral standards, and was one of the consequences of the decriminalisation of prostitution. Read through the lens of Young’s analysis, however, the perceived “scandal” is really an effect of phallogocentric culture which objectifies the breast as an object “with clear boundaries of right” (1990: 191). In Young’s (1990: 192) view, our culture demands that a woman’s “breasts belong to others—her husband, her lover, her baby,” and that the pleasures derived from those breasts are not really hers. This is, of course, in keeping with dominant conceptions of normal motherhood that would have it constituted as an infinitely gratuitous identity construct. At the same time, “adult meanings of eroticism” are required to sublimate infantile pleasure and to divorce those desires “from mothers,” in order to ensure, as Young (1990: 197) says, submission to the law and “compatibility with civilisation.” That a man should seek pleasure from suckling a prostitute confounds these rules: although he participates in a market economy in which women are exchanged between men to satisfy male desire, he also nostalgically invites a return to the original home of his repressed memories and the polymorphously perverse pleasures of the mother’s body. What this indicates, suggest psychoanalysts (see Grosz, 1989: 71), is that one’s flight from the mother’s body is not absolute.

Finally, the ideal mother is one whose identity is constituted by an endless, often thankless, unconditional disposition to give. The thought of a woman deriving some kind of pleasure (assuming she does) from lactation, which is culturally construed as an essentially giving act, suggests that “mother love” is not entirely one-way, and that lactation may in fact involve some enjoyment for the woman herself. It is this hidden dimension of lactation and breastfeeding that phallogocentric culture has difficulty coming to terms with.

For instance, when the case involving the prostitute was debated in the New Zealand news media, the rights and wrongs of the issue were framed in terms of the violation of the physiological indivisibility of the nursing dyad, and the infant’s right to feed unimpeded by the non-nutritional needs or desires of an intruding third party. A related issue was the possibility of cross-contamination, which could occur via the breast and breast milk from the prostitute’s clients to her own infant. For critics, this was really an issue about breast ownership and it was clear that the prostitute had no right to determine how her breast milk would be “disseminated”. It also demonstrates just how circumscribed general cultural perceptions of sex and erogenous zones are.

For the small minority of conservative hard liners, sex is (penetrative) sexual intercourse and is intended for procreative purposes. In this view, it is immoral or sinful to lactate if not for the purposes of feeding one’s infant, because “this is what God gave women breasts for.” Hence, the link between a woman’s body and the reproductive functions and capacities associated with that body are indissoluble and sacred. On a practical level, there are clearly

problems with the notion of a “natural” or god-given physiology, due to the remarkable capacity for the body to adapt to changing or unusual environmental circumstances. One problem with the notion of an inviolable link between bio-genetic mother and infant is that lactation can extend beyond these physical limits. Indeed, with much forbearance “surrogate” and adoptive mothers can, for example, induce lactation to feed an adopted baby (Giles, 2003; Kirkman and Kirkman, 2001). Moreover, and perhaps more remarkably, medical case histories have recorded men spontaneously lactating; especially under conditions of extreme hardship, illness, or duress (Diamond, 1995).

Our general cultural distaste toward seeing or using breast milk in non-normative contexts thus stems from the unarticulated assumption that the leaks and flows of female physiology are decreed by divine design with one sole purpose in mind: breasts, or more particularly, their products, are made for baby and not for daddy. That is, breast milk is produced naturally by post-partum mothers in order to suckle their young.

It is not difficult to account for public aversion toward the idea of breast milk being used for some activity other than infant feeding. In a recent essay, social theorist Bryan Turner (2003: 4) draws attention to the fact that “human fluids are potent” (see also Kristeva, 1982). As Turner says, fluids “can have both negative and positive effects” (4). Certainly breast milk can be viewed as both cure and poison. Historically, breast milk has mythical life-saving (and now scientifically proven) immunological benefits for the sick and ailing. Its curative properties are socially accentuated when the donor is known to the recipient and when the risks of transmitting infectious diseases through the exchange of breast milk are able to be regulated. But this gift-giving or life-giving quality marks a thin line in the twenty-first century. The curative benefits of breast milk for the ailing are not only seen by many people to be outweighed by moral panic about sharing bodily fluids, this is compounded by the over-sexualisation of the breast in western culture and its association with sexuality and the erotic. In the contemporary public imagination, breast milk and lactation are still associated with abject bodily zones and substances. So while Turner is correct in presenting breast milk as a prized bodily fluid that sits higher up the “effluvia” hierarchy than many other body fluids, this placement is entirely context dependent. The abjection of these bodily zones and secretions is certainly amplified in the context of pornography or prostitution and where the “specter of infection” (Grosz, 1994: 195) may be involved. In the case of breast milk, eroticism is to be kept separate from nourishment, and leaky bodies, while they fulfil necessary reproductive functions, are to be kept hidden from view (Giles, 2002). Indeed, it is almost a truism in feminist thinking these days to suggest that it is precisely this leakage and spillage that causes such unease. Yet, because it is such a leaky substance, breast milk has the potential to disrupt what is perceived to be the bounded corporeality of the individualised body.

While we may think that breastfeeding and bio-genetic maternity form a

so-called natural pairing, the bio-physiological act of lactation and motherhood does not exhaust the possibilities of thinking lactation otherwise. Certainly, in an economic climate that demands women's workforce participation in increasing numbers, it may well be time, as breastfeeding advocate Maureen Minchin (1986) says, to give some further thought to some of our stultified attitudes toward wet-nursing. To Minchin's suggestion that we rethink wet-nursing in the twenty-first century, I would add cross-nursing, adoptive or "surrogate" nursing, and breast milk donation. Not only do these practices have in common investments in the social identity of Mother, they also demonstrate how permeable the boundaries around women's maternal bodies actually are in relation to this identity category.

In Giles' book, *Fresh Milk* (2003), New Zealander Pam Sutton recounts a story about her experiences of the limits of such permeability. The story is now virtually famous in Australasia.<sup>3</sup> This is Sutton's account of how she felt when a woman she barely knew breastfed her eight-month-old infant without her "consent," while she attended a Parents' Centre conference dinner in New Zealand in 1996. While it has been argued elsewhere that Sutton's case is not as straightforward as it first seems (Lupton, 1999; Shaw, 2003), this particular incident and Sutton's recounting of it in *Fresh Milk* demonstrate just how socially and culturally contested the moral boundaries of our bodies really are. According to this version of Sutton's story, it is due to the fact that the cross-nursing act was non-consensual that it failed to enhance the social bond between the two women concerned, and thus led to its further fragmentation. Allegedly, Sutton's main concern, in regards to a woman she barely knew feeding her infant without her knowledge, was the risk of transmitting infectious diseases to her baby. On these grounds, she and her husband requested the other woman undergo tests for HIV and Hepatitis C, since these could be passed on to their child via the other woman's breast milk. The tests proved to be negative.

Notwithstanding these results, it was clear that the underlying subtext of the altercation following the cross-nursing act had as much to do with the limits of the women's perceived bodily boundaries and the concomitant problems of intimacy and morality, as it did with ostensible health issues. Sutton, for example, was quoted at the time of the incident as saying it was akin to "finding your partner in bed with someone else and being told, 'Well, they needed it and you weren't here.'" (qtd. in Crawshaw, 1997: 65). Sutton then went on to say in a later essay: "Breastfeeding is not sexual. It's sensual. But it's personal and it's intimate. I don't want to share my partner. I sure as hell don't want to share breastfeeding my children" (qtd. in Giles, 2003: 37).

It is significant that Sutton approached a lawyer and considered laying an assault charge against the other woman in this matter, as well as taking her case both to New Zealand's Commission for Children and to the Human Rights Commission. While they were both interested in the matter, they were not prepared to take action on behalf of Sutton. Although the question of consent

(or permission) in this case remains a grey area for many people (see Shaw, 2004b), the intent of the other woman to act on good faith to calm a distressed infant, whose mother apparently could not be found at the time, appears to outweigh any charge of “moral wrong” or indecency in this instance.

Nonetheless, it is this question of moral decency that forms the crux of the issue, as it revolves around social and cultural ideas and anxieties about the appropriate exchange of bodily fluids, parts, and substances in the late twentieth and twenty-first centuries. The morality of the issue also impacts on the importance we place on our bodies as signifiers of self-constitution in contemporary, affluent societies. That is to say, underpinning concerns for her child’s health, Sutton vehemently objected to what she perceived as the violation of her intimate, private relationship with her child, which the exchange of effluvia and the exposure of intimate bodily parts between the other woman and her infant set in train. Since the correlate of the self-present individual in modern, western societies is one whose body is defined by clear boundaries that mark it off from the bodies of others, any intrusion or invasion of that body is considered to be a violation of one’s autonomy, individuality, and self-containment that opens that body up to possible contamination. According to Deborah Lupton (1999: 129), this culturally and historically specific psycho-social affect is expressed in terms of a contemporary politics of fear that has been dubbed “Body McCarthyism.” Says Lupton; “in this new politics, hygienic standards come to stand for ways of identifying self and other, with the other standing as the contaminated, polluting threat to the purity of self” (1999: 129).

Without the benefit of speaking directly to those involved, we can speculate that this is why the case against Shannon Denney from Stigler, Oklahoma in May 2003, for cross-nursing someone else’s infant, has also evoked disgust, horror, outrage, and revulsion in the public imagination. At the time of writing, Denney faced a fine of \$US500.00 and up to a year in jail on a “morals” charge. The charge of the District Court of Baskell County, State of Oklahoma, against Denney reads as: “wilfully and wrongfully committing an act that was injurious to public morals and openly outraged public decency by breast feeding a child not her own without knowledge or consent of the parent of said child” (Case No. CM-2003-209). While Denney’s case rehearses many of the issues that haunt the New Zealand incident, the charge of violating “decency and public morals” is unreservedly conspicuous in the North American example where Denney’s social “deviance” is put on trial. However, in much the same way as the New Zealand case, we can take Denney at face value, and assume she was responding to the needs of a hungry infant whose mother was not available for suckling. It would then be feasible that her action on this occasion was justifiably altruistic, and not self-serving. At the very least, Denney’s intentions were purely motivated if she acted out of concern for the well being of an Other, and not to endanger the infant. If this is true, then it appears that the objection against Denney is moral only insofar as it is based on socio-cultural convention or prejudice, which is sanctioned by a legal system

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that, in this case, seeks to discourage or prohibit inter-corporeal generosity between human beings, especially those who are not kin. Indeed, while little research has thus far been undertaken on cross-nursing, anecdotal evidence suggests that it is much more widespread than previously thought (see Giles, 2003; Shaw, 2004b). It is thus likely that it is unfamiliarity with cross-nursing as a practice, moral panic about paedophilia, and/or the legacy of exploitation involved with wet-nursing historically, that prompts overwhelming social conservatism in this regard.

In sum, the most salient question to be raised in respect of these myriad cross-nursing practices, and of the other breastfeeding anecdotes I have been discussing in this essay, is thus a matter of the intersection between the sociological and the moral. In what ways do we regulate competing discursive versions of the good, based on different material bodily practices in contemporary pluralistic societies? And how do we place limits on the corporeal openings we have with other human beings if we want to ensure that those practices, which make us both social and human, remain part of our cultural repertoire?

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<sup>1</sup>This incident was reported in the Australian newspapers, *The Age* and *The Australian*, on 28 February, 2003.

<sup>2</sup>See Bartlett (2000: 178-79), for a brief discussion of the Annie Leibowitz photograph of Jerry Hall breastfeeding her son, in conjunction with my points about *Maria Lactans* imagery.

<sup>3</sup>Sutton's story was first told in the New Zealand *Metro* (1997: 65-9) magazine, which was then followed by a slightly shorter version of the story in the Australian *HQ* (May/June 1997: 45-7) magazine. The story in *Fresh Milk* is an adaptation of these earlier versions.

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# **Right to Mothering**

## ***Motherhood as a Transborder Concern in the Age of Globalization***

June was an illegal worker when I first met her at a church in Taipei, Taiwan, in 1999. After working illegally for more than four years, she decided to return home to the Philippines. People at the church were assisting her with the deportation process. By the time I interviewed her, she had been away from home for almost 15 years. She first worked in Saudi Arabia for eight years and returned home only twice during that time. She later worked in Hong Kong and decided to go to Taiwan for the higher wage. She had to leave her first Taiwanese employers because of the exploitative working conditions. They confiscated her passport, forced her to labor 15 hours a day, and prohibited her from going out regularly. They had her sleep in the attic and locked her from outside at night, afraid that she might run away or steal things. She pleaded with them not to do that since she would have no way of escape should a fire break out. When she asked her recruitment agent in Taiwan for help, her agent threatened her with deportation. She finally decided to escape for her own safety.

Becoming illegal gave her much needed freedom. She could share an apartment with other Filipinos, visit the church weekly, and maintain regular social contact. She could choose her own employers, set her own fees for the service, and arrange her own schedules. It also came with certain price though. There was no guarantee that employers could be easily secured. She had to be constantly on alert, looking out for the authority. While she longed for social contact, she could trust no one for fear of being reported. June finally cried when she talked about the price her family had to pay with her working abroad. Working overseas and not seeing her children grow up was the only way she, as a mother, could raise and support them. "If I could do it all over again, I would not have left the Philippines." She ended our

conversation with this reflection on her long journey as a mother as well as an overseas contract worker.

June's story represents a unique tale of motherhood that merits particular attention in our contemporary era. We do not live in a globalized world connected solely through decentralized production processes, compressed informational networks, and unprecedented technological transformations. We also live in a close-knit global village connected through the labor, care, and emotions of Third World women, who migrate to perform care labor for upper- and middle-class women in advanced economies in both the North and the South. We subsist in a global economy in which uneven developments compel less privileged women to cross borders to care for other families in the foreign land, in order to support their own families back home. We carry on transnational family affairs through which a generation of children cared for by other women at home as their maids, nannies, and substitute mothers. For the millions of migrant women like June, the issue of motherhood is not about male dominance, the public-private dichotomy, unequal gender division of labor, double shift, or struggle for individual autonomy. For them, they cannot mother their children the conventional way because economic deterioration and family survival compel them to seek overseas employment. They cannot fulfill the idealized image of motherhood, i.e., the full-time stay-home caretaker, because labor-receiving states establish control mechanisms to regulate their employment within the borders of nation-states. In short, their fundamental concern is the deprivation of their right to motherhood. And the deprivation of their right to mothering is firmly institutionalized in state policy, legitimated through state rhetoric, and materialized by practices of individual employers and employment agencies.

In this article, I locate the discussion of mothering, law, politics, and public policy from the broader perspective of the globalization of care, specifically the implications of state policy to the mothering experience of migrant women care workers, such as foreign domestics and nurses. Global restructuring of care has raised questions about the different mothering experience for migrant women, as suggested by such terms as "transnational mothering" (Hondagneu-Sotelo and Avila, 1997: 548), "commodified motherhood" (Parrenas, 2001: 73), and "fragmentation of motherhood" (Gamburd, 2000: 186). These divergent forms of mothering extant in the transnational social field contest the grand narrative of a normative motherhood predicated upon the experience of privileged women in dominant groups, both locally and globally. Through centering the experience of migrant women, I argue that, in the era of globalization, the critical analysis on motherhood needs to transcend national boundaries and be broadened to include the ramifications derived from the global restructuring of care. More importantly, I contend that motherhood should be reconsidered as an important transborder concern that entails a critical transnational perspective and a cross-border strategic alliance of local and global feminist engagements in the politics of motherhood.

**Empire of care: race and motherhood in transnational era**

June could not return to the Philippines for short visits while working in Taiwan because of her illegal status. She finally decided to surrender herself to the police because her youngest son was using drugs and was having trouble with the law. Away from her children for years, she has missed their birthdays, graduations, and important events in their lives. To compensate, she turns all her caring attention to her employers' children, who often regard her more as a maid than as a substitute mother. Channeling her love to other people's children mirrors what Sau-Ling Wong (1994: 69) terms as the diverted mothering, through which the care labor of women of color is diverted to the children and families of employing white women, away from the rightful recipients based on kinship or community ties. In the contemporary world, diverted mothering has its transnational implications, linking localized social reproduction globally. As Pierette Hondagneu-Sotelo (2000) discusses the ramifications of diverted mothering involved in the global commodification of social reproduction:

The commodification of social reproduction is bound on a global scale with the international migration of women and their employment in domestic work. Immigrant women from Sri Lanka, Indonesia, the Philippines, and various Caribbean nations, like many Mexican and Central American women, migrate internationally for work in commodified social reproduction. Many of them leave their children and other family members behind in their country of origin, assigning the reproductive work of caring for these dependents to family members and paid care workers. (161)

The issue of paid domestic labor has re-surfaced as one of the major themes for interrogation for feminist scholarship in recent years. This recent scholarly interest extends yet also differs from the previous feminist scholarship, for the nature, characteristics, and power dynamics in paid domestic labor can no longer be examined simply through the social psychology of interpersonal relations or the structural analysis of gender, race, and class within the confines of nation-states. The personal is no longer simply the political; the personal is the global. Centering the story of Third World mothers is important in challenging the dominant feminist theorizing in motherhood, which is often predicated upon the experience of Western, white, middle-class women. As Patricia Hill Collins (1994) problematizes the assumed universal applicability of feminist theories in mothering:

Feminist theories of motherhood are thus valid as partial perspectives, but cannot be seen as theories of motherhood generalizable to all women. The resulting patterns of partiality inherent in existing theories, such as, for example, the emphasis placed on all-powerful

mothers as conduits for gender oppression, reflect feminist theorists' positions in structures of power.... Shifting the center to accommodate this diversity promises to recontextualize motherhood and point us toward feminist theorizing that embraces difference as an essential part of commonality. (62)

I borrow the title of Catherine Ceniza Choy's provocative book "Empire of Care: Nursing and Migration in Filipino American History" (2003) as the starting point for my reflections on the impact on Third World women's mothering experience of the globalization of care. Tracing the root of contemporary migration of Filipino nursing professionals to the United States to American imperialism in Asia, Choy powerfully terms this global inequality exacerbated through nursing migration as "empire of care" (3). Continuing the historical legacy of colonialism and imperialism, this empire of care is a form of extraction of care resources between the First and the Third World. As she critiques the rational choice approach that reduces Filipino nursing migration to individual agency: "the desire of Filipino nurses to migrate abroad cannot be reduced to an economic logic, but rather reflects individual and collective desire for a unique form of social, cultural, and economic success obtainable only outside the national borders of the Philippines" (Choy, 2003: 7).

Empire of care thus highlights the historical unequal relationship between states of labor sending and receiving nations in the global system. Grace Chang's (2000) study on immigrant domestics in the United States serves as a good example for us to examine the role of the state in sustaining the empire. She argues that the presence of immigrant women domestics in the United States results from the deliberate intervention of the state in the First World in order to continue the further exploitation of the Third World (3). This process of exploitation hinges upon the construction of immigrant women as welfare cheats and brood mares, thus resulting in the proposition and ratification of various anti-immigrants initiatives and the deprivation of their citizenship rights. As she maintains, "the goal of these laws and "reforms" is to extract the benefits of immigrants' labor while minimizing or eliminating any obligations or costs, whether social or fiscal, to the "host" U.S. society and state" (Chang, 2000: 11).

Empire of care, be it based on the labor of nursing professionals or domestics, illustrates the continual exploitation of the South by the North, albeit through a different form, and reflects a contemporary global politics constitutive of a "new world domestic order" (Hondagneu-Sotelo, 2001: 1). This world reordering of social reproduction, with Third World women occupying the center stage in the global system, signifies an international racial division of reproductive labor (Parrenas, 2000: 560) and the racialization of national/transnational systems of care. Empire of care thus "creates not a white man's burden but, through a series of invisible links, a dark child's burden" (Hochschild, 2002: 27). The global system of unequal distribution of care pulls

migrant women away from “home” yet places them at “home” at the same time. It is exactly this paradox of their being home yet homeless that the divisive power of globalization, particularly in the intimate sphere, can be better understood. Further, the children of migrant women are in essence “motherless” amidst the latter’s homelessness. It is this tension between mothering one’s and other women’s children that best describes the predicament of mothering facing migrant women in the age of globalization.

**Motherhood, nation, and the global system of female labor:  
comparative cases**

June’s story, particularly the structural constraints placed upon her ability to mother from abroad, also raises the question of the nation in relation to the asymmetrical distribution of care labor in the global arena. The racialization of Canada’s and Taiwan’s immigration policies provides good examples for our understanding of the linkage between the project of nation building and the institution of domestic service. In the case of Canada, women from Europe constituted the major source of labor supply prior to the 1950s. White British women, “sought after for their future or potential roles as wives and mothers of the Canadian nation” (Arat-Koc, 1997: 54), were recruited with the goal for their permanent integration within Canada “as nation-builders and civilizers” (Arat-Koc, 1997: 54). The demographic composition among foreign domestics shifted during the 1970s when an increasing number of foreign domestics from the Caribbean and the Philippines started entering Canada. Immigration regulations were thus modified to accommodate this demographic shift as a result. Foreign domestics from the Third World were and continue to be constructed as undesirable others and unsuitable for inclusion as citizens of Canada. Canada’s immigration policy thus creates a process of racial formation and racialization through which women of different national and racial identities experience discrepant integration within the Canadian society. This process of racial formation and racialization also structures their disparate access to citizenship rights. The uneven enjoyment of citizenship rights among these women workers thus contributes to hierarchies of citizenship, both nationally and globally. As Arat-Koc (1997) states:

Immigration policies and practices have been key mechanisms in regulating the racial/ethnic composition of immigrant domestic workers and determining the status, conditions, and autonomy of those who have been allowed in. Through immigration policy, membership in the Canadian nation and state, and access to citizenship rights, have been regulated. Access to citizenship rights has been facilitated for domestics of the ‘desirable’ race/ethnicity, while made difficult or inaccessible for those of ‘undesirable’ racial/ethnic backgrounds. (56)

Similarly, the importation of foreign labor and foreign domestics also

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poses challenges to the formation of nationhood in Taiwan. Domestic service became a state-sanctioned legal occupation with the ratification of Employment Service Law in 1992. Since then, domestic service and foreign domestics became subject to Taiwan's immigration control and the regulation of its foreign labor policy. For the past decade, domestic service in Taiwan has become a racialized field, inundated with women from Southeast Asia. Foreign workers from Southeast Asia are generally seen as undesirably different, and their entry is deemed to unleash social ills, such as crime, disease, and prostitution. To prevent their permanent settlement, the state has adopted intrusive practices for stringent control, such as the prohibition of pregnancy and marriage, the proscription of family reunion, and the constricted freedom of association, residence, mobility, and employment. These practices, often in violation of migrants' human rights, institutionalize the exploitability of migrant workers, migrant women in particular. They also contribute to the formation of "racialized boundaries" (Anthias and Yuval-Davis, 1992: 2) that constructs fictionalized borders between Taiwanese nationals and foreign workers. While Taiwan's foreign labor policy reflects foreign labor's relationship to the nation-state, the regulation over migrant women's reproductive and sexual decisions demonstrates the particular impact on migrant women of gendered and racialized nature of state policy. The state realizes its racial/nationalist project in shaping the composition of citizenry through controlling migrant women's sexuality, reproduction, and motherhood. As Anthias (2000) elaborates on the role of women in the reproduction of the nation:

In all societies, women of different groups are encouraged to reproduce the nation differently and some are encouraged to 'grow and flourish' whereas others are seen as undesirable. For example, in many Western societies ethnic minority women's fertility may be seen as a threat to the nation, involving demographic and nationalist policing and ideologies (Anthias and Yuval Davis 1989) and the use of depopulation and sterilization techniques against some (Anthias and Yuval Davis 1992). Indigenous mothers who give birth to many children (termed polytechna mothers in Cyprus) may be rewarded whereas migrants and their descendents in this situation may be subjected to policies and discourses of inferiorization. Although women are members of collectivities they are subjected to different rules and experience them differently. (32-33)

The above comparative descriptions of Taiwan and Canada illustrate the similarity shared by two different sociopolitical contexts in the nexus of nation building and national/global restructuring of care. They highlight migrant women's precarious position in terms of their human rights and citizenship entitlements, both locally and globally. Therefore, the linkage among racial formation, gendered practices, nation building, and global restructuring of care

cannot be ignored.

### **Motherhood, citizenship, and transborder concern**

The institutionalization of migrant women's ultra-exploitability raises fundamental questions about their lack of citizenship rights and entitlements. First, it illustrates that violence facing these women is not simply the result of individual acts of abusive employers; instead, it derives from state control and regulations. It is exactly the differential citizenship statuses, i.e., citizen vs. non-citizen, between native employers and foreign domestics that legitimate employer-employee power asymmetry. Migrant women's status as non-citizens calls attention to the state's realization of nationalist/racial projects through the regulation of their sexuality, reproduction, and motherhood. In other words, they face structural as well as intimate violence.

