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1993

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ARTICLES

RACISM AND PATRIARCHY IN THE MEANING OF MOTHERHOOD

DOROTHY E. ROBERTS*

I. INTRODUCTION

It is now commonplace for feminist scholars to acknowledge the differences among women.[1] This is a critical observation that is transforming feminist thought. The racial critique of gender essentialism in feminist theory[2] has inspired the ongoing reconstruction of a feminist jurisprudence that includes the historical, economic,

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* Associate Professor, Rutgers University School of Law-Newark. B.A. 1977, Yale College; J.D. 1980, Harvard Law School. I presented my preliminary thoughts on the subject of this article at Martha Fineman's seminar on Reproductive Issues at Columbia University School of Law. I am grateful to the students for their discussion and Professor Fineman for her generous encouragement. I presented drafts of this article at the Symposium, "Discovering Our Connections: Race and Gender in Theory and Practice of the Law," sponsored by *The American University Journal of Gender & the Law*, and at the Feminism and Legal Theory Project's Workshop on Motherhood at Columbia University School of Law. I benefitted from the comments of participants, particularly Nancy Erickson, Linda McClain, Barbara Omolade, and Ann Shalleck. Kim Taylor provided valuable research assistance.

1. *See, e.g.*, Patricia A. Cain, *Feminist Jurisprudence: Grounding the Theories*, 4 BERKELEY WOMEN'S L.J. 191, 204-05 (1990) (advocating that good feminist thought ought to reflect differences in women's realities).

2. *See, e.g.*, Kimberle Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139, 152-60 (providing examples of how "theory emanating from a white context obscures the multidimensionality of Black women's lives"); Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581, 585 (1990) (demanding that feminist legal theory must account for race differences); Marlee Kline, *Race, Racism, and Feminist Legal Theory*, 12 HARV. WOMEN'S L.J. 115, 124-44 (1989) (examining three critiques, written by women of color, that analyze race essentialism in feminist legal scholarship); *see also* ELIZABETH V. SPELMAN, INESSENTIAL WOMAN: PROBLEMS OF EXCLUSION IN FEMINIST THOUGHT (1988) (arguing that the feminist analysis of gender must include other aspects of identity, such as race and class).

Angela Harris defines gender essentialism as "the notion that a unitary, 'essential' women's experience can be isolated and described independently of race, class, sexual orientation, and other realities of experience." Harris, *supra*, at 585. To claim the existence of a universal "monolithic . . . woman's voice" is in fact to claim that the voice of white, heterosexual, socioeconomically privileged women can speak for all other women. Harris, *supra* at 588.

and social diversity of women's experiences.[3]

This article starts with the presumption that women experience gender in different ways. For example, Black women experience various forms of oppression simultaneously, as a complex interaction of race, gender, and class that is more than the sum of its parts.[4] By focusing on gender as the primary locus of oppression, mainstream feminist legal thought often forces women of color to fragment their experience in a way that does not reflect the reality of their lives.[5] The recognition of women's differences, however, does not negate the fundamental premise of feminism that women are oppressed "as women."[6] It is still, therefore, useful to make patri-

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3. *See, e.g.*, Cain, *supra* note 1, at 204-05 ("Good feminist thought ought to reflect the real differences in women's realities, in our lived experiences. These include differences of race, class, age, physical ability and sexual preference." (citation omitted)); *see also* AUDRE LORDE, *Age, Race, Class, and Sex: Women Redefining Difference*, *in* SISTER OUTSIDER 114, 122 (1984) ("Now we must recognize differences among women who are our equals, neither inferior nor superior, and devise ways to use each others' difference to enrich our visions and our joint struggles.").

4. *See* Paulette M. Caldwell, *A Hairpiece: Perspectives on the Intersection of Race and Gender*, 1991 DUKE L.J. 365 (explaining that race and gender interact to form a unique oppression for Black women); BELL HOOKS, AIN'T I A WOMAN: BLACK WOMEN AND FEMINISM 12 (1981) (revealing the failure of the mainstream women's movement to include the Black female experience); Harris, *supra* note 2, at 604 (arguing that Black women, unlike white women, cannot isolate their race from their gender); Judy Scales-Trent, *Black Women and the Constitution: Finding Our Place, Asserting Our Rights*, 24 HARV. C.R.-C.L. L. REV. 9 (1989) (analyzing the unique oppressions experienced by Black women).