Second, the regulation of migrant women's sexuality, reproduction, and motherhood points to their disparate meanings for women differentially positioned along national and global hierarchies. Empire of care speaks to the reality that migrant women from the Third World are deprived of their right to determine their sexual activities, reproductive choices, and motherhood concerns because of the intimate surveillance in both private and public spheres. This reality calls attention to the necessity to expand the definitions of citizenship rights and entitlements to include the particular experience of migrant women in the aspect of sexuality, reproduction, and motherhood. In other words, migrant women's individual and collective rights to these central facets of human existence complicate sexual, reproductive, and family politics in national and global terrains.

Third, the experience of migrant women also problematizes linear and evolutionary conceptions of citizenship development. Upper- and middle-class women in labor receiving nations, as a result of the advancement of political and socioeconomic rights, are able to enter the workplace and gain visibility in the public sphere. However, their entry depends neither upon the redistribution of household labor within the private sphere nor upon the recognition of care as socially valuable work in the public sphere. The global unequal distribution of care has enabled female employers to resolve their individual needs for childcare without making demands on the state. Their participation in the public sphere hinges upon the stunted enjoyment of civil, political, and socioeconomic rights of women from less developed regions and nations. As Abigail Bakan and Daiva Stasiulis state (1997):

For the Third World non-citizen in search of First World citizenship, gaining access to social rights—particularly 'the right to a modicum of economic welfare and security' (Marshall 1950, 78)—commonly supersedes entry to civil and political rights. Thus, to gain certain social rights such as access to adequate health and educational services, citizens of the Philippines or Jamaica exit their home countries and,

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in so doing, forfeit a range of regionally and nationally defined civil, political, social, and cultural rights. These forfeited rights may include the rights of land ownership, associated with citizenship and residence in less developed countries. They also give up certain social rights, such as the right to live with one's children and other family members, the right to freedom of choice of domicile, and access to networks of support in the provision of health care, child care, food, and so on. (45-46)

In other words, the stunted enjoyment of citizenship and human rights by contemporary migrant women has coincided with the gradual expansion of rights for citizens of marginalized groups within receiving nation-states. This paradox illustrates the necessity to reconsider motherhood, from the standpoint of migrant women, not only as an issue of choice but also as that of right.

### **Conclusion: from the choice of motherhood to the right to mothering**

The reemergence of paid domestic labor as an important issue for feminist scholarship speaks to the missing revolutions in feminism in materializing equal distribution of care both within and across national borders. Indeed, the privatization of care provision illustrates the state's appropriation of women's care labor, migrant women in particular, and the gendered/racialized nature of national/transnational systems of care. Rather than challenging the devaluation of women's work and that of care as a whole, the availability of migrant women's care labor enables labor receiving states to deepen the privatization of childcare and evade the commitment to the collective responsibility for social reproduction. Migrant women's care labor serves as a cheap solution for the inadequacy of public provision of care in labor receiving nations. Their mothering experience speaks to the simultaneous de-nationalization and re-nationalization of motherhood as well as the maintenance of empire of care in the age of globalization.

Empire of care heightens the nexus between the local and the global. It speaks to the necessity for building alliances within and across national borders and for the joint pursuit of local and global justice for multiple forms of equality. It also points to the urgency of collaborative local and global feminist interventions in the pursuit of motherhood as a transborder concern. From the perspective of migrant women, it is not the choice of motherhood but the right to motherhood/mothering that is in jeopardy in the transnational era.

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of Color in the Age of "Multiculturalism." *Mothering: Ideology, Experience, and Agency*. Evelyn Nakano Glenn, Grace Chang, and Linda Rennie Forcey, eds. New York: Routledge. 67-91.

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## **“The Globalization of Love” *Transnational Adoption and Engagement with the Globalized World***

I am walking and my two-year old daughter is toddling through a small “Third World” arts and crafts store located in a Western North Carolina community. The store is filled nearly to capacity with visitors from the local Christian retreat center and tourists who are passing through as they view the fall foliage. We are all searching for gifts to give for holidays, weddings, housewarmings, and birthdays. During our twenty minutes in the cramped shop, four women asked me about my child. This is not an uncommon experience. Though we have some common features—black hair, dark eyes—our skin tones do not match. I am a white woman born in Kentucky, and my daughter is a brown-skinned child born in Guatemala. “Is she adopted?” “Where is she from?” “Where did you get her?” “Was it hard to adopt?” “How long have you had her?” After their questions are answered, the conversation continues. Several women seem to want to connect with me; they tell me of their nieces, cousins, and friends who have adopted children born outside of the U.S. They fuss over my child, smiling, cooing, and speaking to her in Spanish.

Boston Globe columnist Ellen Goodman wrote of her newly adopted granddaughter for her July 4<sup>th</sup> column:

Together, we have all learned about the globalization of love. America is continually made and remade by newcomers. But this daughter from China has reminded us how small our world is and how vast: a village you can traverse in a day and a place of stunning disconnects and differences, have and have-nots. Ours was already a global family, brought together with luck of the draw and pluck of the ancestors who came from places as far away as Italy and England, Russia and Germany. On this Fourth of July, we add another continent to our

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heritage and another child to our list of supreme good fortune.  
Welcome, Cloe, to America. (2003: A13)

The above anecdotes reflect the attention and interest directed toward the practice of transnational adoption. In these stories (just a few of the many I could tell), shoppers, strangers, and journalists have tales to tell or comments to make about the role adoption has played in their own lives. And these stories tell us that transnational adoption, the families it creates, and the implications it holds for families in far-away countries are of concern and interest to the public. The above commentators are participating in discourse about transnational adoption that highlights anxieties about the formation of families, race, ethnicity, culture, distance and travel, as well as inequalities of wealth and power. Adoptive parents similarly negotiate these problems and questions through adoption-related media, community discussion, and their narratives of the adoption experience.

My own position in the so-called “adoption triad”—birth parent, adoptive parent, and child—is unusual, ill-defined, and reflective of changing configurations of family in contemporary America. I began dating my now-partner while she was in the process of adopting a baby girl from Guatemala. Seven months into our relationship, she traveled to Guatemala to take custody of a six-month-old baby, Maria. Both academics, my partner and I live in different cities about 200 miles apart. I commute weekly, spending four days with my family in small-town North Carolina and three days in my rented room in suburban Atlanta. My parental role defies simple definition. I’m partial to “long-distance co-parent,” while Maria (now a two-year-old) has inexplicably christened me “Giggy.” My relationship to the transnational adoption process is similarly unsettled, as I am not the legal adoptive parent and have not had some of the same experiences as most adoptive parents. Although I became a parent in a much different way than do most adoptive parents, my decision to be part of an adoptive family was just as deliberate, and I have been emotionally and physically invested in this family since before Maria’s arrival.

I must be clear that I am attempting to neither romanticize nor demonize transnational adoption. My partner and I struggle with the contradiction between the joy our daughter has brought us and the knowledge that the system through which she came to us has the capacity to exploit impoverished and oppressed people for the benefit of relatively wealthy ones. Writing about the adoption of Native American children by white families, Pauline Turner Strong states, “[a]doption across political and cultural borders may simultaneously be an act of violence and an act of love, an excruciating rupture and a generous incorporation, an appropriation of valued resources and a constitution of personal ties” (2001: 471). Like Strong, I hope that my work will highlight the complications and contradiction of transnational adoption. By illustrating the ways in which adoption-related discourse both reproduces and

challenges racist and neo-colonial relations, I hope to challenge such narratives and encourage adoptive parents to reconsider how they approach the process.

Transnational adoption began in the years following World War II and the Korean War. Since the early 1990s, however, the practice has become "unprecedented in magnitude and visibility" (Volkman, 2003: 1). Transnational adoption has become an increasingly common practice worldwide, with an estimated 30,000 children migrating between over one hundred countries a year (Selman, 2002: 206). The United States adopts more children from outside its borders than do citizens of all other countries combined (Scrivo, 2000), with the number of such adoptions increasing rapidly over the past few years, from 11,316 in 1996 (U.S. Immigration and Naturalization Service, 1997) to 21,100 in fiscal year 2002 (U.S. Department of Homeland Security, 2003). It is estimated that each day, twenty American couples adopt a child from a foreign country (Zeppa, 1998). The majority of transnationally adopted children come from four nations: China, with 6,062 adoptions in FY 2002; Russia with 4,904; Guatemala with 2,361; and South Korea with 1,713 (U.S. Department of Homeland Security, 2003).

The overwhelming majority of children adopted by U.S. citizens come from non-Western and "Third World" countries of the global south. Not surprisingly, transnational adoption has frequently been criticized as a neo-colonial, imperialist practice (Altstein and Simon, 1991: 2; Hoelgaard, 1998: 203; Masson, 2001: 148; Pilotti, 1985: 32; Tizzard, 1991: 746) or described as a "manifestation of exploitation of poorer nations by more affluent ones" (Freundlich, 1999: 88). Or as Barbara Katz Rothman (1989) said of the class dynamics of adoption, both domestic and transnational: "Thirty-two-year-old attorneys living in wealthy suburbs do not give up their children to nineteen-year-old factory workers living in small towns" (130).

With an average cost of \$20,000 per adoption, U.S. citizens spend over \$300 million annually on transnational adoption (Varnis, 2001: 39). Thus it is frequently described and criticized as an industry (Graff, 2000), a system of trade (Triseliotis, 2000: 48), and as a market (D'Amato, 1999: 669; Triseliotis, 2000: 49) that can "fluctuate on demand" (Elton, 2000). The process of transnational adoption is also characterized as a system of "supply and demand" (Hoelgaard, 1998: 207; Jacot, 1999: 37), with "Third World" countries as "suppliers" with a "surplus of healthy children" (Altstein and Simon, 1991: 2). Transnational adoption of children born in Guatemala has been described critically as "one of the most successfully nontraditionalist exports...It brings in more money than snow peas and broccoli" (Riley, 2003).

In addition to issues of neo-colonial exploitation, it is also crucial to keep in mind the particular ways the process of international adoption is gendered. Most children adopted by U.S. citizens are girls. Girls account for sixty-five percent of internationally adopted children in FY 2002 (U.S. Department of Homeland Security, 2003). This figure is largely attributed to adoptions of

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Chinese children, nearly all of which are girls.

Given the acceleration in the number of transnational adoptions in the United States, as well as the paucity of research in disciplines other than social work and psychology (Volkman, 2003: 4), the practice of transnational adoption needs to be analyzed for the ways it is embedded in the globalization of capital, people, cultures, and ideologies. In their introduction to an edited volume on reproduction in a globalized world, Faye Ginsburg and Rayna Rapp (1995) argue, “[p]eople everywhere actively use their local cultural logics and social relations to incorporate, revise, or resist the influence of seemingly distant political and economic forces” (1). How do adoptive parents from the United States “incorporate, revise, or resist” discourses of globalization through the process of forming families through transnational adoption, and how do these discourses depend upon various narratives about race and gender?

Texts produced by American adoptive parents and international adoption agencies such as web pages, print publications, and adoption story testimonials reveal the ways international adoption can be examined as a practice that is embedded in global capitalist flows of capital, ideas, and cultures. Using Arjun Appadurai’s (1996) idea of ethnoscaples, I will analyze discourse about international adoption that negotiates differences in American, white, and First World cultures and ethnicities of the adoptive parents and the non-Western, non-white, and Third World cultures and ethnicities of the adopted children. These negotiations occur within a context of immense economic disparity between the First and Third Worlds, as well as a history of colonialism, racism, and exploitation. Adoption texts expose these negotiations of ethnicity and culture between the First and Third World actors involved in the international adoption process. Also, as the majority of adoptees are girls, this negotiation occurs using images (both print and visual) of female children. Discourses of cultural and ethnic difference and similarity in international adoption commonly occur with girl children as the object of negotiation.

Although actors in the process of international adoption can be birth parents, children, adoptive parents, social workers, lawyers, and adoption agency staff, only the adoptive parents and adoption agents have widespread access to media production equipment, especially the Internet. While future research plans include analyses of narratives produced by people of birth countries, in this paper, I will examine how adoptive parents and adoption agents negotiate differences among First and Third World cultures and ethnicities within the context of global capitalism. Adoptive parents and adoption agents negotiate anxieties about cultural and ethnic difference in a variety of ways. I will examine how textual discourse of international adoption uses images of romanticized globalization, minimize the cultural and ethnic difference of internationally adopted children, exaggerate the American-ness of the children, and fetishize stereotypical characteristics of adopted children

in order to make cultural and ethnic difference safe and uncomplicated for First World adoptive parents.

**It's a small world after all: globalization, international adoption and invisible borders**

As I am conceiving transnational adoption as a process tied to globalization, a brief review of globalization theory as it is related to transnational adoption is useful here. Globalization is commonly described as the exchange of labour, capital, and ideologies in the amplifying system of capitalism. However, the complexity of the process makes it difficult to develop theories or even definitions of globalization. According to Fredric Jameson, cited in John Beynon and David Dunkerly's *Globalization: A Reader* (2000), globalization is: "the intellectual property of no particular field, yet seems to concern politics and economics in immediate ways, but just as immediately culture and sociology, not to speak of information and the media, or ecology, or consumerism and daily life" (4). In other words, globalization is not merely a system of economic exchange, and an all-encompassing definition should attempt to take non-economic factors into account. Anthony Giddens's definition of globalization includes social as well as economic forces. He describes globalization as "the intensification of world-wide social relationships which link distant places in such a way that local happenings are shaped by events occurring many miles away and vice-versa" (qtd. in Beynon and Dunkerly, 2000: 4).

For the purposes of this project, I am concerned with a few key ideas related to globalization. The first concerns how people perceive global spatial relationships. In his definition of globalization, Roland Robertson emphasizes "the scope and depth of consciousness of the world as a single place" (qtd. in Beynon and Dunkerly, 2000: 47). Mike Featherstone (1993) describes globalization as "the emergence of the sense that the world is a single place" (171). Due to changes in configurations of power and challenges to hegemonic world histories, globalization supports ideas that "the world is one place, that the globe has been compressed into a locality, that others are neighbours with which we must necessarily interact, relate and listen" (172). Similarly, transnational adoption can be seen as an interaction that renders distance and borders between nations, ethnicities, and cultures indistinguishable, or at least surmountable.

Texts produced by adoption agencies emphasize globalization. The names of agencies show that international adoption unites all cultures as one, minimizing differences in language, culture, and ethnicity. For example, the Small World Adoption Foundation of Missouri (2004) clearly describes itself in relation to international adoption, a practice that de-emphasizes borders and differences in culture. It operates in, and creates, a "Small World." Other agencies, such as Los Niños International Adoption Center (2004), minimize national borders and cultural difference through their logos. The Los Niños logo is made up of a blue globe covered by fluffy white clouds and a bright

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yellow sun. This circular arrangement is foregrounded by the agency's title and an airplane filled with small children of different colors, with one child sitting on the plane's nose. The tail of the plane shows a barely visible U.S. flag. The slogan for Los Niños is "We're Wrapping the World in Family Ties™." Also significant is the use of the Spanish language by adoption agencies. Los Niños International Adoption Center takes its name for the Spanish phrase for "children." Their logo goes so far as to translate the phrase. "Los Niños (Children's) International Adoption Center," it says. Despite differences in culture, languages, and ethnicity between adoptive parents and adopted children, international adoption (as facilitated by Los Niños) can be a unifying, conflict-free process. The Los Niños logo situates international adoption as a multiculturalist, humanitarian, and harmonious enterprise. In other words, the use of romanticized images of international travel and exchange that occurs in international adoption renders cross-cultural difference and questions of neo-colonialism unproblematic for American adoptive parents. In other words, images associated with the process of international adoption add to and appeal to Featherstone's idea that "the world is becoming one place."

### **The ethnoscapes of international adoption**

The second theory I am concerned with has to do with the movement of people from one area of the globe to another, resulting in negotiation of cultural meanings by those confronted with traveling people. Arjun Appadurai (1996) uses the term "ethnoscape" to describe the "landscape of persons who constitute the shifting world in which we live" (33). He uses examples of "tourists, immigrants, refugees, exiles, guest workers" (33) to describe transnational movements of people from various nations, regions, and of different ethnicities. Those participating in transnational adoption can be seen as prime examples of players in the global movement of persons that comprise Appadurai's ethnoscapes.

Appadurai (1996) also highlights the instability apparent in ethnoscapes, arguing that they are "deeply disjunctive and profoundly unpredictable because each of these landscapes is subject to its own constraints and incentives... at the same time as each acts as a constraint and a parameter for movements in others" (35). The ethnoscapes of traveling and migrating people are inherently unstable, as they occur within the context of post-colonialism and racism. Westerners involved with transnational adoption must negotiate the meanings of cultures and ethnicities of the children adopted from non-Western countries and attempt to make sense of the political and social implications inherent in such global interactions. Adoptive parents and adoption agents must also define their own identities in relation to the asymmetrical power relations that exist in transnational adoption process. These negotiations occur in a variety of ways. Parents and agents often minimize the cultural and ethnic differences between themselves and the children involved in the interaction in order to

make international adoption. This minimization can be done by emphasizing the American-ness of the children, by minimizing the degree of difference, by describing their own familiarity (or lack thereof) with the child's birth culture, and through imagery reflecting the multicultural location of the child, rendering cultural difference unimportant. Parents and agents also attempt to deal with cultural difference by marking and fetishizing adoptee children as representations of an entire culture or heritage. This type of discourse is most likely to draw on the child's gender, as well as race and ethnicity, in the negotiation of cultural difference between adopter and adoptee.

### **Minimizing difference**

The most common type of international adoption narrative involves the de-emphasis of the child's birth culture and an emphasis on the adoptive culture, usually through verbal and visual invocations of American nationalism. Adoption agency websites frequently feature pictures of adopted children situated with an image of the American flag. Several pictures depicted the U.S. flag draped behind the child (1<sup>st</sup> Steps Adoption International, 2004) or the child wearing flag-patterned clothing (Great Wall China Adoption, 2004). Linda Donovan, a director of an adoption agency, says of internationally adopted children: "The bottom line is they are American" (qtd. in Deam, 2002). This variety of discourse prioritizes American citizenship above all else.

Other adoption texts make use of nationalist symbols, but do not explicitly privilege American-ness. Though they have since changed their website design, a previous version of the Great Wall China Adoption website played on the notion of dual nationalities or heritages in the artwork and designs within the site. The link buttons leading site visitors to other pages were comprised of the Chinese and U.S. flags. Another site, AdoptShoppe (2004), sells clothing, books, jewelry, and other items to adoptive families. One popular item is the "Crossed Flags Tees and Sweatshirts." These pieces of clothing are "Personally designed for your family and children with their heritage in mind" and are embroidered with the American flag crossed with the flag of the child's birth country. Through these images, the differences between American-ness and foreign-ness are erased and are assimilated into American-ness. Of course, as in the images of adopted children with a U.S. flag, American-ness is implicitly privileged, as the United States is the country of citizenship and residency for both the adoptive parents and their newly adopted Chinese children. By locating American-ness as central to the international adoption process, these texts contribute to discourse that de-emphasizes the cultural difference of internationally adopted children.

Another common way of minimizing cultural differences between the children and Western adults involved in international adoption is accomplished when adoptive parents use their knowledge of the child's birth culture in explaining their adoption of a foreign-born child. Several adoptive mothers cited language preparation and their engagement with Spanish culture as

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reasons they chose to adopt from Guatemala. Adoptive mother Tina Davis (2004): "Given my fluency in Spanish and my interest in the Latin American culture, Guatemala seemed like the perfect choice for us." In a similar vein, Karen Scott states, "Even the interest I had in high school many years ago for the Spanish language was even then preparing me for this future." In these cases, cultural difference is bridged through high school Spanish classes and an "interest" in Guatemalan culture. Other parents declare their lack of familiarity with a given country, but dismiss the importance of such knowledge. Sue Mertens (2004), who adopted a baby boy from Guatemala begins the telling of her adoption story: "Guatemala ... I knew it was a Spanish-speaking country, located somewhere south of Mexico, and vaguely recalled that there had been a civil war there years ago, but I have to admit that I knew very little else about the country."

Cultural difference is minimized in other ways as well. In an essay for *American Demographics*, New York City resident Tama Janowitz (1999) dismisses concerns that her adopted China-born daughter will attract attention and questions from strangers by describing other examples of difference in her life. Her husband, an Englishman, orders ham sandwiches with butter. Their dogs are hairless Chinese Cresteds (48). She claims she is used to comments and questions from strangers. Janowitz goes on to describe her multicultural neighborhood, made up of "an amazing mix of people." "Is there anyone left who does fit in?" Janowitz asks (49). Using the image of a metropolitan family, Janowitz dismisses the ethnic difference of her child.

These examples show some of the ways in which adoptive parents and adoption agencies attempt to minimize the differences between the child's birth and adoptive cultures. Each of these textual examples contributes to discourse attempting to make international adoption unproblematic, and to erase vestiges of colonialism and racism in the international adoption process.

### **The emphasis and fetishization of difference**

Adoptive parents and agencies also negotiate the ethnoscape of international adoption through the fetishization of adopted children. Adopted children can be marked, or fetishized in several ways. The status of the child as adopted, or foreign, can be emphasized. For example, one publication in a popular finance magazine said "The Americans like their little Chinese acquisitions" ("Give me your squalling masses," 1996). This statement fetishizes adopted children as cultural commodities. Though it is not explicit, this statement commodifies girl children as a cultural import from China, as nearly all of the children adopted from China are female. An article in *The Advocate* on the adoption of Chinese girls by lesbians blithely stated, "By now lesbians may have more Chinese daughters than Mazda Miatas" (Rich, 2000). This statement not only equates children with a consumer purchase such as a car, but also equates an ethnicity or nationality (Chinese) with consumerism. The ethnic difference of "Chinese daughters" is highlighted in order to describe the

location of American lesbians in international adoption.

Alternately, texts emphasize and fetishize the ethnicity or cultural difference of an adopted child. In these cases, adopted children are seen as representations of whole cultures, their bodies embodying stereotypical characteristics of the non-Western culture. This sort of fetishizing often occurs in relation to girl children. An adoptive parent described his newly adopted Russian daughter: "she has the coordination of a Russian gymnast or ice skater." The use of fetishizing language, whether about children as commodities or as embodiments of stereotypical characteristics again renders ethnic differences harmless. If a child is comparable to car, or the characteristics of an ethnically different child can be distilled down to stereotypes, then issues related to race and ethnicity can be rendered unimportant.

### **Conclusion**

The exchange of capital, as well as the language of economics marks the practice of international adoption as a process intricately tied to global capitalism. The process is also part of changing public ideologies that reinforce the feeling that the globe is shrinking and people from different nations are more tightly connected. International adoption can also be seen as contributing to and creating ethnoscaapes, whereby the individuals involved with adoption attempt to ascribe and negotiate meanings of differences in culture and ethnicity that appear to exist between parents and their adoptive children. The disparate ways in which parents and adoption agents negotiate cultural differences using both the ethnicity and gender of their children reveals how international adoption discourse can be seen in relation to established narratives of capitalism, postcolonialism, and multiculturalism. The overarching discourse of international adoption, as created by American parents and adoption agents renders cultural and ethnic difference unimportant, invisible, and non-threatening.

Analyzing the changes in global circulations of people, goods, capital, and ideas is central to understanding how individuals and groups related to one another. Transnational adoption provides a framework through which we can see some of the ways globalized capitalism operates. Practices of globalization and related processes have a profound effect on how individuals think about and interact with peoples, places, and cultures. These interactions and ideologies make real differences in the lives of others—particularly when they reproduce racist, sexist, and neo-colonial systems. My hope is that analyzing the texts of potentially racist and sexist systems can ultimately help alter these systems in ways that truly benefit impoverished children and families.

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**Lisa Neel and Audrey M. Dentith**

# **Art and the Politics of State Control**

## ***Finding Spaces that Nurture Voice among Homeless Women***

Much of our experiences in the world can be mediated through art and artistic expression. Art is inherently political and, as such, is able to call up the interests, attitudes and experiences of particular groups in ways that illuminate these realities for all to see and experience. It can forge a relationship between the social, political and cultural domains of our world in ways that can greatly influence our way of seeing, knowing and experiencing. Art is acts and actions that are able to confront and act out particular realities in ways that illuminate certain messages, particular allusions and/or dole out real warnings (Krukowski, 1992).

When we dare to integrate art into the curriculum, we provide a means by which others can decode and re-code expression to forge connections between discursive social practices and language and the aesthetic symbolization of experience and knowledge. Ways of knowing the world through the practice and pleasure of the arts could make us more observant, wiser and more aware of the world around us. Since the content and creation of forms of art are specific to the location and social nexus of its affiliation, it helps us to draw the peculiarities between ideas, thoughts and experiences and express our knowledge in ways that help illuminate the nature of social life and build upon personal strength. It is also communal and depicts the evolution of self within the design of the group in which it resides. We can grow in our understanding of the relationship between feelings, knowledge and cognition through our engagement with art and its multiple forms (Grumet, 1995).

This regard for the power of art to connect, reveal and express formed the basis for the seed project we describe here. During the 2001-2002 academic year, we (a graduate student enrolled in Masters of Arts in Education program and a professor of education) developed an enrichment program in the arts for

12 poor young mothers. These women were residents of a communal homeless shelter in a small city in Central New Jersey, just south of New York City.

Once weekly, one or both of us would meet with these women for one and one-half hour sessions we named “Arts for Moms,” which were held on-site at the shelter for about ten months. The women identified themselves as African-American, Hispanic-Black, Hispanic and White and ranged in age from 18 years to 30 years. Ten of the women had one child. Two were mothers to two children. Several of the women were addicts in recovery. Others were victims of violent relationships or had neglected their children and were alerted to the local social services authorities. All were placed in this residential program by local social services agencies and were in need of consistent and adequate housing.

We are two White women, in our third and fourth decade respectively, with educational credentials and social status that will most likely protect us from homelessness in our lifetimes. Yet, both of us feel a kindred affiliation with these and other poor women who struggle to raise children as single entities. One of us was raised by a single mother, the other was raised by maternal grandparents because her mother was an alcoholic and her father was absent as a result of divorce. Our working-class and poor backgrounds as children taught us about the precarious nature of life among the working poor. Moreover, one of us raised her daughter as a single mother and remained so until that daughter reached the age of twelve. An intimate connect arose between and among some of the women over the course of this project. As women educators, activists and feminists, we seek and continue to make legitimate those voices that so frequently fall silent through our public work. We, also, strive to garner new meaning and new knowledge that might connect personal experiences and the experiences of others with the larger political and social nature of our world.

### **Life in a shelter**

The basic need for shelter and food for themselves and their children as residents of this shelter was, of course, an obvious priority. The long-term shelter program that housed these women requires a minimum stay of nine months and a maximum stay of one year. All the residents were awaiting Section 8 housing, a form of government-funded federally supported low-income housing assistance in the United States. Often the wait period, especially in this geographical area of high need and low availability can be as long as five years. Frequently, affiliation with one of several county-sponsored shelters such as the one we describe here accelerates this wait time. Of course, this is dependent on the referral of supervising social workers and the “successful” completion of any programs sponsored by the shelter facility. The group we worked with during this time was somewhat transient and not all of the residents remained in the program for the duration of this project. Most of the residents “dropped out” before completing the nine-month requirement. At

times, only six or seven women were involved in the classes as the facility awaited replacement residents.

The facility itself is a large single-family dwelling that has been converted into separate bedroom facilities for nine families. Bathrooms are shared, and children and mothers sleep in separate beds in shared rooms. A small living room, a modestly equipped kitchen with attached laundry room and a moderately sized dining area are common spaces shared by all residents.

Schedules and routines are strictly enforced. Every resident was assigned duties and rotating chores daily. Signs are displayed on walls and bulletin boards to remind the women of their duties and the governing criterion. For example, a public telephone hangs on a hallway between the living room and the kitchen. A large sign forbids the women to talk for more than 15 minutes. No fathers are permitted on site (or men, for that matter, other than maintenance repairmen or members of the board). Visitors are only allowed to visit with the women in the common living areas described. Bedroom doors are required to be open when occupied during all times except after lights are turned out in the evening, and the women were not permitted to congregate in the bedrooms.

During the day, the women residents work, attend high school or GED classes, or participate in a job-training course. Those who work can only earn enough money to pay for transportation and some childcare. Any remaining wages must be relinquished as surplus to AFDC authorities according to regulation set by the state and federal government. Residents must secure childcare or babysitting for their children and must arrange for transportation of their children to/from these sites. Since most do not own cars and public transportation is limited, many of the residents resort to taking frequent and expensive cab rides to and from their designated daytime sites.

After school or work, they must pick up their children and return to the shelter in time for dinner or afternoon classes or before if they are responsible for cooking that evening's meal. Chores and responsibilities in the evening include preparation of the evening meal which is served family style to all residents, sweeping and mopping all common living areas, childcare for each others' children during evening chores, bathing the children, laundry *and* daily mandatory enrichment classes. Most of this is accomplished by 10:00 p.m. when the women, exhausted but eager for relaxation and "girl" talk, meet in the living room or dining room to visit with one another.

Monthly house meetings are also required and large clean up projects are also part of life in this setting. Saturday classes and curfews on weeknights and weekends are strictly enforced. Consistent non-compliance almost always results in dismissal from the program and subsequent removal from the housing authority list for Section 8 provisions. Minor infractions might result in "punishments" including written assignments, special large clean up projects and counseling by appropriate authorities.

The professional staff at the shelter at the time consisted of an Executive

Director, a social worker, a part-time educational director and a secretary, all of whom were White women. Support staff was characterized by an array of house staff members who remained on-site 24 hours a day for the purpose of supervising and (in some cases) spying on the women residents. These staff members were mostly African American women who worked at the shelter part-time. The residence, itself, was always locked and doors were often propped open to allow easier access. House staff members were usually present in the common areas, which made private conversations difficult if not impossible.

### **Enrichment classes**

Enrichment classes were mandatory and held daily, except on Sundays. These sessions took place in one of two smaller outbuildings situated on the property. The Education Center consisted of the Executive Director's office and large conference room with about eight chairs for board meetings, and a small enclosed porch that served as a storage area for donated items. Social work interviews and some enrichment classes were held in the conference room. This room was a dark dismal area with orange carpeting, brown furniture and no windows. The second outbuilding was a bit more cheerful and was arranged as a playroom with a wide array of toys and activities for small children. Unfortunately, much of the equipment in this room was broken, badly used and worn out. A small outdoor play area with a swing set and a picnic table was placed between these two buildings. A parking lot sat adjacent to this area.

The "Art for Moms" class was only one of the half-dozen classes offered each semester to the women as enrichment classes in the evening or weekend hours. Other class topics included: child development, parenting, career choice and personal fitness. Volunteers from the community hosted all of the classes and in this particular academic year, nine of the twelve enrichment classes offered over this time period were orchestrated and accomplished by graduate students in teacher education from the university. "Art for Moms" earned its title when the educational director asked several weeks into the semester that each class be named and described and weekly lesson plans submitted for review by shelter personnel. This request came about after a particular session of our class was overheard by one of the house staff in which the young women were talking candidly about some of their sexual experiences.

The decision to create an art class for the women came from the authors and initially was not well received by the shelter administration. They did not see the usefulness of this endeavor and made some initial attempts to cancel it or, at the very least, restructure it to align with more specific skill areas mandated by county authorities. Eventually, we were able to convince the administration that this class fit under the skill needs for building "self-esteem," an area of concern with the curriculum guidelines. Eventually, the popularity of the course among the women residents made it impossible to abandon. The women residents frequently listed it as their favourite class and were very

insistent that it not be forfeited. This action on the part of the residents helped to sustain it over the year despite the staff's lack of support for it. It may also indicate the power of art to uncover and nurture voice among the women. Through the self-expression and self-exploration that the artwork fostered, the women engaged in discussion of experiences and emotions that are frequently not permitted or heard in the context of a government-sponsored program.

K: This is the one class we look forward to coming to.

M: It's someplace that we can come into, and we can be ourselves, and we don't have nobody looking at us like we are crazy.

V: Judging us.

A: Like we're homeless trash.

M: It's just the kind of class that you can come in and be yourself.

A: ... uneducated, unintelligent, never had anything... that's how a lot of people look at you when you are in a situation like this, like you ain't ever had anything. Like you don't know anything, and you're never gonna be anything.

K: And the stuff we express in our art shows that we are something. We are gonna be something.

A: We have always been something.

### **Art programs for the homeless**

Within the past decade, art programs for the homeless have proliferated (Brown, 1994; Braun, 1997). Some have specifically named the need for these women to have space in which they can find and nurture their own voices by expressing themselves through art. Art programs have been implemented to help marginalized students develop voice, exercise power and construct identity. Teen mothers, homeless women and men, people in recovery, behaviorally disabled and learning disabled children, and poor children living in urban areas have engaged in art programs designed to foster self-expression and self-representation and encourage the creation of positive images of self. In some cases, art was created to deconstruct and combat negative stereotypes of the group, thus serving as social action. For the students involved in these art programs, art classes became an environment or space within which personal experiences and voices were validated.

The Artist and Homeless Collaborative, an art program established in New York City by artist Hope Sandrow at the Park Avenue Women's Shelter, provided a space within which homeless women could work with artists. The group transformed the interior of the shelter by painting murals, decorating common areas and displaying individual artwork. In this way, they recreated the physical space. The nature of the collaboration created a space for interaction and community that was often discouraged by the rules and regulations of the shelter. Perhaps most significantly, the homeless women formed a space within which they could use art as a vehicle to "reclaim positions as independ-

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ent, functioning members of the community” (Wolper, 1995). In the Cap Street Project, artist Suzanne Lacy’s work with 36 teen mothers in 1997 produced *Expectations*, a multimedia art installation that explored the negative representation of teen mothers in the media and the juxtaposition of this image with the reality of their lives (Blumberg & Walkowiak, 1997; Fields, 1997). Other programs, such as *Wisdom Project*, founded in 1991 in a women’s shelter in Sacramento, California, serve women who are homeless, mentally ill or in drug and alcohol recovery programs. The mission of the *Wisdom Project* is to provide an environment in which “women can experience self-worth and dignity” and are “strengthened to shape their own lives...to break free from patterns of oppression” (Shiffer, 2000) by using art as a means of self-expression and self-reflection. The successes of these programs and others like them illustrate that art can provide a vehicle for gaining a sense of self in relation to personal experiences including interactions with others and interaction with society (Wolper, 1995; Davis, 1997; Shiffer, 2000).

### **The success of “art for moms”**

Initially, we postulated that particular forms of art and the use of some contemporary artists and their works could help the women in this shelter learn to view themselves and their experiences as central to knowledge, rather than positioning their knowledge as on the margins and not valuable (Desai, 2000). We used the artist Frida Kahlo and her work as an example of non-mainstream art that depicted women’s experiences and placed women as central to the creation of knowledge and wisdom through experience.

Kahlo, a Mexican woman, suffered a tragic accident as a teenager that left her crippled and with chronic pain for most of her life. Her fame as an artist and popularity within the American art scene was relatively modest, with most of her notoriety stemming from her publicized marriage to famous artist, Diego Rivera. Rivera was able to establish a public identity in the arts through his flamboyant style and his work on commissioned murals in public spaces in America. Kahlo’s artwork, on the other hand, was more intimate, intrusive and revealing. Often categorized as a Surrealist painter, Kahlo’s work is heavy with symbolism that is personal, cultural and political. She dared to reveal the pain and humiliation she experienced as a woman, intensified even more by her inability to bear children as a result of her accident. She also identified strongly with her culture, adopting traditional Mexican costume as her usual mode of dress and including both native Mexican iconography and Catholic symbols in her work. Her paintings disclosed her vulnerabilities, particularly in reference to physical frailty and her knowledge and acceptance of her husband’s flagrant infidelities. When her work and life story was introduced to the women residents, they were immediately drawn to her dark looks and daring self-portraits. They were also fascinated with the details and tragic circumstances of her life and the manner in which she depicted these events through her art. They hungered for explanations of the

personal symbolism that she created, and the ways that these symbols described or reflected her experiences (Lindauer, 1999).

The parallels that exist between Kahlo's life and the lives of the women residents became more and more apparent as the project progressed. Her work was chosen as an introduction to narrative artwork and the use of visual symbolism as the women were encouraged to use art to tell stories about themselves. Because Kahlo's work is primarily self-portraiture, it lends itself to self-valuing and permits certain levels of self-absorption. Her image and ethnic identification gave certain authority to the women as members of marginalized groups to talk freely about these identities as they created depictions of their experiences based on the self. In contrast to the discourse sanctioned at the shelter, the language and practices in this instance valued self and viewed the self as a subject of worthy cause and scrutiny.

The connections made between the experiences of Kahlo and the lives of the women proliferated as time went on. The women residents begin to bridge commonalities of gender and oppression between themselves, us, Kahlo and the other women artists we introduced to them. The women viewed works by Georgia O'Keeffe, Meret Oppenheim, Judy Chicago, Betye Saar, Faith Ringgold, Valerie Maynard and others. These women artists are/were marginalized in a discipline dominated by White males and supported by wealth. The personal became more political for the women residents as they learned to decipher meaning from the artwork of these women, hear the stories of their lives and connect events and symbols to their own experiences and understandings. Thus, the use of Frida Kahlo and others lead to some opportunities to understand societal constraints and the relationship between societal beliefs and image of poor women, racially and ethnically marginalized women and their children. Women artists and their work became significant in the introduction and execution of each project as the residents made connections between the life experiences of women artists, women's role in the arts, the social issues relative to women and their own experiences of oppression and misrepresentation.

Eventually, the class created several projects. Most were self-expressive and self-exploratory. In some classes, we used materials with a sense of immediacy, such as pastels, to encourage a spontaneous, abstract statement of emotion. Narrative work expressed happy or sad memories. Some of these were painful and others laced with celebration. One woman's narrative drawing of a happy memory was a self-portrait that depicted her, naked and serene, holding her infant son. About this drawing she said, "I don't know where I would be right now without my son." Other works included several collages that praised the beauty of particular personal physical attributes (such as one composed of photographs demonstrating Black hairstyles, or another that highlighted pregnant bodies as represented by women artists integrated with photographs of the pregnant women in the class). Other images that held particular meaning in the expression of anger, which was greatly suppressed in

this setting, were revealed in a collage of multiple sized and angled photos of the prominently posted rules and shelter regulations.

Each woman also created identity bowls. This project began after a discussion of woman as vessels whose perceived central role is one of caretaker and housewife. As such, the lives of housewives are affiliated with cooking utensils, such as bowls. These roles, however, diminish or belie the complexity of women's identities. Additionally, the symbol of a vessel can be associated with the way that the women were treated as vessels by their class instructors, having no active role in the acquisition or formation of knowledge (Freire, 1987). We discussed Meret Oppenheim's assemblage work "Fur-lined Tea-cup" as an example of the way anthropomorphic, vaginal characteristics can be used to symbolize womanhood. "The Dinner Party" was another piece introduced to the residents. In this work, Judy Chicago and a team of artisans created thirty-nine place settings, employing crafts techniques such as ceramics and stitchery that are traditionally practiced by women, to represent women who contributed to women's history (Tansey and Kleiner, 1996), thus centralizing and validating the achievements of women. The bowls made by the women at the shelter were made from papier-mâché and were painted, embellished with glitter, feathers and sequins. Each woman wrote about their bowl, explaining how the visual elements represented them.

M: My bowl represents my good and colorful personality. My bowl has bright insides and represents how I feel about being a mother and how much I love my son. The jagged edges represent the difficult times in my life, and the gleamy outside over the dark blue shows that I hide my feelings a lot.

S: My bowl is beautiful and sparkly, the way I want me and my daughter's life to be. Filled with different colors, gleaming, outstanding, and even at the dark end of that tunnel inside of you, there is a light coming through.

K: My bowl is very unique, colorful, and it stands out. It describes me as being very attractive, and how I never let anyone get too close. My inside is too precious like gold.

### **The meaning of mothering in the curriculum**

In designing the weekly class sessions, motherhood was explicitly worked into the curriculum through lessons that addressed, reflected and responded to the motherhood matters faced daily by these young women. In initial discussions with the women, before the class began, it was clear that motherhood was of central significance to them. It was also apparent that the other required classes arranged by the state did not focus on their "motherhood" in any way except to bridge the content to the seriousness of their responsibilities as

mothers or to pinpoint their failures as mothers according to the state. Most of the classes seemed to ignore their status as mothers and focused on job training, interview skills and household budgeting. Yet, it seemed to us that being a mother mattered to these women in nearly every aspect of their lives. In contrast to the state's curriculum, we chose to focus on the celebration of their status as mothers rather than on their shortcomings as mothers. We did not wish to add to the endless list of do's, don'ts and should haves that seemed to pepper the daily events of their lives. This class, unlike the others in their program, was not skill-based since manipulation of the media was a secondary concern to us. Rather, the course was designed to be a forum for the exploration of self. The experiences of the women, as informed by many aspects of their identities including motherhood, became central to the lessons.

The women artists discussed, each for a specific reason, were used to help these young mothers delve into aspects of their own identities. As such, it seemed that each project and each story of an artist's life somehow found its way back to the defining theme of motherhood. For example, in one project that grew from our analysis of photo collages, we explored the lives and work of African-American artist Lorna Simpson. Simpson's collages address issues of beauty, femininity and African culture. Based on the photo collages of Ms. Simpson (which were used to introduce the women to another woman artist of color, and to introduce the technique of collage), the women created collages using photographs and subject choices of their own. In these collages, the women included mostly pictures of their children and their pregnant bellies. Clearly, their primary role as mothers was centrally located in the delivery and experiences of this class.

In using the art materials and activities provided to them during the class, some discussion of mothering, their responsibilities, frustrations or lack thereof often resulted. The women would lament about the ways they were misunderstood or ill perceived as mothers by the shelter workers or administration, for example. Or, they would talk about the details of their day with the other women, comparing the development and antics of their children with one another. Thus, the creative work of using art in the class provided some space for the women to speak and listen to one another in a much less restricted manner.

In other ways, motherhood was discussed in relationship to the women artists introduced to them in the class. For example, Frida Kahlo's non-mothering life was of acute interest to these women. Kahlo could not have children due to an accident in her teens that resulted in a punctured uterus. Her art, in particular, delved into her unfulfilled desire to be a mother, a theme that was explored countless times in her work. This personal tragedy regarding mothering and motherhood was the basis for many discussions in the class, one of which led to a lesson on using art to convey emotion. The women recalled a happy or sad event in their lives, which they communicated in a narrative artwork. Their powerful artworks gave their memories a tangible, visual quality.

Two of the women took this opportunity to celebrate motherhood in their work; one drew herself giving birth, not to a baby but to words that expressed joy, sorrow, pride and pain. In another narrative work, mentioned earlier in this essay, a woman created a nude self-portrait in which she sat serenely, holding her infant son. These discussions of the life and work of Frida Kahlo gave the women some means to discuss motherhood as a central defining notion of women's lives, an event that allowed them to legitimize their own histories and see their roles as mothers as valid, valuable and worth exploring through art.

The exploration of multiple identities (woman, wife, lover, mother, etc) through art and the use of art for the self exploration of one's own mothering could be used in many state-run programs for young homeless mothers. Our example provides some support for the importance of and value of such celebration and exploration on the road toward self-fulfillment and the development of a strong sense of self-worth.

### **Discussion**

Homeless women and their children occupy a restricted space that relegates them to the lowest of all statuses in our society. In shelters and other sites of public benevolence, they are often denied a space of their own in which they can contest, assert and celebrate. It is within these restrictions that they are most often forced to conform and comply, to relinquish those very traits and skills that might ultimately lead them out of these dismal locales. Yet, little is known or sought after in the understanding of how women negotiate these binding spaces and little attention is paid to the complicated identities they traverse in these in-between places.

The art class we described here provided an important free space in which young homeless mothers could engage in self-exploration, reflection and shared experiences of joy, pain and community with one another. As histories and experiences were validated, voice was developed and nurtured. An emerging awareness of political realities may eventually help some of these women move from positions of self-blame to a more complex understanding of identities and image in society. This class provided an acceptable method of resistance to the prevalent discourse of self-blame, self-loathing and self-denial that pervaded this setting. For a brief moment, these women were permitted to be self-reflective and self-centered, without worry that these sentiments might betray the best interest of their children, the shelter and the society to which they must learn conformity and humility. Conversely, in this instance, their experiences and perceptions became central to the development of the class artifacts. Class meetings became one of the only "free" spaces in which they were able to acknowledge experiences and create understanding without censorship.

This study of art and art work helped the women to link personal and social identities with experiences, often highlighting the intensity and complexities of their multiple identities as mothers, poor women and women of colour. It

seemed that the experience of being “mothers” was validated for many of these women in contrast to the social roles and related discourse that was encouraged and accepted within the shelter. These roles and identities associated with motherhood emerged as a central theme of importance in the lives of these women but, importantly, was also the one area in which they felt least acknowledged and supported by the shelter staff and the larger public.

In summary, it is evident that particular ways of seeing and experiencing the world as mothers and women through the practices and pleasures made visible through the arts makes us mindful and appreciative of our own knowledge and the experiences we embody as women and mothers. When we learn to verbally express and visually depict the peculiarities between our ideas, thoughts and experiences, we learn to interpret the meanings of experiences and ideas that can lead to stronger notions of personal strengths and reveal the connections that invariably exist between the personal and political.

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**Lori E. Ross and Brenda Toner**

# **Applying a Biopsychosocial Model to Research on Maternal Health**

Many different conceptual models have been applied in research on women's health in general, and health of mothers specifically. Which model is used to approach a particular clinical or research question has important implications for health care and health policy decisions. In this article, we provide a brief overview of the biomedical, psychological, feminist, and biopsychosocial models, with particular attention to their implications for health policy.

## **Biomedical models**

The biomedical model has long been criticized by feminist scholars and health care providers. Biomedical models often pathologize women by considering male bodies to be the normal standard, and understanding differences between men and women to be deficiencies on the part of women. This is particularly true in the case of women's reproductive health, whereby biological differences in the reproductive systems of women and men have been used historically (and in some contemporary settings) to justify social control over women's bodies, including limitation of women's access to education and employment (Hubbard, 1990). The biomedical model has been used to support policy decisions which have had negative implications for women's health (e.g., legislation restricting access to contraception and abortion), whereby predominantly male biomedical practitioners have become gatekeepers of these services essential to women's physical, emotional, and social well-being (Weisman, 1997: 182).

## **Psychological models**

Many predominant psychological models are internally focused, deficit models, which take a reductionist approach to psychological functioning. As an

example, psychological theories have heralded the notion of “internal locus of control.” Individuals with an internal locus of control take responsibility for their own successes and failures, while those with an external locus of control look for external factors to blame for their difficulties. External locus of control has been associated with psychopathology, including premenstrual depression in women (Lane and Francis, 2003: 127). However, as noted by Jordan and Hartling (2002: 63), the concept of locus of control rests upon the assumption that one does, in fact, have control over ones’ successes and failures. As a result of sexism, racism, and other forms of discrimination, marginalized populations (including women) may rightly attribute lack of success to forces beyond their control. Reductionist, internally-focused models, however, would label this attribution as pathological.

### **Feminist models**

As a response to the biomedical model, and in particular to its implications for public health policy, Women’s Health Movements developed in the 1960s and 1970s (Morgen, 2002). These movements offered both opportunities for political activism/advocacy and alternative models of health care for women.

Contemporary feminist models of women’s health share several common principles including the following:

1. Women’s individual problems are often the result of the experience of living in societies that devalue them.
2. Pathology, which is defined by the dominant culture, is often environmentally induced. Likewise, what is considered “normal” is defined and maintained by the dominant culture, which is primarily composed of the middle-class, able-bodied, heterosexual white male.
3. Women and men do not have equal status and power. In most cultures, women are oppressed and in a subordinate power position. This subordinate position has negative health implications for women.
4. Contrary to theories of biological determinism, women differ from men primarily because social forces encourage differential constructions of gender. These gender-role-stereotyped constructions limit the potential of all human beings. (Worrell and Remer, 2003: 64)

Feminist models have enabled important progress in the conceptualization and treatment of women’s health issues. For example, these models have drawn violence (and particularly violence at the hands of an intimate partner) to the forefront as a key women’s health issue. In addition, feminist health activists have done critical work to improve women’s access to abortion and contraception. However, feminist models also have limitations.

In response to the biomedical approach, which has essentially ignored social determinants of health, feminist theorists have generally put forward social variables, including sex-based discrimination, as root causes of health

problems in women. However, a focus on social issues to the exclusion of biological determinants of health limits the application of these models to health conditions in which clear biological causes have been identified. For conditions where biomedical models have been of benefit in understanding etiology and treatment (e.g., diabetes, depression), models that do not incorporate key roles for biological variables are well received by neither practitioners nor patients.

Further, feminist models that do not address biological determinants of health risk silencing or invalidating the experiences of women who perceive connections between their health status and their biological state.

Finally, feminist models of health and illness in women have generally been developed for use in conceptualizing health conditions at the levels of social theory and policy. Their application to treatment of individual women patients has generally not been tested and can be difficult. Empowering women to expose and challenge the contribution of sex-based discrimination to their medical problems is often a step towards, but not sufficient for, achieving recovery. For example, alerting a woman with severe postpartum depression to the role of social myths about motherhood in her condition is unlikely, in and of itself, to result in a great improvement in her symptoms during the period when she is most suffering.