5. *See* Harris, *supra* note 2, at 588 ("The result of essentialism is to reduce the lives of people who experience multiple forms of oppression to addition problems: 'racism + sexism = straight black women's experience.' "); *see also* Kline, *supra* note 2, at 135-38 (criticizing Catharine A. MacKinnon's oversimplification of the sites of women's oppression by reducing them to a single, gender-related cause).

"Adding on" race and class to the identities of Black women not only implies that there is a universal, essential gender identity common to all women, but also that white middle-class women have no racial and class identity. SPELMAN, *supra* note 2, at 166-67.

6. *See generally* CATHARINE A. MACKINNON, FEMINISM UNMODIFIED 32-39 (1987) (theorizing that women are oppressed because of their differences as women); Catharine A. MacKinnon, *Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence*, 8 SIGNS 635 (1983) (analyzing feminism as a theory of power). Professor MacKinnon explains that women's subordination by men forms a system of power relations that is not undercut by women's diversity:

> To speak of being treated "as a woman" is to make an empirical statement about reality, to describe the realities of women's situation. In this country, which parallels other cultures, women's situation combines unequal pay with allocation to disrespected work, sexual targeting for rape, domestic battering, sexual abuse as children, and systemic sexual harassment; depersonalization, demeaned physical characteristics, use in denigrating entertainment, deprivation of reproductive control, and forced prostitution. To see these practices are done by men to women is to see these abuses as forming a system, a hierarchy of inequality.

Catharine A. MacKinnon, *From Practice to Theory, or What is a White Woman Anyway?*, 4 YALE J.L. & FEMINISM 13, 15 (1991). In other words, the practices Professor MacKinnon describes characterize the condition of women as a group, although women experience these practices in diverse ways that depend on their race, class, sexual orientation, and other aspects of their identity and social position.

We must be careful not to confuse this understanding of gender as a political system with the belief that women share a common, essential identity "as women," that can be isolated

archy a focus of feminist inquiry and opposition.[7]

How, then, do we understand our condition as women and work towards our liberation? Recent feminist scholarship has established that racism makes women different, even though women are all subject to patriarchy. What I wish to examine is the relationship between racism and patriarchy.

Racism and patriarchy are not two separate institutions that intersect only in the lives of Black women. They are two interrelated, mutually supporting systems of domination and their relationship is essential to understanding the subordination of all women. Racism makes the experience of sexism different for Black women and white women. But it is not enough to note that Black women suffer from both racism and sexism, although this is true. Racism is patriarchal. Patriarchy is racist. We will not destroy one institution without destroying the other. I believe it is the recognition of that connection — along with the recognition of difference among women — that is truly revolutionary.

This article explores how racism and patriarchy interact in the social construction of motherhood. Motherhood, like sexuality, plays a critical role in women's subordination by men.[8] As Nancy Chodorow notes, "Women's mothering is a central and defining feature of the social organization of gender and is implicated in the

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from other elements of their identity. *See* SPELMAN, *supra* note 2, at 13 ("[T]he phrase "as a woman "is the Trojan horse of feminist ethnocentrism."). On the other hand, we must avoid "a simplistic anti-essentialism that deconstructs subordinated group identity until subordination no longer seems to exist." Mari J. Matsuda, *Pragmatism Modified and the False Consciousness Problem*, 63 S. CAL. L. REV. 1763, 1774 (1990).

7. Adrienne Rich defines patriarchy as follows:

> Patriarchy is the power of the fathers: a familial-social, ideological, political system in which men — by force, direct pressure, or through ritual, law, and language, customs, etiquette, education, and the division of labor, determine what part women shall or shall not play, and in which the female is everywhere subsumed under the male.

ADRIENNE RICH, OF WOMAN BORN: MOTHERHOOD AS EXPERIENCE AND INSTITUTION 57 (1976). *See* GERDA LERNER, THE CREATION OF PATRIARCHY 239 (1986) (defining patriarchy as "the manifestation and institutionalization of male dominance over women and children in the family and the extension of male dominance over women in society in general."). Both Adrienne Rich and Gerda Lerner note that patriarchy does not imply that women are totally without power.