In summary, just as biomedical and psychological models can be incomplete in that they may lack acknowledgement of social determinants of women's health, feminist models can be incomplete in that they may lack acknowledgement of biological variables in women's health. A compromise between these two, often oppositional, positions is needed.

### **Biopsychosocial models**

Biopsychosocial models have been presented as an alternative to the biomedical model since the late twentieth century (Pilgrim, 2002: 589). In contrast to the reductionist perspective inherent in the biomedical model, biopsychosocial models are based upon the principles of general systems theory. In essence, general systems theory conceptualizes every being as comprised of component parts, which are themselves grouped into larger components, i.e. beginning with sub-atomic particles, which are organized into atoms, which are further organized into molecules, and ultimately organized into the "whole" person. However, even above the level of the whole person, there are further hierarchies of which the person is a component, including family, community, society, and the biosphere (Engel, 1980: 536).

A reductionist biomedical model requires that one level of this hierarchy be isolated for study (e.g., a particular system or tissue, or even the whole person). This invariably neglects the impact of external forces such as culture or society. As a result, the importance of gender as a determinant of health is virtually always ignored. The biopsychosocial model, however, proposes that the levels of the hierarchy are in constant interaction with one another. As such,

proponents of a biopsychosocial model would argue that what is happening at one level of the hierarchy (e.g., the person) cannot be understood without consideration of what is happening at other relevant levels of the hierarchy, including both lower levels (e.g., the cardiovascular system or central nervous system) and higher levels (e.g., the family or society).

What can biopsychosocial models add to research on women's health? In their application in traditional medicine, biopsychosocial models have not typically integrated any variables that are specifically relevant to women's health or gender issues. However, these models provide a mechanism whereby determinants of health that have been traditionally overlooked can be incorporated into a comprehensive framework. This framework can then be applied both to public policy and to individual patients seeking health care. We would argue that gender role socialization is one such determinant: it represents a variable which alters an individual's interactions with family and society, and as a result, has important implications for women's health. Similarly, the patriarchal structure of our social institutions is relevant to our understanding of "society," in particular as these institutions determine women's need for or access to health services. As Weisman (1997) has outlined, "gender is a fundamental social variable that affects individuals' social status, access to resources, experiences of health and illness, and interactions with the health care delivery system" (182). As such, "women-centered conceptions of health" must explicitly define the impact of feminine gender-role socialization and sex-based discrimination on women's state of well-being (Weisman, 1997: 183).

Can biopsychosocial models, then, overcome the deficiencies of the biomedical and psychological models, and integrate valuable insights from feminist models in conceptualizing maternal health and women's health in general? We would argue that yes, biopsychosocial models bring us as close as is yet possible to describing the "truth" of women's health. Biopsychosocial models acknowledge and encourage study of the biological differences between women and men (addressing a fundamental limitation of many feminist models), while at the same time drawing attention to the critical roles of social and cultural factors in the development of these differences. Biopsychosocial models provide a framework within which our theories about the impact of gender role socialization and sex-based discrimination can be practically applied to the prevention and treatment of health conditions in women.

### **An example of a biopsychosocial model: mental health in pregnancy and the postpartum period**

Depression that is experienced by women during pregnancy and in the first months after childbirth ("perinatal depression") is an example of a women's health condition that can be better understood through the lens of a biopsychosocial model.

Perinatal depression has most often been studied using biomedical models. The most popular model holds that the dramatic changes in hormone

concentrations which occur during pregnancy and following childbirth are responsible for the mood changes that women commonly report at this time. Indeed, scientific studies have provided convincing evidence that women who experience postpartum depression are more sensitive than other women to “normal” physiological changes in concentrations of the hormones estrogen and progesterone (Bloch et al., 2000: 928), though no consistent linear relationship between any one hormone and symptoms of depression has been established. Feminist scholars have criticized this model, arguing that a hormonal attribution for postpartum depression pathologizes women’s reproductive biology (Chrisler and Johnston-Robledo, 2002: 174). An alternative model proposes that perinatal depression is a culture-bound syndrome: a product of Western societies’ tendency to isolate new mothers with little family or community support, and to place little social value on the “mother” role (Stern and Kruckman, 1983: 1027). There are also data to support this hypothesis: many studies have identified a strong and consistent relationship between postpartum depressive symptoms and a lack of social support (O’Hara, 1996: 43; Beck Tatano, 2001: 275).

To greatly oversimplify, biomedical models imply that perinatal depression is a medical problem, attributable to problems with an individual’s biology. In contrast, feminist models imply that perinatal depression is a social problem, attributable to our institutions and social values. How can we reconcile these models, in the context of evidence supporting both?

One of the authors has studied mental health during late pregnancy and the first four months postpartum in a large sample of predominantly “healthy” women (Ross et al. 2004). Data on a number of potentially important biological (e.g., hormone concentrations, genetic loading) and psychosocial (e.g., social support, relationship satisfaction) variables were collected and examined for associations with self-reported symptoms of depression and anxiety.

Structural equation modeling statistical techniques were applied to the data in order to examine potential interactions between biological and psychosocial variables in symptoms of perinatal depression and anxiety. When the prenatal data were analyzed in this manner, an interesting pattern of results emerged. There was a strong relationship between certain “biological” risk factors (e.g., personal and family psychiatric history) and symptoms of depression and anxiety. However, once the psychosocial variables, including social support, were integrated into the model, the biological variables were no longer statistically significant predictors of depression. This suggests that the biological variables that were studied (including both genetic and hormonal variables) do not independently “cause” perinatal depression. However, the biological variables did make a statistically significant contribution to the model through an indirect pathway, by interacting with the “Psychosocial” variables (which included lack of social support, recent stressful life events, etc.). Using this model, then, we were able to demonstrate that biological variables contribute indirectly to the causal pathway of perinatal depression.

What might these results mean? We believe that the biological variables act to make an individual more or less likely to respond to environmental triggers, such as inadequate social support, with feelings of stress or anxiety. In other words, biological variables, including hormonal changes, are important, but can only be properly understood within a social context.

We wish to note some limitations of our research on perinatal depression. These are preliminary findings from a homogeneous group of research participants: the sample was largely Caucasian and generally well-educated. Further, the model described above for the prenatal data did not statistically account for the postpartum data, suggesting that additional variables may be important in explaining depressive symptoms during the postpartum period. However, despite the limitations, these results provide an example of the application of a biopsychosocial model to study the importance of both biological and psychosocial variables simultaneously. In order to understand perinatal mental health from a comprehensive biopsychosocial perspective, future research should incorporate measures of other possible social contributors to well-being. These might include endorsement of the “good mother” myth, feminine gender role identification, family division of child-care labor, and experiences of perceived discrimination. All of these variables can be operationalized and included in a statistical model such as the one tested in this study. In this sense, the most useful elements of the biomedical and feminist models can indeed be combined into a single, more complete model of women’s mental health.

### **Future directions for biopsychosocial models in women’s health**

At the Fourth World Conference on Women, held in Beijing in 1995, a definition of women’s health was adopted that clearly embraces a biopsychosocial perspective:

Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity. Women’s health involves their emotional, social and physical well-being and is determined by the social, political and economic context of their lives, as well as by biology. (United Nations, 1996: 667).

Although the concept of the biopsychosocial model offers a framework within which mothering and other women’s health issues can be understood, feminist theorists and health care providers have much work to do before women patients will be able to reap the benefits.

First, we must continue to expand ideas about what constitutes a women’s health issue. It is clear that poverty and sex-based discrimination are as much women’s health issues as are issues relating to women’s reproductive health, or breast cancer. We also need to broaden what we consider to be the “social” component of the biopsychosocial model to include other important determi-

nants of women's health, including political, spiritual, and ecological/environmental determinants of health. We must also continue to explore the intersection of various levels of the biopsychosocial hierarchy in determining women's health, and as such promote definitions of health that are applicable to diverse women whose needs must be met by our system. Ethnocultural variables, sexual orientation, ability, age, and all of the categories into which women can be marginalized intersect with gender-role socialization and sex-based discrimination, and must be acknowledged in order to provide a complete understanding of women's health.

Finally, we must be vigilant about the ways in which those in positions of power choose to interpret our biopsychosocial models in their health policy decision-making. As has been noted by the feminist bioethicist Laura Purdy (1996: 176), an emphasis on social determinants of health could encourage medical and legal intervention into domains of women's lives where we ought not to be regulated. The pathologizing and punishment of pregnant and parenting women who use substances is perhaps an example of the consequences of extending medical intervention into women's lifestyle choices and behaviors (Harrison, 1991: 261).

The biopsychosocial model offers opportunities to improve women's health by working both within and outside of our current health care system. The model recognizes the role for policy development to reduce and ultimately eliminate sex-based discrimination in improving women's health. It also recognizes the need for medical interventions which appropriately target the biological bases of women's health issues, while incorporating feminist principles and thereby acknowledging social determinants of health. Embracing a biopsychosocial model of women's health, we believe, requires that these two lines of work—at the level of social policy and at the level of the individual woman—be seen as inextractable from one another.

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# Folio



Photo: Ross Watson

## Editor's Notes

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...I am trying to understand something about how we dwell in our bodies, in our lives, in our loves. I am learning that I don't have to lunge toward the fleeting presence of my gone daughter; if I am quiet, in my own skin, I will register her, a singing flutter of light. She is my inhabitation.

I consider my scarred self, its laborious move back into the fullness of a life. Some descents offer you better vision, stronger lungs, more nerve. Wreckage can bless you, I am learning to believe that, wreckage can crack you open, make more space for the world to get in. Love is an awkward dance of pain & celebration, & here I am again: out of grief, singing.

—Charlene Diehl, *Out of Grief, Singing*

In this issue of Folio, the literary section of ARM Journal, I am pleased to present excerpts from the work of Charlene Diehl. Her memoir titled *Out of Grief, Singing* is an eloquent and moving elegy, an account of the birth and death of her infant daughter Chloe. Through Charlene Diehl's intimate, poetic narratives, we are brought into birth, death, mourning, grief and loss. The author offers us her deeply personal embodied experiences in a memoir that reminds us of the astonishing bond of mother to child, the folding of the child into the mother's being, a bond described by Diehl as "more potent than history can record." Ultimately, the writer shares her journey of loss in a way that assures us that after such deep grief, it is possible to feel joy and love and beauty again. As readers, I believe many of us will find ourselves in Charlene Diehl's courageous considerations of the scarred human self and its capacity to rise "out of grief, singing."

Rishma Dunlop

**Charlene Diehl**

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**excerpts from *Out of Grief, Singing***



I have come to Tom's office to look at paper. I'm feeble, struggling with post-surgery trauma & my flatbed truck of sorrow. I leaf through binders of paper, relieved by their exotic names, the polish of their surfaces. My mom is here, I'm glad of that: she is able to watch me fold up & unfold again. She seems to have confidence in me. By moments, I have it too.

I am here to invent an announcement of Chloe's death, a birth announcement that can do double-duty. Tom, I know, will make it beautiful. He aches for me, he aches for Bill, he aches for our small daughter. He's a spirited man, this friend, & today's task requires of him a complex dance: protect the mourner, approach the mourner. He's gentle but sunny; I'm relieved that he has found a way to make room for his own energies & talents. I flip through binders of paper, & keep returning to parchment: there's something ethereal, fragile, lovely about parchment, yet some density too, echoes of scrolled announcements, biblical injunctions, meticulous record-keeping by solitary scribes in some other time & place.

I've brought the inkprints of Chloe's feet, perfect prints of perfect feet, unutterably small. They signal, better than anything, the unthinkability of this place I'm living. How could any feet be this tiny? Could the fierce, spirited baby, the baby who has died, have had feet this tiny? Perfect, human feet. My daughter's feet. How could I be a mother of a child with feet so tiny? How could the wearer of these feet be dead? How could I be the mother of a dead baby? I skitter toward the feet, I skitter away from them.

I try not to think about this part: the footprints were made after Chloe died. A nurse, gentle hands cradling this lost body, washed her, dressed her,

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photographed her. She printed her hands, printed her feet. She did these things, last rites, out of respect for the feisty spirit of this baby, & for her father who stood watch hour upon hour, for her damaged mother, for the grandmother who hovered between loving the baby & attending her own daughter. I think of that nurse, there in the quiet room with my mom, the grandmother, each of them mourning the dead infant. I expect they engage in gentle talk, practical woman-talk, buttoning small buttons, coaxing cool feet onto an inkpad. Both of them marvel at the sturdiness of a body so small, both of them marvel at the finality of death. My mom, surely, holds this baby & thinks also of her own gone baby, of all that she hadn't been allowed to do or feel or say, the great weight of silence around infant death. My mom, finally allowed to visit old bruises, to offer herself & this baby the grace of attention, the human longing for dignity, respect.

I've brought the inkprints of Chloe's feet, & I'm leaning toward pink parchment. I've never been one to link girls with pink, & resolutely refused pink myself as a child—I was too proud for pink, too determinedly independent, too sensitive to the unstated equation of femininity & weakness. But now I know something else: the body of a premature baby has so little fat that the narrow arms & feet, the round belly, the ears & fingers & neck & ankles are ruddy, the deepest pink. The blood that streams furiously around the tiny body is scarcely below the surface, boiling with resolve, on an imperious mission to feed, defend, rescue. How could I choose green, or beige, or burgundy? Pink is a softer-than-Chloe color, but it's her color. She spent her days naked, wearing her skin bravely & with determination. Pink is a tough color; this is something I've learned, something I am learning.

I am suddenly overwhelmed with the enormity of this task: how can I announce the death of my daughter? Are there words for death? Tom hovers, solicitous, anxious to know how to insert his professional self into the murk of my horror at this thing that must be framed. He scans the footprints into his computer, clucks over their perfection. He listens, he leaves, I sit next to my mom & reel into the bottomless lake of sorrow. I have a pen in my hand; it, too, is paralyzed by the magnitude of the task. I weep. *I can't do this*, I say to the air, *I can't do this*. The pen writes Chloe's name, her birth date, her weight. The pen stops, I struggle for air. The pen writes, *she was a surprised package*—yes, that's exactly it. The muscles of my face pull in unfamiliar directions; I am an animate cubist painting. The pen writes, *she earned her wings in the quiet of the afternoon*. The pen marks & marks, scratches meaning onto a scrap of paper. The woman holding the pen careens away from her breath-holding agony.

Tom returns, gently takes the scratches & enters them into his computer. He moves the perfect feet around, a bodiless dance, finally sets them at the bottom of the page. The text bends & curves, makes a lifepath of six days. I remember to breathe again, drop into the relief of having spoken the untenable truth that has become my present self. I am the mother of a dead baby. I will send this beautiful note, this pink parchment with its bravely dancing feet, this

missive of birth & death. I will send it & send it. Every mailbox will carry traces of the cubist woman; each reader will feel the shudder of shifting planes. Their hands will quiver, just slightly, holding this parchment shard of terror with its words that spell a life. The promise of death for each of us, the promise of beauty.



I'm jittery. For the first time in my life—in my conscious life, anyway—I'm in an operating room. It's cold in here; at least I'm cold. I'm nervous, too. What will it feel like to have a baby cut out of me? The room is white, bright, cluttered. Denise, one of my nurses, bounded into my room late this afternoon, announced that they'd found a slot for my emergency surgery at 6:30; she's relieved because she won't have gone off-shift yet, & can attend at the delivery. I have no idea if I met her yesterday when I arrived, or today; my sense of time is scrambled. Right away I felt something solid in her, something that cut through the surreal haze of this experience. Perching on the edge of my bed this afternoon, she detailed the steps in a caesarian birth: spinal block anaesthetic, incision, hurry the baby into the care of the waiting neonatal team, attend to the mother. She is clear, offers detailed descriptions. She doesn't pretend there is no risk, no pain, no terror. She expects I have the resources.

I do. I am jittery, but I'm focusing on my tasks. I have to stay calm, I have to stay calm. In a way, it's all I can offer my sick baby. It's precious little. Teetering on the lip of this enormous event, I'm determined to be present. I'm relieved that Denise will be there; she feels like an ally, someone who sees through the complicated panic of this situation & finds *me*, a woman with fear, a woman with resources. We smile at one another, breathe the same air.

Now here I am, in the operating room with its bright lights, its million unnameable instruments. The anaesthetist, gentle & funny, helps me heave my legs over the side of the bed. He asks me to hunch my back & stay perfectly still. This part, I know, has its risks: all those prickly vertebrae evolved for a reason. He will ease his long needle between the bones, through the outer sheath & into the cord itself, numb sensation from mid-body down. A spinal block, it's called. I shiver with the chill of nerves, remind myself to breathe, whisper *I can do this, I can do this*. This is my mantra, my participation in this inexorable story. The anaesthetist hums country songs, absent-minded. The room is silent while he prepares. Then Bill coos softly; his voice lifts me into my courage. I open my back, hunching myself down & over the inflated ball of my womb. Suddenly I am present to my grandmother, her dowager's hump a message I'd never been able to read while she was alive. My grandmother: mother of thirteen, graceful in poverty & difficulty, a woman of generosity & fortitude. I push out my spine, feel myself connecting in an unfamiliar way to my mother's mother, to my mother, to the mothers. Our bodies at the mercy of forces we'll never quite comprehend.

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The drug slides in, I'm rolled back & strapped onto the bed. I'm relieved by the straps, to be honest: I can't imagine balancing on this sloping surface; I've lost the ability to shift my weight. I can't feel myself. That's not true: I feel huge. I laugh up to Bill: *my legs are enormous, elephant legs. Can you see from there?* He's at my head, determined protector, steely with intensity. He rests his hand on my shoulder, peers over the curtain that drapes across my chest.

The cast for this drama is in place; behind that curtain, act one is about to begin. I breathe awkwardly into the oxygen mask, gaze up. Denise is at one side, Bill at the other; the curtain divides me from the unfolding drama. I can feel pressure on my abdomen: *the incision*, I think. I'm uncomfortable, but I don't feel pain. One arm is folded across me—that's the way I've been arranged—and the blood pressure cuff wrapped around my folded wing inflates frequently. Each time it puffs up, the holes from yesterday's blood samples strangle & throb. I'm irritated by these intrusions; they distract me from the real event. My chin begins to wobble violently, knocking my teeth against one another. I make an effort to relax myself; the banging stops, then starts again. I'm frustrated: obviously I'm not managing my nerves. Denise bends over, asks me again how I'm doing. *I can't stop my teeth from chattering*, I say, apologetically. She smiles, squeezes my shoulder: *that's the drugs speaking*, she says, *you can't do anything about that*.

She & Bill are increasingly absorbed in the process beyond the curtain. Later, Bill will say proudly that he's one of the only people who can say he loves me inside & out. *The layer of fat just under the skin is like a string of pearls*, he will say; I will be both repulsed & grateful. The abdominal pressure is taxing, perhaps because it is so abstract; I can't tell what is happening, or even where. I'm surprised by the whoop of excitement as the baby—a tiny girl—is lifted from my body. A huge hand holds her near my face for a brief moment before whisking her to the warming table & the ministrations of the NICU team. She has pre-dawn eyes, deep blue & clear. She takes my measure as I take hers. We gaze across the gulf of air & challenge, assert our collective will. Both frail & tough, she is an ordinary miracle: a newly-minted human. She is my daughter.

I laugh & cry, the world careens off its moorings, time stops to mark this arrival. My laughter silences, for a moment, the violence of my rattling teeth, the wheezing of the blood pressure cuff, the orchestrated traffic of the many workers here. Bill has followed the baby's magnetic trail; alone, strapped to this strange narrow table, I am released into my awe. A birth.

Denise leans down, quietly explains the post-birth tasks: removing the placenta, repairing the incision. The pressure is suddenly excruciating, I am nauseous from the heavy hands digging & digging. I think I might cry; I am small & sniveling, unable to tolerate these last intrusions. I am worn out.

In the recovery room, Bill & I gaze at the Polaroid photo of this beautiful baby, awed by her steady gaze, the small rose of her lips. Denise, scrubbing alongside another nurse, remarks on her mouth, on the woolly halo of hair, the balance of her features. We are drunk on the photo. We look & look, try to

imagine that this being, this extraordinary wee soul with her hat perched askance, has made us a family. There's a carnival feeling in this room, clatter of nurses & running water, joyful chatter siphoning away the tension of the surgery. I am aware of the oddity of a small bed parked in a large room, but the swirl of quiet voices & ordinary activity counters the peculiarity of being *a patient*, & distracts us all from the pervasive worry about the fragility of this new being. The nurses ask what we will name her. *Chloe*, we say with absolute confidence. She arrived wearing the name we'd imagined; we will only come to know later how unusual that is. Bill & I confer, then ask Denise if Chloe could have her name too. She blushes, sputters her surprise. *Chloe Denise*, our perfect baby. Later I will discover that we've settled on names which mark out the reach of growth & chaos, the body in the world. Chloe, a *green shoot*, issues from Demeter, the goddess of the green world; Denise winds back into Dionysus, god of wine & revelry. It's a tall order, to fold growth & dissolution into a small body. Then again, it's the tall order we all face, the human challenge—painful, exhilarating, a whirl of flesh & dreaming.

Denise slips a needle into my intravenous line. *Morphine*, she whispers, *drug of choice. I'll check on you in a couple of days, when I'm back on shift. Rest & mend. I'm so pleased: you have a daughter!*



My room on the ward is an arbor, the thick smell of lilies & roses a curtain nurses must pass through. Everyone remarks: *the flowers, the flowers here are amazing*. They are. When I can muster the stamina, I am swamped with gratitude for our friends & colleagues, & for the florists who lovingly gather & group these blooms. Close by, I keep the vase of large white lilies, their smell less funereal than celebratory for me—my wedding memories are saturated with lilies, the smell of joy. I am awed by the extravagant simplicity of this cluster of white blooms. Shooting stars speaking to a life that's here & not quite here, mysteriously available & yet beyond us. In my room are roses, too, a burst of sweetheart roses, perfect ivory buds & blossoms, & daisies & mums & freesia & whispery things I don't recognize. Every flower has been cradled in someone's hands: each one has been chosen specifically, & placed into visual conversations that require no words from me. They speak, & I am released into the quiet of my listening.

The nurses remark on the flowers, & the rare times I leave the room I am struck on re-entry as well. The visual glory of it all, but even more, the earthy smell, subterranean messages for my primordial brain. Mostly I am confined here, in the dark quiet of this bower, trying to imagine my way out of hell. I struggle to see through the blur of the headache, to breathe through the terror of this version of motherhood.

I am grateful for the flowers. They're a buffer between me & all that I can't bear. They soothe me with their uncomplicated beauty, their generosity. They

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are quietly separate from my wracked body, my anxious bewilderment over the sick baby I can't even visit. They shine in the low light of my room. They remind me of the people who've sent them, but mostly they remind me of the thick sweep of living things, the barrage of beauty & spirit that animates the world.

Flower brains are different from human brains. They know serenity, offer beauty without expectation. When the fluid stops making the climb up to their heads, they nod silently. And then they die. The ones in my room have already begun to die, began the moment they were severed from their roots, but they don't entertain notions like *injustice* or *rage*; they neither rail at nor resign themselves to the mysterious workings of the gods. They would never, in their quiet way, murmur *I suppose it's for the best or these things happen for a reason*. They never think *if only...*

As I leave the hospital after a week in the company of flowers, our social worker suggests I carry something into the house. *Nobody should come home empty-handed*, she says. She is, it strikes me, the most compassionate stranger I've ever met. I ride through miles of pain in a car with a million blossoms, all of them willing to stand in for what I cannot have. I walk up steps with white lilies, shooting stars straining for release from the plain earth. Their dusky smell tells me I'm home. I live in a body which will nod & die.



I've made it through the gate of a new year, which in itself feels like cause for celebration: when I'm startled & drenched these days by the frequent tidal waves of anguish, I can't imagine making it through the next hour. But here I am, riding home from a quiet evening with friends, riding home to my parents' place in the back seat of their car, alone in the dark. The engine drones, the car murmurs over the gravel road. This dark is the dark of my childhood: private, secure, I am riding home from Grandma's house, faking sleep in the driveway to be carried in by strong arms.

I have made it through the gate of a new year, & so has Bill, back in Ontario preparing for another teaching term; our friends have offered him a safe envelope of company tonight too. We have spoken gently toward one another on the phone this evening. Together we have gathered in the weight of the unspoken, offered our winnowed selves into the safekeeping of the year ahead. Over the next months, he will escape into the relief of structure, the relentless rhythms of teaching & research; it will cost him & it will console him. My doctor will caution me, several weeks from now: *don't overlook the therapeutic value of work*. Her counsel will haunt me, even as I flee to unmarked canvasses: a sojourn on the winter prairie, unprogrammed hours at home. I will suffer guilt for my lack of efficiency & productivity, but I am beyond the discipline of work's demands & routines. I am desperate for space; it is my way.

In the back seat of my parents' car, I can't see past this minute, & that is a gift in itself. I stretch, shift positions, wish I'd eaten less turkey. By the time

we arrive home, I have a champion gut-ache. I chew down antacid tablets, wrap a hot water bottle in a towel, perch at the big table strewn with puzzle pieces. My parents hesitate—they must be tired—then join me. It's two in the morning, the world hushed, suspended like the ice crystals in this prairie air, & we pick at pieces, three bodies that have outgrown this particular nest. Except for the pain in my belly, I am completely at peace. I grunt, sigh a bit, shift on my chair. *I remember*, my dad begins, *when I was a kid, sometimes the cows would get The Bloat*. I hear the capitals, grin to myself. I've always loved my dad's stories, their economy, their shrewd translation of particulars. I have no idea what The Bloat is; I'm a town kid, & a different generation. My mom nods, smiles lightly at the piece in her hand. *If cows get into something they shouldn't—alfalfa, or grain spilling out of a granary—they get terrible gas, it just swells them up, their bellies hard as rocks*. I think about this, press the water bottle onto my own distended belly. This is good, this is what I need. *Yeah, it'll kill 'em, The Bloat*, says my dad; *that stuff ferments in there*. In the inner monologue that parallels the story, I pause: *it'll kill 'em*. I stretch, try to breathe down into the pain. *You had to let that gas out, before it killed 'em. We used to pierce right through the hide, a knitting needle'd do it. Just poke through, let the gas out*. He places a piece into the sky.

I laugh out loud, then shudder: how much force would you need to poke a hole in cowhide? What kind of desperation? *Got any knitting needles around here, Mom?* I ask. *I could really use one*. I stretch my back to make enough room for the ache, settle into the puzzle. I'm aware of being the child of these two amazing people; I'm aware of the calm spaces they create for me here in the nest of my childhood, & of their own younger selves, the decades-old & newly-fresh grief of infant death that shapes their days as well as mine. I am aware of the adult I have become in their presence, of the new configuration of family we're learning to realize. They are grandparents to my child, a child my father has never seen. I imagine they have spoken together about her, about me, about the aching ordeal of loss & survival. They let me speak—they will always let me speak—but they don't seem to need me to speak; somehow they hold enough in their hands to make sense of where I am. They reach out, leave me room to move toward & away.

I take a fresh hot water bottle to bed, fidget my way toward sleep. I doze, then wake. I get up, head to the bathroom, return to bed. I'm gasping, sweating, struggling with the discomfort. Mom materializes beside the bed—summoned by sharp hearing or intuition, this is my child-universe—& wonders if we need to head to the hospital. I hesitate, hobble to the bathroom again, decide *yes, yes, I need help*.

New Year's Eve, halfway to dawn, & I'm in the emergency department of my parents' small town hospital. Nurses flurry around, call the doctor to come; many of them know the shell of my story already, & they're anxious to bring what ease they can. I am nearly blind with the pain: a belt cinches around my rib cage, robs me of breath & voice. I hunch up on all fours, grimacing. The belt

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tightens. I'm a cat, or a bloated cow. Or a woman in labor. I suddenly see it, am stiff with embarrassment: how could I have come here, crippled by a dream of labor? I can hardly bear myself.

The doctor arrives, burly & affable, asks me to describe what's happening. I choke out bits of information—spasming diaphragm, acute pain—& bits of story—pre-eclampsia, baby death. He digs his fingers under my diaphragm, searches behind his eyelids for insight. A shot of Demerol, a dose of muscle relaxant, gradual easing of symptoms. Acute indigestion, that's what he supposes. He returns to his sleep, I curl toward my mom.

Before they can move me to the room I'll stay in tonight, I am overtaken by another bout: my face pulls out of shape with the pain. Mom catches my eye, laughs, then sobers: *I thought you were making a face*, she says, *that would be like you to make a face*—My belly shudders, taut, beleaguered. *I am trying to have a baby*, I think, *I am trying to have a baby*. It humiliates me to witness this misguided will, my body's determination. I sit in a hot bath, delay the next dose of Demerol as long as I'm able; I don't like the thickness that blankets down on me after I take it, the disorientation, the paranoia. I add & add & add hot water, struggle toward the dawn.

In this hospital, I will spend a night & day, be released, then return. My nurse will bet that I have gallstones; the doctor will shake his head, unpersuaded. In a few days, the ultrasound will confirm the nurse's suspicion—*your gallbladder is full of gravel!* the specialist informs me—& the nurse will collect a ten-dollar bill from the laughing doctor, right in my room. Pregnancy hormones, I discover, often rev up a sleeping gallbladder, a ridiculous design flaw. After that I will live for weeks on such a restricted diet that the day I introduce fish into my clear soup, I think I will faint from the flavor. Six weeks later, I will lie in another hospital on another gurney, prepared for the drug doze that will let a surgeon poke holes to remove the offending organ. It will not escape me that I am losing this small, useless thing almost exactly on Chloe's due date, but I won't speak of it for fear of hurting myself. I will walk through the end of winter watching scars deposit their thick silver over all the holes the knitting needles poked to save a body's life. Each night my husband will buff those scars with his tender mouth, buff them until they shine.



In southwestern Manitoba, the trees aren't tall & stately. Children in stories made their way through *woods* or *forests*, but we had *bush*: tough, narrow aspen & birch stretching skyward, with dogwood & hawthorn underbrush to impede the passage of all legged beings. In southern Ontario, I discovered, trees tower overhead, & you can prowl the forest floor in search of trilliums & trout lilies; in the fall, the green islands turn a spectacular scarlet. My bush, tangled & determined, turns yellow, only yellow. The leaves clatter, increasingly desperate, then suddenly disperse, leaving their branches shivering in the cold

air.

In the back seat of my parents' car, a few weeks after Chloe's death, we're driving through the bush. It's winter, the sky an impossibly blue backdrop for bare branches. I'm trying to think—of anything, really: my mind is apparently frozen, stretched taut like the sky of my childhood. I am present & absent. I stare out of the windows, relieved to be unhitched from the life that must be going on without me. I'm not at work, I'm not at home, I'm not writing or reading or talking. I'm in the backseat of my childhood, considering the bush.

Today, each branch is a startle of hoarfrost. On the prairie, we don't see a lot of mid-winter hoar frost; perhaps we don't have the suddenly moderate days that pull glitter out of the air, or perhaps the air is simply too dry. When I was a child, my mother would sing us out of sleep on a day like today: *it's fairyland!* Her delight would carve through sluggish brains, we'd lunge toward the window to check for ourselves. The place I live now is no fairyland, but the brilliance today is something beyond beauty, something beyond astonishment: it compels me to hold it in my eyes. Branch upon branch, my scrubby bush is furred with crystals. It's cold, it's clear, it's bluntly ravishing.

A lift of sparrows—dull brown, nondescript—suddenly materializes above the treetops, stark against the blue. A ribbon of movement, they traipse haphazardly after an accidental leader, resettle in another tree. *Who begins?* I wonder, *who knows who to follow?* I am drawn into their story, watch them lift & settle, lift & settle. They flurry across the highway behind us; I watch the shape they create together, an undulation, a thing—both whole & inadvertent—which could, at any second, disintegrate into its separate, insignificant particles. I see my daughter, released from me.

This cluster of birds, these blinding branches: I am being offered something. A lesson, of sorts, about accidental beauty, about the human wish to see meaning in every performance. About the mystery of ephemera, these small birds acting in concert. About the safety of childhood, about my own history of mourning. I weep while the birds lift & settle. Far above, a white line appears in silence, a jet unzipping the blue sky on its way somewhere else.



Time doesn't move quickly for a mourner; time doesn't really move at all. The heart—a hawk, an eddy—spins & spins around its absent wish. I play music, I listen to silence. I move from one chair to another, pick up a book & put it down again. Each day I empty the mailbox, read cards & letters from faraway friends, hear their struggle with distance, dismay, disbelief. I sit next to myself, watch the relentless desire for comfort shudder through my bones. The cards & letters warm me, but they don't reach to the middle of me; they don't interrupt my circling.

Time is suspended when you're mourning. Hours move past, but moments hang, swollen drops at the kitchen tap. The light leaves one room & wanders

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into the next, the grieving mother migrates with it, but she's still inhabiting the same moment she met this morning when her feet eased themselves out of bed for the day. She has showered, she has dressed, she has checked her email. Perhaps she has played solitaire with her computer. The day floats past, or she floats through it. Vertical time: there is no story here, no narrative to press a body from one moment into the next. A cup of tea, a pile of letters, a dream of comfort. She moves up & down in her own body, navigating a deep pit of sorrow. She weeps, often without warning, then, just as suddenly, she finds herself lifted into something approaching relief.

She can bring herself to do almost nothing. She cannot read a novel: she simply cannot follow a plot, & doesn't trust it anyway. She can stand in the shower, at home in a pounding drama that has no point, no direction. She moves from room to room. New baskets of plants dry out, wait patiently for attention; she plans to water them & doesn't, she reminds herself & forgets. Their parched voices rebuke her.

In the first weeks of sorrow, there isn't much to be done. You remember, you forget. The wish that animates your days is also a wish you may never again hold. Its eyes are closed to you, its ears deaf to your calling. Sometimes the anguish of that will cripple you, sometimes you will shake it aside & glimpse something entirely neutral, something before. Always, though, the longed-for is at the center: it tethers you to it, a solid absence, a hole, a gash, a rent. A scandal. You would do anything—or, truthfully, anything but *this*, this endless circling, this suspension, this torpor. It's vertiginous.

The inside of a cocoon is dove-grey, soft as ash. Away from the press of the world, a body hovers, inactive but not inert. Another life, a life after confinement: anything is possible.



I have come with my parents to their friends' home at the edge of the bush. Tom has offered to hitch his horse to the cutter, give us rides in the winter brilliance. My father's sisters are here, their delight ricocheting through the frozen air: they remember taking a cutter to school, one time tipping out the teacher who boarded in their crowded farmhouse. Accidentally, of course. The stories tumble & tease, transport us.

For weeks I will be two simultaneous selves: one remembers how to breathe & sleep & eat & converse, the other retreats in pain. I'm surprised by my own alacrity; I can absent myself in an instant. It always takes longer to come back.

Tom brings the cutter up from the barn. My lively aunts, steeped in a genuine love for their own younger selves, are suddenly bashful. They wonder if they remember how to clamber into a cutter, they wonder what it might mean to ride in one at a distance of so many decades. Tom grins, sparkly-eyed boy hiding inside the moustached man; the women settle into the seat.

When they come back up the lane twenty minutes later, they are pitching

their joy in all directions: they bless us with memories, with the riotous laughter of aging widows suddenly offered their youth. Aunt Alice throws her head back—I can see the tender skin of her neck tucking out of the scarf—and swallows the early dusk. She can't remember when she has been this happy. I stand still in the snow, an eager witness; I watch their faces crack open in the brilliance of what is gone. Then I am careening toward the roaring silence which partners me every minute. I grasp for the thing I see in those faces, whatever it is that imbues precious losses.

Tom helps the women out, waits quietly for me. I am almost too freighted to move. My dull limbs climb in, he chucks quietly to the horse, it paces down the snowy track. The sway of the cutter, but also the quiet, the ease, the proximity of this man I hardly know, loose me, & I fly into the late-day sky, first scatter of stars. *I have lost my baby, I have lost my baby*: chant of hooves, song of snow. I am suddenly certain that I am running toward rather than away. It's a palpable relief.

We ride in silence, half-buried barbed wire fences marking our progress toward no goal. I could ride all night. At some point, we turn around, head back to light & people & the work of contact. *Don't worry about your mom & dad*. Tom clears his throat, glances sideways to hold my eyes. *We'll be near, we'll let them speak*. I nod. A piece of me shifts into a new position, relaxes toward ease in this frozen, open space. *Do you have someone to talk to at home?* he asks. He is gentle, respectful. *You need to have people who will listen, you need that. We all need that*.

The cutter turns into the lane. I am running toward, heart broken open & ready.



This is soon after Chloe's death. In the instant of waking, I've already lost the dream, but I am saturated with the timbre of it, sombre, weighty, like Verdi's *Requiem* or the smell of hyacinths. It sticks to me all day.

I hear my voice echoing along the contours of a phrase: *the descent into history*. This is the dream's offering, an incantation that haunts me. I carry it around with me, practice it under my breath. I cannot make out what it means.

A week later, I think I've solved it: *the descent into history* is the map of my daughter's flight. Birth is a descent, the old poets explained that. A mixed blessing. I think of my intrepid traveller, finding & losing a mortal body. It's an incomplete map.

Another week passes, & another. A month gathers itself & flies away, another month, a year. I live without skin, then I gradually grow new layers, leave my cave, make excursions into the world again. I become well. I have a baby, I have another. One day, watching my young daughter perform astounding feats of 2-year-old magic for her big brother, the phrase rises, unbidden, echoes around the back of my brain. It has changed, I see, & so have

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I. It speaks to me now about my own descent, my own lowering body. I watch my children play, am struck again by the weight of this miracle, ushering them into the terror & joy of living.

These two intense beings drag me, over & over, into the absolute present moment, the complex flood of information which makes & remakes us. Together we explore the reach of affection, of passion, of desire & determination, together we agonize over the distance between a fully-bellied whale of a wish & the daily slights & disappointments which keep threatening to defeat it. We reach toward, we draw away from, we burrow, we fly, we stand stock-still. This, it strikes me, is not history: this is the perpetual, resolute, endless present.

When I retrace where I've been, though, or when I imagine where I'm going: this is the other face of parenting. Of all relationships which matter, whether with children, partners, friends, even work. Dreaming is a descent, it pulls apart the tangled skein of present moments & lowers you in, lets you follow particular strands, like a shuttle with potent magnets at each end. You gaze back, find stories to explain where you are; you lean forward, rehearse your life of days. History: a narrative soaked in time, a sensible dream.

Love places you, relentlessly, in the flurry of the present moment, the flux of feeling, the intense, expanding instant of being present to an other. I am swallowed into the company of my children, their exuberant joy, their passionate sorrow. I am there only, accompanying, overwhelmed by the pulse of my own life. Love insists that you dream it into the literal folds of the day: hands peeling an apple, checking a sleeve for the second mitten, drying a damp boy after his bath. A parent & a child cuddle under a blanket to read the last story of the day. A mother & father lock eyes above the heads of the brilliant suns at their table. Love: the force that animates each single, startling moment, sets it apart from the blur. Love: the provocation to hook those charged moments together, blast a channel through a life.

How to love an absent being, perhaps that's the question that crouches mutely, the hungry terror beneath the daily observations of grief. In the early days, it's an unthinkable dilemma: a precious dream has been stolen, the stunned self must fly & fly, a tireless searcher, & only a shell attends to the world which whispers against the body. A heart carved from a living body, the torture of loss. It's desperation, the clench of empty arms, phantom pain—it's a long way from love. Days, weeks, months, then one day, I am startled to know, with absolute certainty, that I will never be without this dreamchild, this sprite who is something more & something less than imaginary. She is folded—fully, intimately—into my being. Some bonds are more potent than history can record: a child will always have a mother, a mother will always have her child. It is astonishing.

I think about that a long time. I am trying to understand something about how we dwell in our bodies, in our lives, in our loves. I am learning that I don't have to lunge toward the fleeting presence of my gone daughter; if I am quiet,

*excerpts from Out of Grief, Singing*

in my own skin, I will register her, a singing flutter of light. She is my inhabitation.

I consider my scarred self, its laborious move back into the fullness of a life. Some descents offer you better vision, stronger lungs, more nerve. Wreckage can bless you, I am learning to believe that, wreckage can crack you open, make more space for the world to get in. Love is an awkward dance of pain & celebration, & here I am again: out of grief, singing.



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# Book Reviews

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## **Pregnancy Stories: Real Women Share the Joys, Fears, Thrills, and Anxieties of Pregnancy from Conception to Birth**

Cecilia A. Cancellaro  
Oakland: New Harbinger Publications, 2001

### **Reviewed by Amy Mullin**

When she was pregnant, Cecilia Cancellaro read widely on the topics of pregnancy and childbirth, but she found few accounts of women's experiences of these events. This book seeks, in part, to make up for the dearth of women's stories of pregnancy. In collecting the stories of 38 pregnant women, and those of several of their partners, Cancellaro hopes to give readers a sense of the diverse ways in which women experience pregnancy, birth, and the postpartum period.

The book is divided into ten chapters, each of which tells the stories of five to 12 women. The chapters are organized thematically and, along with sections devoted to each trimester of pregnancy, birth, and the postpartum period, include accounts of women's experiences of prenatal diagnostic testing, pregnancy complications, and pregnancy loss. The last chapter gives partners' perspectives on pregnancy and childbirth.

All the pregnant women reside in the United States. Articulate and self-reflective, they range in age, social class, and the number of pregnancies they have experienced. Most are married, one is single, and one has a same-sex

partner. Despite some initial ambivalence, all the women want to be pregnant.

The women detail their experiences, describe the changes in their bodies and their relationships, and their emotional reactions to these changes. Because many of their stories include accounts of physical and emotional discomfort, as well as serious complications and pregnancy loss, this volume is not intended to allay anxiety. Instead, it provides a realistic sense of the bodily and emotional changes experienced by pregnant women. It also shows that there are many ways to be pregnant; that there is no one way to be a supportive partner of a pregnant woman; that the transition to motherhood, although replete with moments of joy, is complicated; and that women find ways to cope with stress, loss, and sorrow.

*Pregnancy Stories* will appeal to pregnant women, but the book deserves a wider audience. Those who have experienced pregnancy might find that this book gives them an opportunity to reflect on their own experiences, which are rarely made public. Those who are wondering whether or not to become pregnant, and those who seek to support a partner through pregnancy, will appreciate the realistic account provided by Cancellaro.

### **Before Roe: Abortion Policy in the United States**

Rosemary Nossiff  
Philadelphia: Temple University Press, 2001.

#### **Reviewed by Susanna Jones**

Reading Rosemary Nossiff's *Before Roe* is analogous to playing a game of chess with a strong opponent who has the tenacity and vigilance to win. In the game of chess, the player with the stronger pieces on the board may appear to be winning, but one move can radically alter the balance of power—as in the struggle that led up to the winning of abortion rights. *Before Roe* is a fabulous book that traces the intense political and religious developments leading up to the Supreme Court decision *Roe v. Wade* in 1973. To make this history even more compelling, Nossiff begins by explaining the complicated and different party arrangements of New York and Pennsylvania and how abortion policy was directly linked to parties in power and interest groups that emerged. Nossiff moves beyond party and machine structures and highlights the role of competing discourses (legal, religious, medical, and moral) that heavily influenced abortion policy.

Chapter three charts the emergence of feminist groups, along with antifeminist groups, that also shaped developments in abortion law. The book is full of legal cases that trace rulings that mirror the cat and mouse game of chess. It also names and identifies key individuals in both states who were

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pivotal in bringing about the pre-Roe repeal laws in New York and the restrictive laws in Pennsylvania. The book is thrilling and suspenseful. It reads like a cliffhanger but instead of passively sitting in my chair waiting to witness the killer's next move, I read of yet another court decision or the story of the battle turned to war between the Clergy Consultation Service and the Catholic Conferences. But the fight I was reading about was taking place over my body and the body of all women.

Nossiff identifies three key results that came out of the years preceding Roe: (i) the emergence of women as key political figures; (ii) the power and federalist structure of the judicial branch; and lastly, (iii) the monumental decision of *Roe v. Wade*.

In the end, Nossiff reminds us that the abortion conflict remains unresolved. Abortion policy post-Roe has witnessed a backlash and in many states access to abortion has been severely curtailed. I read *Before Roe* as a call to action—to all women to know our history, to be aware of the contested terrain and weak ground upon which we sit, and to continue fighting for what is left of our civil liberties. The book also points to the power of broad based coalitions. Without coalitions, the gains in abortion rights would have been merely a dream, a timely reminder in today's political climate.

## **Hollywood Moms: Photographs by Joyce Ostin**

Joyce Ostin  
New York: Harry N. Abrams, 2001

### **Reviewed by Alison Bartlett**

This is a handsome coffee table book of 50 black and white glamour shots of Hollywood mothers and daughters. All proceeds from the book go towards breast cancer, which is perhaps one of the book's most redeeming features. The photographer is a survivor of breast cancer and writes in the preface that this is her gift back to the world: "a photography book about the celebration of life. And the love between mother and daughter." Joyce Ostin had an interest in photography for only three years before embarking on this project which, she suggests, involves all people she knows. If this is the case, the range of stars is quite formidable: from Madonna, Goldie Hawn, Carol Burnett, Susan Sarandon, Michelle Pfeiffer, Melanie Griffith, Joanna Poitier, k.d. lang, and so on, to lesser known actresses, show hosts, writers, designers, and partners of famous actors. All the subjects were asked, "What are the most nourishing moments you've shared with your mother or daughter?" and all answer in the most positive and loving way, of course. Often the photographer adds her impression of the love she felt in the family she was photographing.

While the preface speaks of the fear and uncertainty involved in surviving cancer, and the introduction by Carrie Fisher speaks of the tensions, flammability, flaws and intermittent difficulties in her relationship with her mother Debbie Reynolds, this is soon passed over in favour of the honeyed imagery of mother and daughter stars. Like a Hollywood production, this imagery contributes to the fantasy that there is a perfect relationship we are all seeking. There is a lot of blonde, white and lace; everyone is smiling, many of the mothers have their eyes closed or half closed in an expression of bliss; sunshine often comes streaming through the background so that the warm fuzziness of mother and daughter love is woven into the photographic technique. Why are there no photos of mothers and daughters in cold environments, being icy to each other, or in wild, disgraceful positions? Because this is an extension of Hollywood and the reputation of its stars as mothers and daughters. Mothering and daughtering, however, involves much more than this book represents, as it once again reminds us mere mortals how inadequate our relationships are in comparison to those offered by Hollywood.

## **Writing in the Feminine in French and English Canada: A Question of Ethics**

Marie Carrière  
Toronto: University of Toronto Press, 2002

### **Reviewed by Jill Scott**

In *Writing in the Feminine in French and English Canada: A Question of Ethics*, Marie Carrière invites her readers to imagine an ethical space of intersubjectivity and, guided by five poets, dares us to dream alternative material possibilities and negotiate new ways of being beyond the limitations of fixed notions of gender and sexual difference. In this beautifully written and exquisitely crafted book, Carrière fills a significant scholarly lacuna by treating the experimental poetry known as “writing in the feminine” or “écriture au féminin” by writers in both English and French Canada: Nicole Brossard, France Théoret, Di Brandt, Erin Mouré, and Lola Lemire Tostevin. The project transcends the barriers of linguistic and cultural differences to chart a much-needed literary history of a particularly charged period for feminist poetic production from the seventies to the early nineties.

Much more than a critical introduction to these poets' works, *Writing in the Feminine* proposes a theory of relational ethics based on the philosophy of Emmanuel Lévinas, Paul Ricoeur, and Luce Irigaray. Carrière is justified in her choice of theorists since the poets in question have all been informed by post-structural thought and often self-consciously invoke their influences, which

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also include Julia Kristeva and Jacques Derrida. At times challenging in its dense philosophical analysis, the chapter entitled "Writing (as) a Feminist Ethics" teases out the intricate conceptual links between the theorists in question, and demonstrates how Lévinas's challenge to metaphysical ontology and his ethics of alterity finds resonance in Ricoeur's relational ethics and Irigaray's ethics of sexual difference.

With this framework in place, Carrière embarks on sophisticated readings of her poets' works, beginning with the concept of the maternal and mother-daughter relations in Brossard and Brandt. The maternal implies not just motherhood *per se*, but a signifying and socializing space where differentiation between same and other first takes place, the starting point for a model of relational ethics based on intersubjectivity. Writings in the feminine go beyond the essentialism of biology and show the constructed nature of the body in its socialized materiality. Carrière achieves a rare balance here between patient, close readings of poetic texts and a constant awareness of the larger implications of these works in the political and social, but also literary historical arena. Significantly, the author recognizes the importance of "respecting the undecidability and openness of texts," and resists the temptation to tie up the loose ends her poets have so carefully left dangling.

Other chapters treat the themes of hysteria, mimicry, language, and corporeality, but Carrière is perhaps at her best in the final chapter entitled "An Ethics of Love," where Brandt's, Mouré's, and Brossard's poetry affords an opportunity to ponder love, friendship, and spirituality as part of an ethical experiment. While this foray into the mystical nature of bonds between women is arguably the most inspiring toward a feminist ethics, this is where Carrière is most concerned to question the utopianism of her poets' endeavours. She stresses the "material possibility" of ethical exchange (quoting Jessica Benjamin) but cautions against predetermined realization. Recognition of the other is where ethics starts, but this recognition should include the notion of breakdown. The failure of relationships, be they mother-daughter bonds, friendships, or other relations, is inevitable. What is important, says Carrière, is that in spite of these tensions, conflicts, and disappointments we dare to wish for a veritable ethics.