Patriarchy's ideology, if not its power, is not strictly the domain of white men. As bell hooks explains, "The black male quest for his 'manhood' in American society is rooted in his internalization of the myth that simply having been born male, he has an inherent right to power and privilege." HOOKS, *supra* note 4, at 100. Of course, the Black male's relationship to patriarchy in America is very different from that of white men.

8. *See* CATHARINE A. MACKINNON, *Sex and Violence, in* FEMINISM UNMODIFIED 85, 86 (positing that society's definitions of "normal forms of sexuality" play a role in the subordination of women); *see generally* RICH, *supra* note 7, at 59 (describing how the institution of motherhood oppresses women and suggesting a vision of a liberated motherhood).

construction and reproduction of male dominance itself."[9]

Adrienne Rich distinguishes between the "experience of motherhood" — the relationship between a woman and her children — and "motherhood as enforced identity and as political institution."[10] An unwed Black teenager, for example, may experience motherhood as a rare source of self-affirmation, while society deems her motherhood to be illegitimate and deviant.[11] She may experience caring for her child as a determined struggle against harsh circumstances, while society sees in her mothering the pathological perpetuation of poverty.[12] Some women may experience mothering as debilitating and intrusive, even though patriarchal ideology defines it as woman's instinctive vocation.[13] Some women may experience fulfillment and happiness in mothering, even though feminist theory calls it oppressive.[14]

There are joys and sorrows that most mothers share: the pleasure of nursing her baby; the exhaustion from chasing after her toddler; the gratification of watching her child achieve whatever goal; the terror of unwanted pregnancy; and the despair of surrendering yet another dream in order to care for her child. There are also experiences mothers do not share, in part because of race. Most white mothers do not know the pain of raising Black children in a racist society. It is impossible to explain the depth of sorrow felt at the moment a mother realizes she birthed her precious brown baby into a society that regards her child as just another unwanted Black

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9. NANCY CHODOROW, THE REPRODUCTION OF MOTHERING 9 (1978). For a critique of Nancy Chodorow's work for failing to account for race and class in the reproduction of mothering, see SPELMAN, *supra* note 2, at 80-113.

10. ADRIENNE RICH, *Motherhood in Bondage, in* ON LIES, SECRETS, AND SILENCE 195, 196-97 (1979). *See* Marie Ashe, *Law-Language of Maternity: Discourse Holding Nature in Contempt,* 22 NEW ENG. L. REV. 521, 545-53 (1988) (arguing that individual women experience pregnancy and childbirth very differently within the context of cultural constructs); Iris Marion Young, *Is Male Gender Identity the Cause of Male Domination?, in* MOTHERING: ESSAYS IN FEMINIST THEORY 129, 134 (Joyce Trebilcot ed., 1984) [hereinafter MOTHERING] (distinguishing gender differentiation, "a phenomenon of individual psychology and experience," from male domination, a set of "structural relations of genders and institutional forms that determine those structures"); Martha L. Fineman, *Challenging Law, Establishing Differences: The Future of Feminist Legal Scholarship,* 42 FLA. L. REV. 25, 38 (1990) (discussing how society's construction of motherhood influences individual women's experiences of mothering).

11. *See* Regina Austin, *Sapphire Bound!,* 1989 WIS. L. REV. 539, 558-61 (explaining that because of cultural differences Blacks and whites tend to view teenage pregnancy differently).

12. *See* Martha L. Fineman, *Images of Mothers in Poverty Discourses,* 1991 DUKE L.J. 274, 285-89 (discussing how contemporary poverty reform discourse casts single motherhood as pathological and as a primary explanation for poverty).

13. *See* Ashe, *supra* note 10, at 544-45 (indicating that for some women pregnancy is a confining experience); *see also* CHODOROW, *supra* note 9, at 21-22 (presenting the theory believed by some psychoanalysts "and assumed by many people that women have a mothering instinct, or maternal instinct, and that therefore it is 'natural' that they mother.").