## **Mothering the Self: Mothers, Daughters, Subjects**

Steph Lawler  
New York: Routledge, 2000

### **Reviewed by Nancy Gerber**

In *Mothering the Self*, Steph Lawler poses the following questions: What does

it mean, in late twentieth century early twenty-first century Euroamerican societies, to be a mother? To be a daughter? How are maternal and daughterly selves produced? To address these issues, Lawler, a lecturer in sociology at the University of Durham, examines the first person accounts of 14 white working-class and middle-class women whom she interviewed individually and collectively in 1992 and 1993.

Lawler contextualizes her argument at the intersection of several debates on the social construction of selves in Western culture. Noting that the Western “self” is understood as unique, bounded, rational, autonomous, and stable—a model inscribing the male-gendered subject—Lawler observes how psychological discourse has defined the self as that which is produced by the mother’s mothering, and the social order as an entity composed of “well-adjusted selves.” Thus, the figure of the mother is overdetermined in her embodiment as producer and guarantor of the ideal democracy, an argument familiar to readers of *Democracy in the Kitchen* by Valerie Walkerdine and Helen Lucey (1989).

Lawler’s work also refers to D. W. Winnicott and Nancy Chodorow. In contrast to Freud and Melanie Klein, Winnicott focused on the mother of an infant’s lived environment rather than on an intrapsychic projection. Winnicott believed that the mother is innately, uniquely equipped to meet her developing infant’s physical, emotional, and cognitive needs. Lawler points out that while his concept of the “good-enough mother” appears attainable, it is predicated on the insistence that the mother be completely attuned to, and absorbed by, the needs of the child. This stance of “sensitive mothering” demonizes working class mothers, who have neither time nor resources to devote to it. Lawler then turns to Nancy Chodorow, who theorizes that mothers tend to see their sons as more separate and their daughters as more alike. The mother’s different reaction reproduces gendered personalities in which boys learn to value autonomy, fear connection, and seek dominance. Girls yearn for the early sense of unity experienced with their mothers, which they can attain only by mothering daughters. Lawler observes that Chodorow’s argument has been read by many feminists to pathologize mothers, who project their unsatisfied sexual desire onto their sons, and to privilege fathers, who are necessary to disrupt the mother-child dyad.

The book considers mothers and daughters rather than mothers and sons, not because mothers are insignificant in the lives of sons, but because mothers and daughters are understood to share a closer social and emotional identification, and because a woman may simultaneously occupy the “mother” and “daughter” positions. Lawler wonders whether mother and daughter inhabit the same body and whether they are the same person, speaking with two voices, a question also raised by Marianne Hirsch in *The Mother/Daughter Plot* (1989).

Lawler’s contribution lies in her contrapuntal use of mothers’ first-person accounts. The 14 working-class and middle-class women interviewed range in age from 38 to 55. In response to a question about the usefulness of baby care books, one mother responds, “I was quite annoyed and amazed at this image [of

maternity] they were putting forth ... of the pretty little cottage and this glorious experience." When asked about identity, another mother responds, "You've got to be able to provide yourself with some kind of nurturing ... so that you can get refreshed." As I suspected, feminist maternal theory emerges from maternal scholars' openness to mothers' voices, because the dominant culture has turned a deaf ear to what mothers have to say.

## **The Bitch in the House**

Cathi Hanauer, ed.  
New York: Morrow, 2002

### **Reviewed by Michele Pridmore-Brown**

*The Bitch in the House* presents an eloquent barometer of professional/writing women's domestic lives at the beginning of the twenty-first century. Editor Cathi Hanauer writes in her preface that the book is born of anger (hence the title), but anger seems largely absent from this collection of essays by 26 highly successful women writers, including *New York Times* best-selling authors and Pulitzer Prize-winning journalists. Aside from the science writer Natalie Angier, a self-described feminist warrior, the tone is postfeminist: musing rather than strident; resentful at times, rueful at others; sometimes sassy; sometimes revelatory; often rationalizing as in the case of an anonymous writer who meticulously tallies the costs and benefits of an open marriage.

Perhaps this constitutes its radicalism: the singular angel of the house identified by Virginia Woolf as the *sine qua non* of Victorian patriarchal culture has not so much been transmuted into a bitch but into a cacophony of voices that, in disparate ways, muse over the burden and promise of freedom from pre-scripted lives and pre-scripted gender roles. Cynthia Kling, for instance, describes the antithetical pulls of the marriage contract and eroticism. Some contributors lament their romantic choices—co-habiting with laid-back spongers, for instance—while others praise the enabling qualities of long-distance relationships. The writer Daphne Merkin ultimately opts for the risks of loneliness over those of intimacy. Twice-divorced Karen Karbo points out the risks of entering uncharted territory: of being "not just the cow with the milk, but also the farmer with the money to buy it." Helen Schulman poignantly describes being caught between the equally visceral demands of ageing parents and young children, her husband tellingly relegated to a spectral role in this conflicted drama. At best, the women have a modicum of control over the messiness of their lives, over the competing claims of work, love, and family. None, however, would exchange the mess for the domestic straitjacket of their foremothers.

Ellen Gilchrist, the oldest contributor at 64, who, unlike the others, did not take her writing seriously until age 40, after she had raised four children, makes the prosaic yet important observation that happiness begins with good health. Indeed, all these women's lives are in some sense predicated on the biological fortitude necessary to wrest a professional life from the entropic vicissitudes of too-short nights, of too little time, of too many demands. To be sure, aside from Gilchrist, those women who do have children delayed having them until late—and then had only one or two. Like most successful professionals, they established their careers first (in the case of Schulman, producing four books before a first child at age 35)—and only then entered the trenches of the work versus family fray, in which, as Gilchrist again puts it, guilt is too often the “nuclear weapon” and “mutually-assured destruction” the aim.

E. S. Maduro, the youngest writer at 24, humorously describes her outrage when, for the first time, gender stereotypes trumped the kind of gender equality she thought fundamental to her relationship with her live-in boyfriend: upon visiting his parents, she found herself relegated with his mother to the kitchen, washing dishes in seething silence while her boyfriend tinkered on the piano. For many of these women, as for most of the Occidental world, gender relations have not kept pace with the advances of feminism. Most women, as surveys relentlessly indicate, still end up doing more than their share of housework and diaper changing. In short, the job of nurturing others, whether ageing parents, young children, or a sick spouse, still falls disproportionately to women, no matter how professionally successful. The career costs are potentially huge, but Laurie Abraham actually describes feeling resentfully bereft when her husband does more than his share of nurturing their two children and so receives more than his half of their affection! Abraham herself is well aware of the inconsistencies revealed by her resentment.

Marriage, observes one young contributor, is a Faustian deal. Merkin writes that “little girls in [her] day were bred to dream Wife dreams and ... still do, give or take a few adjustments.” Certainly, many of the contributions, to this reader's surprise, bear this out. For Merkin herself, marriage ends up being a flimsy defense against existential loneliness. For Kerry Herlihy, who chooses to raise a child in a multi-generational house and dispenses with marrying the father, who in any case already is married, marriage is not economically, socially, or emotionally advantageous, let alone feasible. Marriage is merely one option (or non-option) among a panoply of options; single motherhood by choice is another. Nonetheless, whether marriage is mere artifice or a real bastion against loneliness, the human need for connection is still, for many of these post-feminist women, encapsulated in the marriage plot: whether as poignant absence or as conflicted presence or as social/emotional compromise. One contributor, writing under the pseudonym Hazel McClay, writes that, at 36, she chose love over passion: a man in the heart over passionate sex. She could not, she writes, have made the same choice at an earlier age.

The most poignant contribution, entitled “The Fat Lady Sings,” makes a

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mockery of Daphne Merkin's contention that marriage is "the only practicable game in town for most of us." The Fat Lady, aka Natalie Kusz, is the foil to all women who revel in their sexual capital. By virtue of her girth, she exists outside the economy of desire and, as such, is written out of the game. Her girth forecloses the kinds of choices and intimate connections available to so many of Hanauer's other contributors. On the other hand, the fat lady *can* sing, as the title indicates: she is no longer just an object, a fat body taking up too much space, in other people's realities. Her writing voice, her very subjecthood, is a vital force. Indeed, despite an emotionally-deprived poverty-stricken childhood in Alaska, and the vicissitudes of very young teen-motherhood, she is economically self-sufficient and professionally successful, as her inclusion in this collection indicates.

One of the limitations of this collection is the absence of lesbian voices, despite the fact that lesbians are increasingly invested in the family-making enterprise. In Vermont, they can marry. Many are choosing to reproduce. Many are deeply embedded in the family versus work dynamic and their family arrangements model for the rest of us a more equitable division of domestic labour. The book is not about otherness, however; it is about heterosexuals, normative types within the professional class, the placeholder for the former angel of the house. It offers up a collective computing of the costs and benefits of feminism for this professional, highly educated class of women. To be sure, while the volume clearly comes out on the side of the benefits, a generous dose of therapy sessions appears, for some contributors, to be the flip side of choice. Angst aside, however, power over the future (over the re/production of the species, over family formation, over societal norms) has clearly shifted to these women. What they have sacrificed is time-for-self, but as Hanauer writes in her preface, she would choose her life again—the stresses of having it all, love, kids, and career—in a heartbeat.

## **Giving Birth in Canada, 1900-1950**

Wendy Mitchinson

Toronto: University of Toronto Press, 2002

### **Reviewed by Deborah Davidson**

Historian Wendy Mitchinson's *Giving Birth in Canada, 1900-1950* inspires the sociological imagination. Her book documents the history of giving birth in the first half of the twentieth century, a little examined period of childbirth history in Canada. During this time, childbirth—at home or in hospital—came under the increasing control of the medical professions. Mitchinson acknowledges feminist arguments that focus on the ill-effects of medicalization and the search for women's agency in childbirth. She focuses, however, on the medical

professions in Canada and recognizes that “reproduction was (and is) in part socially constructed and that it tells us much about the culture in which it occurred” (7). She seeks to analyze “the structure of medicine rather than the motivation of individual physicians” (10), and to identify and elucidate the ways in which “medical practitioners examined issues, saw problems, and described what they did” (10). Through incisive analysis, Mitchinson records the history of childbirth in Canada.

Mitchinson situates women and obstetric practice in historical context and describes how women in childbirth were treated by physicians. Her data includes document analysis and interviews with women who gave birth and the physicians who practiced in the first half of the twentieth century. Although Mitchinson recognizes that the women and their physicians were unequal in power, she reminds the reader that women were not without agency. Women regularly did not comply with the medical view that prenatal visits were necessary, and often they sought information from experts other than their physicians. Mitchinson attributes women’s resourcefulness to the exigencies of their responsibilities. Moreover, as physicians were subject to legal and normative constraints, neither were they completely autonomous. Yet it was women’s organizations, Mitchinson tells us, that favoured medicalized childbirth as it represented safety in the face of high maternal mortality during the first forty years of the twentieth century. Awed by modern medicine rather than individual physicians, women sought the relative safety offered by modern obstetrics.

*Giving Birth in Canada* is accessible and thoroughly researched. In linking childbirth as experience with the medical profession as institution, Mitchinson’s historical account provides fertile ground for what C. W. Mills calls the sociological imagination, a place where biography and history meet.

### **Nursing Mother, Working Mother: The Essential Guide for Breastfeeding and Staying Close to Your Baby After You Return to Work**

Gale Pryor  
Boston: Harvard Common Press, 1997

#### **Reviewed by Rachel Westfall**

*Nursing Mother, Working Mother* reminds readers that breastfeeding is the healthiest, simplest, and most economical way to nourish a baby. In Western societies, many women take time off from their careers to give birth, and must soon find a balance between mothering and work. Through confession and

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conversation, Gale Pryor—herself a working mother—makes a case for continuing to breastfeed after returning to work. She describes the health benefits of breast milk and identifies its unique qualities, but the underlying message of this book is that breastfeeding reinforces the bond between mother and child after a hard day's work. This is in keeping with the “attachment parenting” philosophy that permeates the book. Pryor advocates baby-wearing and co-sleeping, two key elements of attachment parenting. She explains how to carry a baby in a sling and describes the benefits of co-sleeping, although she neglects to give guidelines for safe co-sleeping.

Pryor presents breastfeeding and attachment parenting as tools for maintaining a secure relationship between mother and baby when they must be separated for hours each day. As she notes, mothers always have worked. In many other cultures, small children accompany their mothers as they work. What is unusual in our culture is that “we must be separated from our children while we work” (13). She describes the workplace with which she is most familiar—the world of business—and discusses the problems women face when trying to reconcile their pre-existing identities as professionals with their new identities as mothers. Pryor offers many practical solutions, such as visiting the office before returning to work to find a suitable place to pump breast milk. She briefly and inadequately describes manual expression of breast milk. She gives excellent advice, however, on how to use manual and automatic breast pumps, and how to store and handle breast milk.

Other tips in this book are as diverse as guidelines for choosing a daytime care provider for your child, and how to stop a let-down with your forearms to avoid having a wet shirt. The book offers the lay advice of one mother speaking to another. As is typical of lay advice, Pryor rarely ventures outside her own sphere of experience. In passing, she suggests the possibility of bringing one's baby to work, or having a care provider bring one's baby to work to be nursed.

By no means comprehensive, this book speaks clearly and empathetically to the reader and empowers the working mother to maintain a breastfeeding relationship with her baby. *Nursing Mother, Working Mother* is a fine addition to the reading list of any new mother hoping to balance mothering and a professional or business career.

## **A Life's Work: On Becoming a Mother**

Rachel Cusk  
New York: Picador, 2002

### **Reviewed by Jane Satterfield**

When she became a mother, prize-winning British novelist Rachel Cusk turned to nonfiction as an appropriate vehicle for cultural analysis. In *A Life's Work*, Cusk describes “the drama of which childbirth is only the opening scene.”

Cusk's account begins with a chapter on pregnancy's "Forty Weeks" and its attendant physical and emotional difficulties: "The baby plays a curious role in the culture of pregnancy," she observes, is "at once victim and autocrat." Her larger purpose in this and subsequent chapters arranged thematically and spanning the author's two pregnancies, however, is to capture the process by which a woman is removed from "the anonymity of childlessness" and is transformed "into a mother," both "martyr and devil.... More virtuous and more terrible, and more implicated too in the world's virtue and terror."

Cusk analyzes the emotional and practical difficulties of sharing childrearing and domestic work in postmodern times: "after a child is born the lives of its mother and father diverge, so that where before they were living in a state of some equality, now they exist in a sort of feudal relation to each other." She documents power struggles with both a recalcitrant toddler and temperamental baby minders. As she reflects on the literature she reads during her children's naptimes, literature that profoundly alters her understanding of artistic expression, Cusk resists interpreting the experience of childbirth and motherhood through the lens of either archetypal life script or popular culture. Evading, and often good humoredly mocking, the well-meant but oversimplified rhetoric of how-to-manuals or the equally worn sass of girlfriends' guides, none of which adequately capture the complexities of a new mother's evolving consciousness, Cusk observes her life and thought with a novelist's dispassionate intensity, mapping the fraught terrain of postfeminist motherhood with clarity and grace.

In the nearly thirty years since publication of Adrienne Rich's groundbreaking *Of Woman Born: Motherhood as Institution and Experience*, much has—and has not—changed. When she becomes a mother, Cusk maintains, a woman "exchanges her public significance for a range of private meanings, and like sounds outside a certain range they can be very difficult for other people to identify." Cusk's ability to translate this hidden range of meanings and sounds is considerable; in her hands descriptive scenes move swiftly, surprisingly, and effectively into insight and analysis, making *A Life's Work* an essential contribution to the literature of motherhood.

## **The Selected Papers of Margaret Sanger Volume 1: The Woman Rebel, 1900-1928**

Margaret Sanger, Ed. Esther Katz  
Urbana: University of Illinois Press, 2003

### **Reviewed by Roxanne Harde**

In 1914, Margaret Sanger helped coin the term birth control, and she made it a fundamental tenet of women's rights. She spent the first half of the twentieth

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century defending women's ownership of their own bodies and working to make birth control safe, affordable, and legal. A multi-talented activist with a forceful personality, Sanger was the primary figure in the birth control movement and she interacted with the leading radical figures of her day, on both sides of the Atlantic. Her books, though still widely available, offer only a partial view of Sanger's life, work, and relationships. The four planned volumes of *The Selected Papers of Margaret Sanger* will provide a much fuller account of one of the most controversial figures of the last century.

The first of these volumes, *The Woman Rebel*, documents Sanger's life from her nurse's training and early socialism to her resignation from the American Birth Control League, which she had helped to establish more than a decade before. The book allows insight into Sanger's motivations and actions, and traces the course of her relationships with family members, and with colleagues who were friends, such as Emma Goldman, or lovers, such as Havelock Ellis. The Sanger who emerges is complicated to the point of paradox. She worked tirelessly to alleviate the burden of too many children for all races and classes even as she peppered her letters with anti-Semitic and racist comments. A concerned and loving mother, she spent very little time with her children. While Sanger went into exile to avoid prosecution for publishing obscenity, she offered little sympathy to her estranged husband upon his imprisonment for distributing her pamphlets. Her commitment to social reform never wavered but neither did her need to be in control of the movement and to be its most public figure.

The stated goal of this volume, and the three that will follow—two that will continue the chronology of Sanger's life and a fourth that will address her work in the international birth control movement—is “to highlight Sanger's distinctive voice and illuminate the multiple narratives of her life and work” (xxvii). Faced with an archive of over 120,000 documents—letters, speeches, journals, and legal and organizational records—Esther Katz and her editorial team have chosen selections that document the critical events and central issues of Sanger's life. The inclusion of writings by people other than Sanger might be the only ill-considered choice in this important edition. Where other notable collections of personal papers—the Benjamin Disraeli letters come to mind—provide deep insight into the thought processes of the writer, the inclusion of letters to Sanger seem an interruption; the information they provide would be just as relevant were it given in notes. In particular, the letters written by women seeking birth control are redundant in light of Sanger's edition of such letters, *Motherhood in Bondage* (1928). The decision to separate the papers that document her work in Europe might also prevent the wide and relatively complete picture of Sanger that these volumes might offer, but that remains to be seen. Ultimately, the work of Katz and her team is critical for a fuller understanding of first-wave feminism, family planning, and one of the century's most interesting women, and I look forward to the next three volumes.

## **Mothers, Young People and Chronic Illness**

Clare Williams  
Burlington: Ashgate, 2002

### **Reviewed by Brydon Gombay**

*Mothers, Young People and Chronic Illness* reads too much like the doctoral dissertation on which it is based. Few concessions have been made to non-academic readers, although parents of adolescents with diabetes or asthma will find much of interest here, as will health care professionals who recognize the need to respect the coping mechanisms of young diabetics, asthmatics, and their mothers.

For this study, author Clare Williams interviewed people between the ages of 15 and 18, 20 with diabetes and 20 with asthma (ten males and ten females in each group), as well as their mothers. In one case she interviewed a father who was responsible for the care of his daughter. Williams's conclusions cast light on the ways in which chronic health conditions during adolescence are gendered and how health affects gender development. In addition, she shows how the socialization of mothers of diabetics and asthmatics reinforce the stereotypical expectations of motherhood which continue to pervade our culture.

Adolescence is a time when peer approval is of primary importance to all young people, yet mothers continue to be blamed for non-compliance with medical regimens on the part of their children. Mothers also are blamed for "mollycoddling" their sons (there is an undertone here of homophobia on the part of health care professionals), and "nagging" their daughters (who feel constrained by their mothers' care). Ironically, encouraged to promote adolescent independence, mothers are blamed whenever illness erupts in the lives of their sons or daughters.

Boys tend to hide their condition and ignore the extent to which their mothers play the role of "alert assistant," enabling them to take part in the sports culture which is so important to their developing identities. Girls, however, soon take charge of their medical regimens and thereby spare their mothers that responsibility. Boys, who usually disregard their mothers' invisible interventions, often overestimate the extent to which they take responsibility for themselves. Although diet issues which form part of the diabetic regimen often lead to eating disorders, girls usually adapt by sharing their experiences and seeking help from friends.

Chronic illness, with the medical visits and treatments it entails, diminishes a mother's career options, except in the case of middle-class mothers who may enjoy flexible working conditions. Williams does not explain how single mothers deal with a child's chronic illness, although she describes the experi-

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ences of four fathers (out of the 40 parents) who share in their children's care. Interestingly, she shows how health care professionals reinforce gender expectations by emphasizing mother and daughter competence in managing chronic illness.

**Parenting Your Parents:  
Support Strategies for Meeting the Challenges  
of Aging in the Family**

Bart Mindszenty and Michael Gordon  
Toronto: Dundurn Press, 2002

**Reviewed by Sheila Martel**

The realistic vignettes included in *Parenting Your Parents* describe probable situations and offer resolutions for adult children (an unsatisfactory term) caring for aging parents. Among the family situations presented, many are neither easy nor do they end happily. Chapter three, for example, illustrates the need to carefully consider all ramifications of encouraging elderly parents to relocate.

The book is enhanced by the authors' own stories of caring for elderly parents. A Personal Parenting Planner poses many key questions and a resource guide that follows is excellent. It offers a complete list of resources at both national and provincial levels.

Elderly divorced parents are missing from the family compositions presented. Certainly, our children will be dealing with elderly parents who are divorced, and who might live at great distances from one another. Moreover, differing viewpoints and attitudes toward the very issue of caring for elderly parents requires further discussion. Some adults simply will not accept responsibility for their elderly parents. This is undoubtedly rocky terrain for siblings who disagree over their individual and collective obligations toward their aging/ill parents.

It would seem that reversing the roles—turning grown children into “parents”—is simplistic and unrealistic. Although the authors did not invent this paradigm, it begs reassessment. The authors recognize, for example, that the need to take time off from work can be costly to careers. (The issue of sacrificing career achievement and leisure time in order to care for loved ones is hardly new terrain for mothers, however.) Further, the book does not live up to the promise of its subtitle, *Support Strategies for Meeting the Challenges of Aging in the Family*, since explicit support for caregivers is not provided. Nonetheless, Mindszenty and Gordon have succeeded in creating a reader-friendly primer for parent care. *Parenting Your Parents* is an excellent starting point for those beginning to undertake this important and complicated journey.

## **Lost Ground: Welfare Reform, Poverty and Beyond**

Randy Albeda and Ann Withorn, eds.  
Cambridge: South End Press, 2002

### **Reviewed by Norma Buydens**

In the preface to *Lost Ground*, Barbara Ehrenreich announces the volume's purpose: to expose the "racism and misogyny" (vii) behind the *Personal Responsibility and Work Opportunity Reconciliation Act* of 1996 – the latest American federal welfare reform – in time for the 2002 debate over its reauthorization. Ehrenreich writes of the "coded messages" stigmatizing welfare recipients as promiscuous African American single mothers, the renewal of the term "illegitimacy" for nonmarital births, and claims that African American men have been "cuckolded" by female-headed welfare families (vii-viii). But PRWORA is also "class warfare" in its punitive requirements that any work offered must be accepted by single mothers on welfare, even if "dangerous, abusive or poorly paid" (ix) and too low paying to take families out of poverty:

To the extent that welfare served as a shield, however inadequate, against the worst forms of workplace exploitation, welfare was and remains a class issue. Racism and misogyny helped blind many to this fact six years ago when welfare reform was passed, but we cannot let that happen again. (x)

The book, titled as an answer to neoliberal stereotyping in Charles Murray's 1984 *Losing Ground: American Social Policy 1950-1980*, is intended by editors Randy Albeda and Ann Withorn as a space for "well-known progressive writers and activists" to respond to PRWORA with "ways for shifting the ground upon which to respond to poverty" (1).

Does *Lost Ground* succeed in its purpose? Not quite. The scholars and activist contributors—social historian Linda Gordon, activist lawyer Lucie E. White, critical race sociologist Kenneth J. Neubeck, black feminist activist Linda Burnham, urban activist sociologist James Jennings, economist Sanford F. Schram, political scientist Joe Soss, poverty activist Mimi Abramovitz, and feminist activist Gwendolyn Mink, among others—are extremely well-regarded. The volume's description of PRWORA's legislative history and practical application is sound and detailed. But there is something missing, something needed for *Lost Ground* to be a viable weapon.

Rather than defend the image of poor people, *Lost Ground* should be holding the U.S. government accountable for its second-class treatment of citizens. While Sanford Schram and Joe Soss, in "Success Stories: Welfare

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Reform, Policy Discourse, and the Politics of Research,” understand that the current situation is based on an ideological framework which poverty advocacy fails to meaningfully confront because “researchers expended great effort identifying the typical duration of participation” and “focused on work effort ... and poor people’s behaviors” “[t]o distinguish myths from realities,” they do not supply the structural questions they claim are essential to the investigation into welfare.

In the context of a bad law such as PRWORA, someone needs to announce that “the emperor has no clothes.” But no one does in *Lost Ground*. Gwendolyn Mink’s “Violating Women: Rights Abuses in the Welfare Police State,” the only article to adopt a consistently angry tone, comes closest to scrutinizing the state for its harmful doing. Mink attacks the use of welfare to implement patriarchal ideology by requiring father-headship of families and punishing childbearing outside of marriage.

In many ways, Mink has the easiest argument to prove. The Act states baldly in its purposive sections that “marriage is the foundation of a successful society” and “the purpose of welfare must be ... to ‘end the dependence of needy parents on government benefits by promoting ... marriage’, ‘prevent and reduce ... out-of-wedlock pregnancies’ and ‘encourage the formation and maintenance of two-parent families’” (98, quoting U.S. Public Law 104-193, Title I). Childbearing and the right to raise one’s own children are individual human rights, not to be attacked on grounds of gender or racial discrimination. They are also rights of “national, ethnical, racial or religious groups,” the groups protected under the Genocide Convention.

A useful book, *Lost Ground* contains invaluable information for women (especially mothers), minorities, and the poor, and for those who care about these citizen groups. Regrettably, however, it does not fulfill its own important mandate.

## **A Question of David: A Disabled Mother’s Journey Through Adoption, Family and Life**

Denise Sherer Jacobson  
Berkeley: Creative Arts Book Company, 1999

### **Reviewed by Shelley M. Park**

In *A Question of David*, Denise Sherer Jacobson recounts the events and emotions surrounding the adoption of her son, David. David is classified as a “special needs” baby because of his potential cerebral palsy. While it is never clear to the reader whether David has been misdiagnosed (he becomes an active

toddler apparently suffering little physical disability other than some limb stiffness as an infant), this is not of central importance to this memoir. Denise and her husband, Neil, do have cerebral palsy. Hence, the central questions raised here concern the abilities of disabled adults to raise a child and the abilities of their friends, families, colleagues, doctors, caregivers, and passing strangers to accept persons with disabilities as capable and loving parents.

Denise, who occupies the role of primary parental caregiver, suffers self-doubt about her maternal abilities. Diapering and dressing an infant is an arduous task for Denise that often takes an hour or more—by which time David often needs to be rediapered. Sterilizing and filling bottles, as well as other maternal rituals, require the daily assistance of au pairs or housekeepers. As an adult with a disability, Denise regrets losing the independence she has gained; as a writer she regrets losing the privacy needed to continue her work. Frequently, Denise also resents the fact that Neil goes to work each day, leaving her to cope with doctor's appointments, unreliable household help, and the exhausting—if also gratifying—work of parenting. As Bree Walker Lamprey notes in her forward to the book, the emotions, fears, and uncertainties, as revealed in *A Question of David*, are experienced by many women who make “the transition from womanhood to motherhood” (ix). However, here they are intensified by the special challenges faced by a mother with cerebral palsy.

Denise is fortunate to have a network of friends and political allies who advise, encourage, and assist her throughout the first months and years of David's life. This is a story, in part, about the importance of families of choice and other social networks when coping with first-time motherhood. Unlike other first-time mothers, however, it is a part of Denise's daily experience to be rendered invisible or pitied by those unfamiliar with cerebral palsy. Denise and David are frequently treated as little more than “freight” by the drivers of vans summoned to transport them to and from medical appointments; when they arrive at their appointments, they are often treated as little more than “stiff bodies” to be manipulated by physiotherapists. Clearly, the greatest emotional toll occurs, however, when confronted by the skepticism of those closest to them. The relationship between Denise and her mother-in-law, for example, is rendered uneasy by questions surrounding David.

The memoir ends shortly after the adoption of young David is finalized. The “question” of David continues, however. A final chapter portends some of the challenges that lie ahead for Denise and Neil. These include an inability to keep up with and protect an active toddler and the growing David's discomfort with his mother's appearance. These are challenges shared by many mothers as their children develop independent skills, interests, and tastes. Again, however, the issues are intensified and made more complex for parents with disabilities.

I confess to having mixed feelings about this book. On the one hand, its significant attention to the details of everyday life of a mother with a disability renders this an important book for those who study motherhood, for those who study disability, and especially for those who study the intersections of the two.

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On the other hand, at times its prose is hyperbolic and its narrative slides into a politics of victimization.

Throughout Sherer Jacobson's memoir, frequent tensions arise between Denise and her in-laws, Denise and her husband, Denise and her housekeeper. A particular strength of this work is that it does not gloss over the interpersonal struggles engendered by varying perceptions of ability and disability. I wonder, however, if the story would not be enriched further by a more multi-faceted analysis of the interpersonal struggles described. For example, Denise's ongoing contest of wills with Challukah, her housekeeper, portray Denise as victimized and Challukah as stubborn, careless, and unreliable. Indeed, every mother who has relied on another caregiver can identify with the frustration Denise experiences when Challukah is late or inattentive. Nevertheless, it is important also to recognize that an employee has needs that may be thwarted by the employer-employee relationship. Disability renders Denise dependent on Challukah; socio-economic class renders Challukah dependent on Denise. Similarly, all adult children—especially, perhaps, adult children with disabilities—will empathize with Denise's frustration at her mother-in-law's failure to treat her as capable. Yet, the tension between Denise and her mother-in-law appears also to be related to their differing relationships to Judaism and the Holocaust. *A Question of David* would be enriched by greater recognition of the complexities of these and other human relationships. Sherer Jacobson's memoir about the adoption of David raises important questions about our perceptions of disability; however, it may be that we cannot adequately answer these questions without also raising questions concerning how our perceptions are influenced by factors such as gender, class, age, and ethnicity.

## **Baby Catcher: Chronicles of a Modern Midwife**

Peggy Vincent  
New York: Scribner, 2002

### **Reviewed by Michelle Moravec**

With a background in obstetrics nursing, natural childbirth education, and her experience administering a birthing centre, Peggy Vincent's decision to become a licensed midwife with a specialization in home births might have been expected. As *Baby Catcher: Chronicles of a Modern Midwife* aptly illustrates, however, Vincent's experiences as a midwife were anything but the expected.

Vincent's career neatly encapsulates the scope of the women's health movement. As a young nursing student at Duke University, she became disillusioned with traditional obstetric practices that gave labouring women no control over the experience of childbirth. The occasional pregnant women who "thrived on the challenge and the passion" of birth and refused to submit to the

drugs and procedures considered necessary by the medical establishment showed Vincent that women could make their own decisions about what was best for their own labour and delivery.

Inspired by the sweeping changes wrought by the various social movements of the 1960s, Vincent set out to transform women's experiences of childbirth. In Berkeley, California in the early 1970s, Vincent began working as a labour and delivery nurse just as the Lamaze movement was gaining popularity. Her own labour and delivery, however, convinced her that women were empowered by neither a formulaic approach to natural childbirth nor the stuffy practices of traditional medicine. Over the years, she developed a childbirth education course centred on the notion that "every birth is different" (52).

As the women's health movement rapidly transformed the field of women's health, more women began seeking out alternative methods of childbirth and in 1974 Vincent had the opportunity to witness firsthand the work of a "lay" midwife. She found the woman's skill so impressive that she began contemplating a career in midwifery. In her work as a nursing coordinator at a local birthing centre, Vincent enjoyed a degree of autonomy unheard of in conventional medical settings, but she still faced "physicians who believe that normal childbirth is a retrospective diagnosis" (58). After 15 years as a nurse, Vincent began training as a midwife and she spent the next 15 years attending home births. While most of Vincent's narrative is inspirational, she sounds some cautionary notes. For example, that lay midwives in the United States have difficulty acquiring malpractice insurance and medical back-up from physicians and hospitals has severely curtailed the number of home births.

Perhaps the most remarkable aspect of *Baby Catcher* is Vincent's style. While Vincent has delivered more than 2,500 babies, every case she recounts reflects the joy and awe she feels at each birth. Deftly, she interweaves memoir and case studies with an overview of the transformations that have altered childbirth practices in the United States over the past 40 years. *Baby Catcher* is a valuable work for multiple audiences, including health care professionals, scholars of pregnancy and birth, and the general reader interested in issues of women's health and pregnancy.

## **Making Care Work: Employed Mothers in the New Childcare Market**

Lynet Uttal  
New Brunswick: Rutgers University Press, 2002

### **Reviewed by Heather E. Dillaway**

Lynet Uttal begins by suggesting that her title, *Making Care Work*, can be

interpreted in two distinct ways. She explains, “This analysis is about both ‘making care (into paid) work’ and ‘making (paid) care work’—and work well—for the families who use it” (1). In describing the historical development of childcare as paid work, Uttal draws on interview data with 48 employed mothers with young children in various types of paid childcare in California and Tennessee. Her book also draws on 24 interviews with childcare providers. This study represents a first attempt to understand and define the kinds of issues and choices that employed parents (typically mothers) face as they make childcare decisions and maintain childcare arrangements over time.

This work succeeds for a number of reasons. First, Uttal’s sample is diverse by race, type of employment, residence, childcare choices, marital status, sexuality, and number of children. As she notes, a diverse sample helps in elucidating “the general process of making and maintaining childcare arrangements, rather than presenting case studies of individual experiences or issues specific to one type of care” (17) or one type of mother. By analyzing experiences of a diverse group of mothers in a diverse set of ongoing childcare arrangements, Uttal uncovers the differences and similarities in mothers’ concerns and experiences.

A second strength is Uttal’s ability to move deftly across analysis of social structure and individual feelings and behaviours. This multi-levelled analysis gives the reader a comprehensive understanding of the lack of regulations governing the quality of paid childcare and the process by which childcare is commodified.

A third strength of this book is its ability to speak to a broad audience. As she describes the concerns and constraints facing employed mothers, Uttal offers ways in which the paid childcare system might be improved. She writes purposefully, for a range of readers, to encourage positive social change for employed mothers, their families, as well as childcare workers.

Finally, a fourth strength of Uttal’s work is her analysis of the lack of media attention paid to “quality” childcare. As a result, we know little about the struggles of employed parents to secure “good” care for their children, or about the position of childcare providers within an unregulated, market-based system of care. Uttal centres her analysis on employed mothers, their “choices” and concerns. Throughout her study, mothers speak for themselves and readers learn that “making care work” is a daily negotiation and a daily concern for contemporary families. Uttal urges readers to understand that “making care work” is a long and continual process that deserves fuller study.

In fact, Uttal suggests that we know little about paid childcare of any kind. *Making Care Work* is one of the first studies to concentrate on employed parents’ concerns about the quality of paid childcare, their daily worries and/or feelings about their choices. Uttal’s next book might explore specific issues raised in *Making Care Work*, such as mothers’ and childcare providers’ respective definitions of “good” childcare; mothers’ interactions with childcare providers; tensions between parents and childcare providers; the social construction of

employed mothers as bearing ultimate responsibility for their children's well-being; "problems" associated with paid childcare; and contradictions between a market-based definition of "care" and the ideology of "care."

## **Life After Baby: From Professional Woman to Beginner Parent**

Wynn McClenahan Burkett  
Berkeley: Wildcat Canyon Press, 2000

### **Reviewed by Amanda Putnam**

Wynn McClenahan Burkett's *Life After Baby: From Professional Woman to Beginner Parent* shares exploits and anecdotes of real mothers. No simplified version of motherhood, Burkett's text offers authentic stories of mothers who are "primarily over thirty, college educated, and had worked for several years before becoming mothers" (6). Burkett reveals the diversity within the sometimes seemingly static category of American motherhood.

Having experienced the rewards of a "mothers' group" which she founded, Burkett hopes to create through these narratives a mother's group in print to support all new mothers. As a new mother, Burkett remembers feeling "most comforted ... by other mothers" and she soon realized that "sharing stories with other moms" helped her feel that she "was not alone" (5). Burkett seeks to expand the concept of motherhood through the varied experiences gathered in her book, and she intends that *Life After Baby* "will be a little like having a conversation with a group of trusted girlfriends" (5).

Chapters focus on a broad range of issues, including pregnancy; early motherhood; changes in relationships with one's partner and extended family members; family size; community support; differences in mothering sons and daughters; employment outside the home; and the spiritual side of mothering. Each chapter begins with a quotation from Erma Bombeck, followed by introductory comments by Burkett. The stories dominate, however, as mothers "speak" for themselves. Cohesion is supplied by Burkett's summaries and transitions that frame the stories. Burkett explains that she did not "set out to draw conclusions and wrap them up in a neat little package. Motherhood is messy in that way. We all experience things a little bit differently, and yet we have much to learn from each other" (6). Burkett reminds readers that mothers make important decisions that bear on their own lives and the lives of their children, and that they hold the credentials as well as the right and privilege to do so.

# Contributor Notes

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**Alison Bartlett** lectures in literature at the University of Southern Queensland, Australia and researches theories and representations of embodiment. Her books include *Jamming the Machinery: Contemporary Australian Women's Writing* (1997), *Australian Literature and the Public Sphere* (co-editor 1998), and *Postgraduate Research Supervision: Transforming (R)Elations* (co-editor, 2001). She is currently completing a monograph titled *Breastwork: Cultural Meanings of Breastfeeding*.

**Patricia Bell-Scott** is Professor of Child and Family Development & Women's Studies and an Adjunct Professor of Psychology at the University of Georgia in Athens. She was founding co-editor of *SAGE: A Scholarly Journal on Black Women* and principal editor of the award-winning anthology, *Double Stitch: Black Women Write about Mothers and Daughters*. She is co-editor of the first text in Black women's studies, *All the Women Are White, All the Blacks are Men: But Some of Us Are Brave*, as well as editor of *Life Notes: Personal Writings by Contemporary Black Women*, and *Flat-footed Truths: Telling Black Women's Lives*. She specializes as a teacher and writer in black women's narratives.

**Mary Kay Blakely** is an Associate Professor at the Missouri School of Journalism. She is the author of three books, including *Wake Me When It's Over—A Journey to the Edge and Back* (Times Books/Random House) and *American Mom—Motherhood, Politics and Humble Pie* (Algonquin/Pocket Books), and her essays have been collected in numerous anthologies. A *Hers* columnist for the *New York Times* and currently a contributing editor to *Ms.* and the *Los Angeles Times* magazine, she has published essays and articles about social issues in *Mother Jones*, *Life*, *Working Woman*, *McCalls*, *Redbook*, *Psychology Today*, *Self*,

*the Chicago Tribune, the New York Times Book Review* and numerous other national publications. Her work has been translated and published in Germany, the Netherlands, Japan, England and Italy. She now teaches Advanced Writing at the University of Missouri and is the director of the New York Summer Journalism Program at the New School University.

**Susan B. Boyd** is a law professor and holds the Chair in Feminist Legal Studies at the University of British Columbia. She teaches family law and feminist legal studies, and researches gender and sexuality issues in family law. Her latest book is *Child Custody, Law, and Women's Work* (Don Mills: Oxford University Press 2003).

**Norma Buydens** holds an MA in History and will soon defend an LL.M. Her work involves women's history, especially child sexual abuse and rape law, and mothering ideology. A mother of two, she lives in Winnipeg and rural Saskatchewan and works in faculty development at the University of Manitoba. She is considering a Ph.D. in Women's Studies and History.

**Paula J. Caplan, Ph.D.**, is the author of *THE NEW Don't Blame Mother: Mending the Mother-Daughter Relationship* and eight other books. She is a Visiting Scholar at the Pembroke Center for Research and Teaching on Women at Brown University and is former Professor of Applied Psychology and Head of the Centre for Women's Studies at the Ontario Institute for Studies in Education. She is also a playwright, actor, and director, and her play, *CALL ME CRAZY*, includes a monologue delivered by "Amalia Freud" (Freud's mother) that is partly about mother-blame and being a mother. She lectures and teaches workshops about mothers and daughters, as well as other subjects, and has helped organized social and political action about various matters, including sexism in psychiatric diagnosis and in the use of psychotropic drugs. Her most recent work on the latter is addressed in part in her recent article in the *National Women's Health Network's "Network News."*

**Shu-Ju Ada Cheng** is an assistant professor in sociology at DePaul University. Her areas of interest include international migration, globalization, work, and gender. Her most recent publication "Rethinking the Globalization of Domestic Service: Foreign Domestic Workers, State Control, and the Politics of Identity in Taiwan" appeared in *Gender and Society* in April 2003.

**Deborah Davidson** is completing her Ph.D. in Sociology at York University. While her academic interests include the study of sex and gender, health and illness, and pedagogy, her dissertation focuses on the history of hospital protocols for perinatal death between 1940 and 2000.

**Audrey Dentith**, is an assistant professor of Education at the University of

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Wisconsin Milwaukee. She is the mother of two daughters, a 20-year-old and a four-year-old. She juggles the daily demands of her work in higher education and neighborhood schools with the yearnings of motherhood, insisting always that the former might do well to listen to the wisdom of the other.

**Charlene Diehl** is the Artistic Director of THIN AIR, the Winnipeg International Writers Festival. She has published poetry, personal essays, scholarly papers, and reviews in literary journals across Canada; she has also published two books of poetry and a critical study of Fred Wah. A Manitoba Arts Council grant supported her work on “Out of Grief, Singing.”

**Heather E. Dillaway** is an Assistant Professor of Sociology at Wayne State University in Detroit, Michigan. She received her Masters in sociology from University of Delaware in 1997 and her Ph.D. in sociology from Michigan State University in 2002. Her areas of interest include sex and gender, reproductive health, the intersections of gender, race class, and sexuality, family and parenthood, aging, and the body. Her latest research projects include the qualitative study of women's experiences of menopause and pediatric clinics' support of breastfeeding.

**Patrice DiQuinzio** is Associate Professor of Philosophy and Director of Women's Studies at Muhlenberg College in Allentown, PA, USA. She is the author of *The Impossibility of Motherhood: Feminism, Individualism, and the Problem of Mothering* (Routledge, 1999) and is co-editor with Iris Marion Young of *Feminist Ethics and Social Policy* (Indiana University Press, 1997). Her articles on philosophical problems in theorizing motherhood and on motherhood as a model for citizenship have appeared in *Hypatia: A Journal of Feminist Philosophy and Women and Politics*. She is currently at work on a project analyzing contemporary instances of US women's civic engagement conducted under the sign of motherhood, such as the Million Mom March and Mothers Against Drunk Driving.

**Cheryl Dobinson** is managing editor of ARM. She holds an MA in Sociology from York University and her studies have focused on women, youth and sexuality. Her work has been published in *The Journal of Gay, Lesbian and Bisexual Identity*, *The Journal of Homosexuality*, *Horizons* and *Fireweed*. She also publishes a bi women's zine, *The Fence*, and has recently completed a community-based research project on bisexual health and wellness issues in Ontario.

**Rishma Dunlop** is a professor of Literary Studies and Fine Arts Cultural Studies in the Faculty of Education at York University, Toronto. She is a poet and fiction writer whose work has won awards and has appeared in numerous books, journals, and anthologies, nationally and internationally. Rishma Dunlop was a finalist for the 1998 CBC/Saturday Night Canada Council Literary

Awards for poetry. Her novel, *Boundary Bay*, was a semi-finalist for the inaugural Chapters/Robertson Davies Prize in 1999. She is the author of two volumes of poetry, *Boundary Bay*, (2000) and *The Body of My Garden*, (2002). She is also the editor of *Child: An Anthology of Poetry and Prose* (2001). She is the mother of two daughters and a frequent contributor to ARM.

**Miriam Edelson** is a social activist, mother and writer living in Toronto. Her creative non-fiction and commentaries have appeared in *The Globe and Mail*, *The Toronto Star*, CBC Radio, *This Magazine* as well as other periodicals. Born in New York, Edelson spent her teens in Toronto and completed graduate studies in political science at Carleton University. She is fluent in French and is currently pursuing doctoral studies in sociology and bio-ethics part-time at the University of Toronto. Her particular area of interest is social policy regarding the care of medically-fragile infants. Edelson has worked in the trade union movement since 1980, specializing in communications and human rights issues. She lives in Toronto with her daughter Emma.

**Nancy Gerber** teaches in the Women's Studies department of Rutgers University-Newark. She is the author of *Portrait of the Mother-Artist: Class and Creativity in Contemporary American Fiction* (Lexington, 2003). She is currently working on a memoir, entitled *My Father's Stroke*.

**Lorraine Greaves** is the Executive Director of the British Columbia Centre of Excellence for Women's Health and Clinical Professor at the UBC Faculty of Medicine. She is internationally recognized for her work on women and addictions, particularly women's tobacco use, and her research in violence and health. She is currently interested in developing a model of economic costing based on gender, studies of tobacco use among low-income women and promoting sex- and gender-sensitive health research across all sectors of the health research field.

**Brydon Gombay's** recent doctoral dissertation was based on the experience of young people with varying physical disabilities and that of mothers of young people with both physical and mental disabilities. She is currently coordinating a research project on sexual assault and medicolegal evidence collection, but is also kept busy as the mother of five now adult children and grandmother of six.

**Roxane Harde** is a doctoral candidate at Queen's University. Her dissertation research examines how early American women poets write as proto-feminist theologians. She has published articles in the journals *Critique* and *Legacy*, and in several anthologies. She has guest edited, with Donna Varga, the forthcoming special "girlpower" issue of *femspec*.

**Lori Irwin** is a doctoral candidate in the School of Nursing at the University of

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British Columbia. Lori's current research focuses on children's perspectives of health while living in challenging life circumstances. Lori's research interests also include examining motherhood in the context of violence and the barriers to living violence free for mothers and children.

**Joy Johnson, Ph.D., RN**, is a Professor in the School of Nursing at the University of British Columbia where she serves as the co-director of two research units: NEXUS (a multidisciplinary research unit focused on the social context of health behaviour) and NAHBR (Nursing and Health Behaviour Research Unit).

**Miriam Johnson** is a retired Professor of Sociology at the University of Oregon whose teaching and writing has been focused on gender and the family throughout her career. She is the author of a book entitled *Strong Mothers, Weak Wives* and co-author with Jean Stockard of a text on sex and gender. She and her husband of many years live in Oregon where they both taught sociology. They have two children, one married and one single. Currently she is affiliated with the Council on Contemporary Families, which attempts to get accurate research information out about the many different kinds of contemporary families besides the so called "ideal" nuclear family that now exist in the U.S. and Canada.

**Susanna Jones** is an Assistant Professor of Social Work at Long Island University in Brooklyn, New York where she has taught courses in Social Work, Social Welfare and Public Policy, Sociology of the Family, and Marriage and Family. Her current research interests focus on working-class single mothers in New York City, exploring the intersections of their "singleness" and their "motherhood." She is also interested in caregiving and expanding current conceptions of care work.

**Nané Jordan, B.F.A.**, recently completed her MA in Women's Spirituality at New College of California. She has worked as a home birth attendant and a post-partum doula, and is a visual artist and mother to two young daughters in Vancouver, B.C. She is currently looking into Ph.D. options while continuing independent research, practice and writing in women's spirituality, ecofeminism, and mothering and birth issues within her home community.

**Molly Ladd-Taylor** teaches history at York University and is the mother of three children. Her publications include *Mother-Work: Women, Child Welfare and the State, 1890-1930*, and *"Bad" Mothers: The Politics of Blame in 20<sup>th</sup> Century America*, co-edited with Lauri Umansky.

**Michelle Hughes Miller, Ph.D.**, is an Assistant Professor in the Department of Sociology at Southern Illinois University Carbondale. Her specializations

include gender and criminology. Dr. Miller's research centers on judicial interpretations of mothers in United States case law, families and delinquency, intimate partner violence, and the death penalty moratorium movement.

**Carolyn Mitchell**, professor of English and Director of women's studies, earned her Ph.D. from Boston College, her master's from Michigan State University and her bachelor's from Hunter College. The author of a number of books and articles, her interests include nineteenth- and twentieth-century American literature, African American literature, women's literature, Victorian fiction, women's studies, theory and criticism.

**Michelle Moravec** directs the women's center and is an assistant professor of history at William Paterson University of New Jersey. Her research interests focus on women's activism in the United States, particularly second wave feminism. Her recent publications include editing the women's movement section of the *Encyclopedia of American Social Movements* and "Mother Art: Feminism, Art and Activism" in the *Journal of the Association for Research on Mothering*.

**Marina Morrow**, Ph.D., is a Research Associate with the British Columbia Centre of Excellence for Women's Health and with the Centre for Research in Women's Studies and Gender Relations at the University of British Columbia. Her research interests include social and health policy with a focus on mental health reform and women. She is currently heading a project that is looking at the experiences of first generation South Asian and Chinese women with post-partum depression.

**Amy Mullin** is Associate Professor of Philosophy at the University of Toronto. She has three children (two, five, and seven) and shares their care with a variety of other paid and unpaid caregivers.