14. *See* Ashe, *supra* note 10, at 545 (commenting that pregnancy and childbirth provide some women with strength and insight); *see also* Ashe, *supra* note 10, at 523 (noting that feminists often focus on motherhood as a locus for women's oppression).

charge. Black mothers must bear the incredible task of guarding their children's identity against innumerable messages that brand them as less than human.[15]

There are features of motherhood as a political institution that subordinate women because we are women: our status as childbearer determines our identity, we are assigned the enormous responsibility of childrearing, our work is unpaid and degraded, and to the extent our role as mother is valued, it is only when it "is attached to a legal father."[16] Adrienne Rich argues that motherhood in its present form denies women their potential as full human beings. She writes:

> Institutionalized motherhood demands of women maternal 'instinct' rather than intelligence, selflessness rather than self-realization, relation to others rather than the creation of self. Motherhood is 'sacred' so long as its offspring are 'legitimate' — that is, as long as the child bears the name of a father who legally controls the mother.[17]

Society's construction of mother, its image of what constitutes a good mother and a bad mother,[18] facilitates male control of all women. Women who fail to meet the ideal of motherhood (unwed mothers, unfit mothers, and women who do not become mothers) are stigmatized for violating the dominant norm and considered deviant or criminals.[19] Martha Fineman calls motherhood "[a] colonized [concept] . . . an event physically practiced and experienced by women, but occupied and defined, given content and value, by the

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15. Patricia Williams mused about a lawsuit brought by a white woman against a clinic that negligently sold her a Black man's sperm.

> I ponder this case about the nightmare of giving birth to a black child who is tormented so that her mother gets to claim damages for emotional distress. I think about whether my mother shouldn't bring such a suit, both of us having endured at least the pain of my maturation in the racism of the Boston public school system. Do black mothers get to sue for such an outcome, or is it just white mothers?

PATRICIA J. WILLIAMS, THE ALCHEMY OF RACE AND RIGHTS 186-87 (1991). *See generally* Dorothy E. Roberts, *Punishing Drug Addicts Who Have Babies: Women of Color, Equity, and the Right of Privacy*, 104 HARV. L. REV. 1419, 1419-46 (pointing out that history's neglect of Black children casts doubt on the state's professed concern for the welfare of the Black fetus).

There are fears peculiar to mothers of other backgrounds, as well. For example, Audre Lorde wrote, "Some problems we share as women, some we do not. You fear your children will grow up to join patriarchy and testify against you, we fear our children will be dragged from a car and shot down in the street, and you will turn your backs upon the reasons they are dying." LORDE, *supra* note 3, at 119; *see also* Harris, *supra* note 2, at 593-94 (commenting on *Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978), which involved a Native American mother who is faced with the knowledge that if she, unlike men, marries outside the Pueblo tribe her children will not be full tribal members and will be unable to vote or inherit her rights).

16. RICH, *supra* note 10, at 196-97.

17. RICH, *supra* note 7, at 42.

18. *See, e.g.*, Fineman, *supra* note 12, at 281-82 (stating that a mother's status as good or bad depends on whether or not she is single).

19. *See infra* notes 135-42 and accompanying text.

core concepts of patriarchal ideology."[20]

This is patriarchy's meaning of motherhood, one designed to serve the interests of men. The meaning of motherhood in America, however, is molded, on the basis of race as well as gender.[21] Patriarchy does not treat Black and white motherhood identically. In America, the image of the Black mother has always diverged from, and often contradicted, the image of the white mother.

There are several areas to be examined in the study of racism and patriarchy in the meaning of motherhood. This article is directed to the diverse community of feminist thinkers, as it concerns the construction of motherhood by those in power. The article also raises issues for discussion within the Black community, issues that Black feminist scholars are continuing to address, including: the meaning of motherhood within communities of color;[22] sexism by Black men;[23] and the need for Black women to confront our own differences and to develop solidarity among ourselves.[24] For example, Audre Lorde writes about Black women's need for one another: "There are two very different struggles involved here. One is the war against racism in white people, and the other is the need for Black women to confront and wade through the racist constructs underlying our deprivation of each other. And these battles are not at all the same."[25] My focus here on the dominant meaning of

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20. Fineman, *supra* note 12, at 289-90.

21. *See* SPELMAN, *supra* note 2, at 80-113 (discussing the importance of race and class in the oppression of mothers).