**Lisa Neel** is an art teacher in the Middletown School District in New Jersey, an aspiring Ph.D. student and a muralist. Not yet a mother herself, she enjoys sharing her love of art with her students, and often refers to them as her "children." She is also thrilled that she will soon become an aunt for the first time.

**Emily J. Noonan** is currently finishing her thesis work on transnational adoption and globalization at Georgia State University's Women's Studies Institute. She plans to pursue a Ph.D. in Anthropology. Emily can be contacted at noonanemily@yahoo.com.

**Andrea O'Reilly**, Ph.D., is an Associate Professor in the School of Women's Studies at York University where she teaches a course on motherhood (the first

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course on Motherhood in Canada; now taught to more than 200 students a year as a Distance Education course), and the Introduction to Women's Studies course. She has presented her research at numerous international conferences and she is the author of more than two dozen articles and chapters. She is co-editor/editor of seven books on motherhood: *Redefining Motherhood: Changing Identities and Patterns* (Second Story Press, 1998), *Mothers and Daughters: Connection, Empowerment and Transformation* (Rowman and Littlefield, 2000), *Mothers and Sons: Feminism, Masculinity and the Struggle to Raise our Sons* (Routledge Press 2001) *From Motherhood to Mothering: The Legacy of Adrienne Rich's Of Woman Born* (SUNY, 2004), *Mother Outlaws: Theories and Practices of Empowered Mothering* (Women's Press, 2004), and *Mother Matters: Mothering as Discourse and Practice* (ARM Press, 2004) and author of *Toni Morrison and Motherhood: A Politics of the Heart* (SUNY, 2004). She is currently at work on three edited books: *Feminist Mothering*, *Motherhood: Power and Oppression* and *Women's Voices Across the Third Wave* and writing *Reconceiving Maternity*. O'Reilly is founding president of the Association for Research on Mothering, (ARM); the first feminist association on the topic of mothering-motherhood with more than 500 members worldwide, and is founder and editor-in-chief of the *Journal of the Association for Research on Mothering*. In 1998 she was the recipient of the University wide "Teacher of the Year" award at York University. She has given many talks and conducted numerous workshops on motherhood and mothering. As well she had been interviewed widely on this topic including appearances on "More to Life," "Planet Parent," "Canadian Living Television," "Sex TV," "Next.New.Now," CBC radio and *Time Magazine*. Andrea and her common-law spouse of 21 years are the parents of a 19-year old son and two daughters, ages 14 and 17.

**Beth Osnes** is a founding member of Mothers Acting Up, a movement to summon the gigantic political strength of mothers to ensure the health, education and safety of every child, not just a privileged few ([www.mothersactngup.org](http://www.mothersactngup.org)). Beth is a part-time professor of Theatre at the University of Colorado, has recently published *Acting: An International Encyclopedia*, and is touring with a one-woman show she wrote and performs entitled *The Mother Load*. She and her husband are raising two children in Boulder and are in line to adopt one more.

**Ruth Panofsky** is Associate Director of the Joint Graduate Programme in Communication in Culture (Ryerson/York Universities). She also is Book Review Editor of the *Journal of the Association for Research on Mothering*. Her most recent publications include *Adele Wiseman: Essays on Her Works* (2001) and *Lifeline* (poetry, 2001).

**Shelley M. Park** is Associate Professor of Philosophy at the University of Central Florida and co-editor of *Florida Philosophical Review*. Her intellectual

interests include feminist theory and its applications to issues of mothering, adoption, memory, and self construction. She lives in Orlando, Florida with her partner, two daughters, a dog, and frequent houseguests.

**Ann Pederson** is the Manager of Research and Policy at the British Columbia Centre of Excellence for Women's Health. Her research focuses on women's health with particular attention to health promotion, health care reform and gender-based analysis. She is currently completing a study of women's experiences of quality in health care with the National Coordinating Group on Health Care Reform and Women.

**Michelle Pridmore-Brown** is a scholar with the Institute for Research on Women and Gender at Stanford University. She has written extensively on Virginia Woolf and the rise of fascism, including a prize-winning essay for *PMLA* on Woolf and communications technology. She has also published on a variety of other topics, including Mary Baker Eddy and mind cure rhetoric, Henry Adams as politician, the bioethics of stem cell research. She is currently working on a book project on gender politics, late motherhood, and the changing structure of the family.

**Nancy Poole** works as a Provincial Research Consultant on Women and Substance Use Issues with BC Women's Hospital in Vancouver, and with the British Columbia Centre of Excellence for Women's Health on research network development and research projects relating to policy and service provision for mothers with substance use problems.

**Amanda A. Putnam** is an Assistant Professor who teaches interdisciplinary humanities courses at Roosevelt University in Chicago, Illinois. She specializes in women's literature with a specific focus on transnational black women's literature. A recent article was "Braiding Memories: Resistant Storytelling within Mother-Daughter Communities in Edwidge Danticat's *Krik? Krik!*" which was published in the *Journal of Haitian Studies*. Lately, her scholarly interests have expanded to include the rhetoric of public memory within museums dedicated to terrorist victims as well as the gendered spaces of reality and sci-fi television. She is currently working on a new project focused on Hollywood portrayals of black motherhood.

**Joanna Radbord** is a lawyer with the firm of Epstein, Cole, and is a lesbian who is planning a pregnancy with her spouse. Her practice focusses on family law and gay and lesbian equality rights, and she is particularly interested in the legal regulation of lesbian mothering. Joanna was involved with *M. v. H.*, the first Supreme Court of Canada decision to successfully challenge the definition of "spouse" as restricted to opposite-sex couples. She was counsel to a lesbian father in *Forrester v. Saliba*, which states that transsexuality is irrelevant to a

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child's best interests. She is currently co-counsel to the eight same-sex couples seeking the freedom to choose civil marriage in Ontario. In that case, the federal government's arguments largely centre on reserving procreation and child-rearing for heterosexuals only.

**Krista Robson** is a Ph.D. student in the Department of Sociology at Queen's University. She is currently writing her dissertation on a qualitative study of post-divorce parents and family law lawyers and their experiences with the Child Support Guidelines. She is also currently teaching a course on the Canadian Women's Movement.

**Lori E. Ross, Ph.D.** is currently a Research Scientist, Women's Mental Health and Addiction Research Section, Centre for Addiction & Mental Health, Toronto, and Assistant Professor in the Department of Psychiatry at the University of Toronto. Her research is primarily focused on mental health in pregnant and parenting women, and particularly in marginalized women.

**Sara Ruddick** is the author of *Maternal Thinking: Toward a Politics of Peace*. She has co-edited three anthologies, most recently *Mother Troubles: Reflections on Contemporary Maternal Dilemmas*. For many years she taught at The New School University in New York City where she lives.

**Lori Saint-Martin** is a professor in the literature department at the Université du Québec à Montréal. She has published two books of short fiction, *Lettre imaginaire à la femme de mon amant* (1991) and *Mon père, la nuit* (1999), French translations of 6 English-Canadian novels, in collaboration with Paul Gagné (one of which, *Un parfum de cèdre*, a translation of Ann-Marie MacDonald's *Fall on Your Knees*, won the Governor General's award for translation in 2000), and several books of non-fiction on women's writing in Québec, including *Le nom de la mère. Mères, filles et écriture dans la littérature québécoise au féminin* (*The Name of the Mother: Mothers, Daughters and Writing in Quebec Women's Fiction*), 1999. A book-length feminist study of Gabrielle Roy's fiction, *La voyageuse et la prisonnière. Gabrielle Roy et la question des femmes*, is forthcoming from Éditions du Boréal. Her current research project is on fathers and children in contemporary Québec fiction (supported by SSHRC grant). With Paul Gagné, she has two children, Nicolas, born in 1993, and Anna, born in 1995.

**Amy Salmon** is a mother of two daughters, Mikaela (seven) and Clara (eleven). She is also a researcher, educator, activist, and a Ph.D. Candidate in the Department of Educational Studies at the University of British Columbia, where she specializes in feminist, anti-colonial and anti-ableist approaches to the sociology of education.

**Jane Satterfield's** poetry collections are *Assignment at Vanishing Point* (Elixir,

2003) and *Shepherdess with an Automatic* (WWPH, 2000). Her poems, essays, and reviews have appeared in many magazines, including *Antioch Review*, *Massachusetts Review*, *Seneca Review*, and elsewhere. She teaches at Loyola College in Maryland where she chairs the Modern Masters Reading Series

**Jill Scott** is Assistant Professor of German at Queen's University, Kingston and received a Ph.D. in Comparative Literature from the University of Toronto. She has published articles on women authors (Cixous, Dinesen, Gambaro), translation theory, German literature (Hofmannsthal, Musil, Novalis) and cultural studies (Benjamin, Generation X, condom advertising).

**Rhonda Shaw** is a sociologist. She holds a *FRST* Post-doctoral Fellowship (2002-2005), and is based at the University of Auckland, New Zealand. Her current research focuses on debates around the ethics and politics of bodily gifting in the areas of cross-nursing, human egg donation, 'surrogate' pregnancy arrangements, and living organ donation.

**Erin Tapley** exhibits her work in prints and mostly installations nationally. She is an Associate Professor at University of Wisconsin Oshkosh in Art Education.

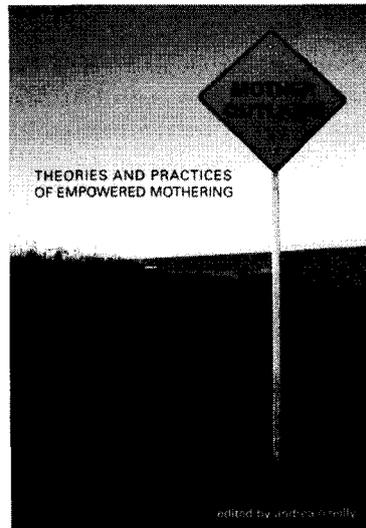
**Brenda Toner**, Ph.D., C. Psych., is currently Head, Women's Mental Health and Addiction Research Section, at the Centre for Addiction Mental Health and Professor and Head Women's Mental Health Program, Department of Psychiatry, University of Toronto. She has published and presented on a variety of health related problems that are disproportionately diagnosed in women.

**Colleen Varcoe** is an Associate Professor at the University of Victoria School of Nursing. Her research focuses on women's health with emphasis on violence against women, and ethical practice in health care. She is currently studying HIV/AIDS risk and violence, and the economic and health impact of violence.

**Rachel Westfall** is a mother, university educator, and women's health researcher with a particular interest in maternal self-care. She is a certified lactation counsellor, and she coordinates a Friends of Breastfeeding Society group in Victoria, BC and edits its new zine, *Mama Mia!* She has written and published a number of academic and popular press articles in recent years, as well as some poetry.

# Mother Outlaws: Theories and Practices of Empowered Mothering

Edited by Andrea O'Reilly



**Andrea O'Reilly, PhD**, is an Associate Professor in the School of Women's Studies at York University. She is co-editor/editor of five books on Motherhood: *Redefining Motherhood: Changing Identities and Patterns* (Second Story Press, 1998), *Mothers and Daughters: Connection, Empowerment and Transformation* (Rowman and Littlefield, 2000), *Mothers and Sons: Feminism, Masculinity and the Struggle to Raise our Sons* (Routledge Press 2001), *From Motherhood to Mothering: The Legacy of Adrienne Rich's Of Woman Born* (SUNY, 2004), *Mother Matters: Mothering as Discourse and Practice* (ARM Press, 2004) and author of *Toni Morrison and Motherhood: A Politics of the Heart*, (SUNY, 2004). O'Reilly is founding president of the Association for Research on Mothering, (ARM); the first feminist association on the topic of mothering-motherhood with more than 500 members worldwide, and is founding and editor-in-chief of the *Journal of the Association for Research on Mothering*. Andrea and her common-law spouse of twenty-one years are the parents of three teenagers.

Adrienne Rich in *Of Woman Born: Motherhood as Experience and Institution* distinguished between two meanings of motherhood, one superimposed on the other: the *potential* relationship of any woman to her powers of reproduction and to children; and the *institution* which aims at ensuring that that potential and all women shall remain under male control. The term motherhood refers to the patriarchal institution of motherhood which is male-defined and controlled and is deeply oppressive to women, while the word mothering refers to women's experiences of mothering which are female-defined and centred and potentially empowering to women. The reality of oppressive motherhood thus must be distinguished from the possibility or potentiality of empowered mothering. While most feminist scholars now distinguish mothering from motherhood and recognize that the former is not inherently oppressive, empowered mothering has not been theorized in feminist scholarship.

The theory and practice of empowered mothering recognizes that both mothers and children benefit when the mother lives her life, and practices mothering, from a position of agency, authority, authenticity and autonomy. Secondly, this new perspective, in emphasizing maternal authority and ascribing agency to mothers and value to motherwork, defines motherhood as a political site wherein mother can affect social change through feminist child rearing and in the world at large through political-social activism. This collection examines how mothers seek to imagine and implement a theory and practice of mothering that is *empowering* to women as opposed to oppressive under five sections: Feminist Mothering, Lesbian Mothering, African American Mothering, Mothers and Daughters, Mothers and Sons.

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This conference will explore, from a variety of perspectives and disciplines, the intersections between mothering, motherhood and feminism. It will also examine developments in the field of maternal feminist scholarship, the experiences and perspectives of feminist mothers, and representations of mothering and feminism.

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author of *The Impossibility of Motherhood*  
**Ariel Gore,**  
author of *Breeder* and *The Mother Trip*  
**Sharon Hays,**  
author of *The Cultural Contradictions of Motherhood*  
**Susan Maushart,**  
author of *The Mask of Motherhood*  
**Andrea O'Reilly,**  
editor of *Mothers and Daughters* and *Mothers and Sons*,  
author of *Toni Morrison and Motherhood*

If you are interested in being considered as a presenter,  
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**One must be a member of ARM to submit an abstract.**

—*Call for Papers*—

The Association for Research on Mothering (ARM)  
invites submissions of abstracts for our  
2005 Mother's Day conference on:

*Young Mothers*

May 6-7, 2005  
York University, Toronto, Canada

This conference will explore, from a variety of perspectives and disciplines, the experiences and perspectives of young mothers, and representations of young mothering. We welcome submissions from students, activists, scholars, artists and others who work or research in this area. Cross-cultural, historical and comparative work is encouraged. We encourage a variety of types of submissions including academic papers, workshops, performances, storytelling, visual arts and other alternative formats.

**Confirmed keynote speakers include:**

**Allison Crews**

editor of [www.girlmom.com](http://www.girlmom.com) and founder of the  
National Coalition to Empower Teen Parents

—*Call for Papers*—

**Deborah Davis**

editor of *You Look Too Young To Be a Mom: Teen Mothers  
Speak Out on Love, Learning and Success*

**Elaine Bell Kaplan**

author of *Not Our Kind of Girl: Unraveling the Myths of  
Black Teenage Motherhood*

**Deirdre Kelly**

author of *Pregnant with Meaning: Teen Mothers and the  
Politics of Inclusive Schooling*

**Bee Lavender**

co-editor of *Breeder: Real-Life Stories from the New  
Generation of Mothers*

If you are interested in being considered as a presenter,  
please send a 250 word abstract and a 50 word bio by  
September 1, 2004 to:

**Association for Research on Mothering  
726 Atkinson College, York University,  
4700 Keele Street  
Toronto, ON, Canada M3J 1P3  
Call us at (416) 736-2100 x 60366,  
or email us at [arm@yorku.ca](mailto:arm@yorku.ca)**

**One must be a member of ARM to submit an abstract.**

Full and partial membership subsidies are available  
for young mothers in financial need.

## —Call for Papers—

The editorial board is seeking submissions for Vol. 7.1 of the *Journal of The Association for Research on Mothering* (ARM) to be published in Spring/Summer 2005.

The journal will explore the subject::

### *Mothering, Religion and Spirituality*

The journal will explore the topic of mothering, religion and spirituality from a variety of perspectives and disciplines. We welcome submissions from scholars, students, activists, policy makers, artists and others who work or research in this area. We also welcome creative reflections such as poetry, short stories, and artwork on the subject.

If you are interested in writing a book review, we have books in need of a review, or if you know of a recent publication that you think would be relevant, please contact Cheryl Dobinson at [cjdobins@yorku.ca](mailto:cjdobins@yorku.ca)

#### **Submission Guidelines**

Book reviews are to be no more than two pages (500 words), articles should be 15 pages (3750 words).

All should be in MLA style, in WordPerfect or Word and IBM compatible.

For more information, please contact us at:

**Association for Research on Mothering**  
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4700 Keele Street,

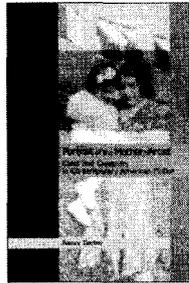
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Email: [arm@yorku.ca](mailto:arm@yorku.ca) Website: [www.yorku.ca/crm](http://www.yorku.ca/crm)

**Submissions must be received by May 1,**

# Lexington Books



## **Portrait of the Mother-Artist**

*Class and Creativity in  
Contemporary American Fiction*

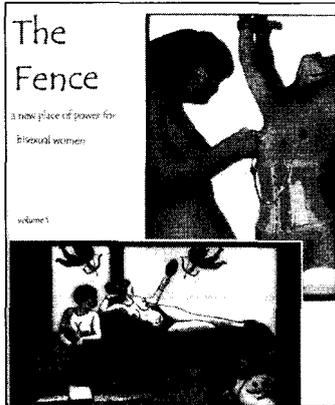
By Nancy Gerber  
Foreword by Andrea O'Reilly

*"Gerber's study is of crucial significance for feminist literary studies not only because it provides a rare examination of the role of class and race in determining women's experiences of motherhood and how such becomes represented in fiction, but also because it explains why, how, and in which ways the experience of motherhood at the margins of culture gives rise to a distinct literary tradition, that of the mother-artist narrative. Gerber describes and delineates the themes and features of this literary tradition and in so doing develops a rich and nuanced poetics of maternal creativity."*

—Andrea O'Reilly, Director, Centre for Research on Mothering, York University

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## *The Fence* **A Zine for Bi Women!**

Calling bisexuals 'fencesitters' has been a way of marginalizing us, of placing us outside gay/lesbian and straight cultures by saying that we haven't made a decision about our sexuality. "The Fence" is all about bisexual women reclaiming this position and speaking from our unique viewpoints that traverse straight and gay/lesbian cultures, but also allow us to have spaces of our own.

"The Fence" is now accepting submissions for its 5th issue. Please send your short fiction or non-fiction (under 2000 words), poetry and/or artwork to: Cheryl Dobinson/The Fence, 705-88 Isabella Street, Toronto, ON, Canada, M4Y 1N5. The deadline is September 1, 2004. For more information on contributing or subscribing please email Cheryl at [cjdobins@yorku.ca](mailto:cjdobins@yorku.ca). One year subscriptions are available for \$5.00, postage included.

## —Call for Papers—

### **Voices Across the Third Wave: Feminist Anti-Oppression Perspectives**

People tend to look at feminism in terms of generation, but third wave feminism affects all of us regardless of when we were born. Third wave feminism is having an impact on all women, but it is written about as if it is interchangeable with young women's feminism. It isn't! It affects women of all ages, from grrrls to mamas to crones, and people of other genders as well.

Central to the third wave has been the shift to anti-oppression and social justice, it is a philosophy and movement that goes beyond generational divides. We want to look at who we are, and how this shapes our relationship to third wave feminism and the meanings it holds for us. In other words, the book will explore how our experience of third wave feminism is affected by our social location (who we are) in terms of gender, race, ethnicity, dis/ability, class, sexuality, age, region, religion and other factors.

In the proposed book, we will examine the meanings, experiences and influence of third wave feminism in the many dimensions of our lives, such as: sex and sexuality, health, work, activism and antioppression, family, motherhood, identity, education, spirituality, resistance, politics, the body, media and representation, and more!

Third wave feminism manifests itself in numerous ways, from academic texts to zines to personal websites, and includes many different kinds of writing and experience. We want to include all types of submissions - artwork, poetry, personal stories, essays, articles etc.

*This book will be edited by:*

Erin O'Reilly - Doxsee is a seventeen year old bisexual feminist poet and zinester. (shebreathes@diaryland.com)

Crystal'Aisha PerrymanMark is a 25-year-old spoken word poet and writer, antioppression educator, a young, fierce feminist mother of three, Outreach Coordinator at the Massey Centre's Ontario Early Years Centre and director of Phemlounge - a women, arts and activist collective —www.phemlounge.com —which hosts Phemsphere, a Toronto feminist reading circle. Her next work is a book entitled *Antioppression*. (muse@phemlounge.com)

Cheryl Dobinson is a 31 year old bisexual writer, researcher, educator and activist. She is the creator and editor of the bi women's zine *The Fence*. Cheryl's work on gender and sexuality has been published in *Herizons*, *Fireweed*, and *the Journal of Gay, Lesbian and Bisexual Identity*. (cjdobins@yorku.ca)

Andrea O'Reilly is a 43 year old feminist mother of three teenagers. She is Associate Professor of Women's Studies at York University and President of the Association for Research on Mothering, the first feminist association on motherhood. She has published seven books on motherhood, including *Mother Outlaws* (Women's Press, 2004) and *Toni Morrison and Motherhood* (SUNY, 2004). (aoreilly@yorku.ca)

**The deadline for submission of poetry, art and abstracts  
(short summaries) of longer works is October 1, 2004.**

*Please send to:*

**Cheryl Dobinson**

**726 Atkinson, York University**

**4700 Keele St, Toronto, ON, Canada, M3J 1P3**

**email: cjdobins@yorku.ca**

**phone: (416) 736-2100 x60366**

*new from* **SUNY Press**  
**TONI MORRISON AND MOTHERHOOD**  
**A Politics of the Heart**

**ANDREA O'REILLY**

229 pages • \$23.95 pb • 0-7914-6076-2 • \$84.50 hc • 0-7914-6075-4

Mothering is a central issue for feminist theory, and motherhood is also a persistent presence in the work of Toni Morrison. Examining Morrison's novels, essays, speeches, and interviews, Andrea O'Reilly illustrates how Morrison builds upon black women's experiences of and perspectives on motherhood to develop a view of black motherhood that is, in terms of both maternal identity and role, radically different from motherhood as practiced and prescribed in the dominant culture. Motherhood, in Morrison's view, is fundamentally and profoundly an act of resistance, essential and integral to black women's fight against racism (and sexism) and their ability to achieve well-being for themselves and their culture. The power of motherhood and the empowerment of mothering are what make possible the better world we seek for ourselves and for our children. This, argues O'Reilly, is Morrison's maternal theory—a politics of the heart.

"Motherhood is critically important as a recurring theme in Toni Morrison's oeuvre and within black feminist and feminist scholarship. An in-depth analysis of this central concern is necessary in order to explore the complex disjunction between Morrison's interviews, which praise black mothering, and the fiction, which presents mothers in various destructive and self-destructive modes. Kudos to Andrea O'Reilly for illuminating Morrison's 'maternal standpoint' and helping readers and critics understand this difficult terrain. *Toni Morrison and Motherhood* is also valuable as a resource that addresses and synthesizes a huge body of secondary literature."

— Nancy Gerber, author of *Portrait of the Mother-Artist: Class and Creativity in Contemporary American Fiction*

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*new from the Association for Research on Mothering*

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**Motherhood as Discourse and Practice**

**Edited by Andrea O'Reilly**

258 pages • \$19.95 pb • 1-55014-436-7

This volume, playing upon the double entendre of the word *Matters*, examines the substance and significance of motherhood. As motherhood is the subject *matter* of the volume, the volume similarly examines how motherhood *matters*—is of importance—to women and society more generally. In considering these *matters* the volume examines motherhood both as it is represented and lived. In particular, the volume looks at how the contemporary ideology of good motherhood is represented in diverse popular discourses—film, popular literature, children's fiction, magazines, judicial rulings, and parenting books. Likewise it examines how the messy and muddled realities of motherhood are camouflaged—masked—by the normative discourse of motherhood and how, in turn, practices of mothering—in all of their complexity and diversity—challenge the denial of such difficulty and difference in the normative discourse. The eighteen chapters in this volume were selected from the first ten issues of *The Journal of the Association for Research on Mothering*. *Mother Matters* was published to celebrate the publication of ARM's tenth journal issue and to affirm that, indeed, Mothers and Mothering do Matter!

“An excellent collection that illustrates both the variety of exciting approaches contemporary feminist scholars are bringing to the study of motherhood, and the very complex relationship of ideology and women's experiences of motherhood.”

—Patrice DiQuinzio, Director of Women's Studies, Muhlenberg College, Allentown, Pennsylvania

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*Sustaining Full ARM Membership:* as a sustaining member, your extra contribution will help ensure that ARM, a non-profit organization, can continue to meet its operating costs. 2003 sustaining members will receive a free copy of ARM's new publication, *Teaching Motherhood: A Collection of Post-Secondary Courses on Mothering-Motherhood*.

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