22. *See, e.g.*, Austin, *supra* note 11, at 553 (arguing that condemnation of unwed mothers is not consistent across "race, sex, and class boundaries"). Professor Austin observes, for example, that "the culture of poor black teens assigns a positive value to being pregnant" and that young Black single mothers receive more tolerance and support from their female relatives and peers than from the rest of society. Austin, *supra* note 11, at 554, 566; *see also* JOYCE A. LADNER, TOMORROW'S TOMORROW: THE BLACK WOMAN 213-14 (1972) (arguing that there are no "illegitimate" children in low-income Black communities). Black mothers' self-definition is a critical aspect of the meaning of motherhood that influences both the dominant society's construction and the feminist reconstruction of mother. On the importance of self-definition for Black women, see PATRICIA HILL COLLINS, BLACK FEMINIST THOUGHT 91-113 (1991). *See also* Harris, *supra* note 2, at 613 (explaining that "society denies [Black] women their full selves" and they must therefore construct their own identity).

23. *See, e.g.*, Crenshaw, *supra* note 2, at 160-66 (addressing the Black community's failure to integrate an analysis of sexism into Black liberation politics); HOOKS, *supra* note 4, at 87-117 (discussing Black male belief in a patriarchal social order); LORDE, *supra* note 3, at 119-20 (discussing "womanhating as a recourse of the powerless" within Black communities).

24. *See, e.g.*, Regina Austin, *Black Women, Sisterhood, and the Difference/Deviance Divide*, 26 N. ENG. L. REV. 877, 879 (1992) ("In the name of 'black sisterhood,' . . . we might respond to female deviance with understanding, support, or praise based on the distinctive social, material, and political interests of black women."); AUDRE LORDE, *Eye to Eye: Black Women, Hatred, and Anger, in* SISTER OUTSIDER 145 (1984) (discussing feelings of indignation among Black women).

25. LORDE, *supra* note 24, at 164.

motherhood does not minimize the critical importance of Black and other mothers' self-definition.

This article explores the meaning of motherhood during various periods of American history, from slavery to contemporary poverty discourse. While a complete historical analysis is beyond the scope of this article, my review indicates that the social definition of mother changes along with other social developments. Likewise, the two systems of patriarchy and racism interact in different ways throughout history to produce diverse constructions of motherhood in particular times and places. This dynamic quality of subordination suggests that my inquiry will not produce a grand theory of the relationship between patriarchy and racism.[26] Rather, my inquiry seeks a better understanding of how racism and patriarchy shape the meaning of motherhood in particular contexts, the ways that women resist those meanings, and the implications for future action.

II. SLAVERY: THE FOUNDATION OF RACIST PATRIARCHY IN AMERICA

The intimate intertwining of race and gender in the very structure of slavery makes it practically impossible to speak of one without the other. The social order established by white slaveowners was founded on two inseparable ingredients: the dehumanization of Africans on the basis of race, and the control of women's sexuality and reproduction. The American legal order is rooted in this horrible combination of race and gender. America's first laws concerned the status of children born to slave mothers and fathered by white men: a 1662 Virginia statute made these children slaves.[27]

The experience of Black women during slavery provides the most brutal example of the denial of autonomy over reproduction. Female slaves were commercially valuable to their masters not only for their labor, but also for their ability to produce more slaves.[28] White masters, therefore, could increase their wealth by controlling their slaves' reproductive capacity — by rewarding pregnancy; punishing slavewomen who did not bear children; forcing them to

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26. *Cf.* Fineman, *supra* note 10, at 25-30 (finding a middle-range feminist legal scholarship "between the extremes of 'grand theory,' which is totalizing in its scope and ambitions, and personal narratives, which begin and end with the presentation of one individual's unique experience").

27. Isabel Marcus, et. al., *Looking Toward the Future: Feminism and Reproductive Technologies*, 37 BUFF. L. REV. 203, 217-18 (1988-89). For a discussion of such laws in Virginia and Georgia, see A. LEON HIGGINBOTHAM JR., IN THE MATTER OF COLOR 42-45, 252 (1978) (reproducing the statutory language of both the Georgia and Virginia statutes which declared that all children born of a slave mother and white father shall be slaves).

28. ANGELA Y. DAVIS, WOMEN, RACE, & CLASS 7-8 (Vintage Books 1983) (1981); JACQUELINE JONES, LABOR OF LOVE, LABOR OF SORROW: BLACK WOMEN, WORK AND THE FAMILY FROM SLAVERY TO THE PRESENT 12 (1985).

breed; and raping them.[29] Racism created for white slaveowners the possibility of unrestrained reproductive control. As Henry Louis Gates, Jr. writes about the autobiography of a slave named Harriet A. Jacobs, it "charts in vivid detail precisely how the shape of her life and the choices she makes are defined by her reduction to a sexual object, an object to be raped, bred or abused."[30] The radical feminist model of motherhood, which is characterized by the patriarchal male's use of a woman's body for reproduction, is epitomized in slavery.[31] Slavery allowed the perfection of patriarchal motherhood. Patriarchy devised the most dehumanizing form of slavery.

Compulsory childbirth was a critical element of the oppression of both Black and white women of the time. A racist patriarchy required that both Black and white women bear children, although these women served different and complementary functions. Black women produced children who were legally Black to replenish the master's supply of slaves.[32] White women produced white children to continue the master's legacy.[33] The racial purity of white women's children was guaranteed by a violently enforced taboo against sexual relations between white women and Black men and by antimiscegenation laws that punished interracial marriages.[34] There was a critical difference in the white patriarch's relationship to these two classes of women. White men accorded some degree of respect

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29. JONES, *supra* note 28, at 34-35; DOROTHY STERLING, WE ARE YOUR SISTERS: BLACK WOMEN IN THE NINETEENTH CENTURY 24-26 (1984); Catherine Clinton, *Caught in the Web of the Big House: Women and Slavery, in* THE WEB OF SOUTHERN SOCIAL RELATIONS 19, 23-28 (Walter J. Raser, Jr. et. al., eds., 1985). The rape of slavewomen by their masters was primarily a weapon of terror that reinforced white domination. DAVIS, *supra* note 28, at 23-24.

On slavewomen's resistance to outsiders' control of their reproductive lives, see DEBORAH WHITE, AR'N'T I A WOMAN? FEMALE SLAVES IN THE PLANTATION SOUTH 76-90 (1985) (analyzing slavewomen's resistance to white control of their activities in general); STERLING, *supra*, at 25-26, 58-61 (providing examples of slavewomen's efforts to keep control of their children).

30. Henry Louis Gates, Jr., *To Be Raped, Bred or Abused*, N.Y. TIMES BOOK REV., Nov. 22, 1987, at 12 (reviewing HARRIET JACOBS, INCIDENTS IN THE LIFE OF A SLAVE GIRL (J. Yellin ed., 1987)).

31. *See* Jeffner Allen, *Motherhood: The Annihilation of Women, in* MOTHERING, *supra* note 10, at 315, 317 (confirming that the patriarchy valued Black and white women for little else than their ability to produce children, whether the children were to become slaves or heirs).

32. *See* DAVIS, *supra* note 28, at 7 (stating that Black slavewomen were often viewed as breeders for white slaveholders).

33. *See* EUGENE D. GENOVESE, ROLL JORDAN ROLL: THE WORLD THE SLAVES MADE 414 (1976) (remarking that slaveholders were careful to ensure that wives had children only with their white husbands so the children were "all white" and could inherit the father's name).

34. *See* COLLINS, *supra* note 22, at 50 (providing examples of laws that punished interracial marriage); HIGGINBOTHAM, *supra* note 27, at 45 (describing penalties for white women having children with Black men); RICH, *supra* note 7, at 35 (mentioning some of the penalties for interracial marriages); *cf.* WILLIAMS, *supra* note 15, at 226 ("Is there not something unseemly, in our society, about the spectacle of a white woman mothering a black child?"). These roles for Black and white women are reflected in Black author, James Baldwin's remark to a white Southerner during a television debate: "You're not worried about me marrying *your* daughter. You're worried about me marrying your *wife's* daughter. I've been marrying your daughter ever since the days of slavery." GENOVESE, *supra* note 33, at 414.

and protection to white women, who were their wives, mothers, daughters, and sisters. White patriarchs, however, owed nothing to their female slaves, who were denied even the status of "woman."[35] Black mothers reproduced for white patriarchy, but gained nothing from it.

Paradoxically, the role of Black slavewomen — the quintessential servants of patriarchy — often contradicted the fundamental structure of patriarchy. First, the sexual relationship between female slaves and their white masters impugned the value that white women held under patriarchy as wives and mothers.[36] For example, some Southern white women cited in their divorce actions their husbands' "affection" for slavewomen as the cause for the dissolution of the marriage.[37] Some denounced slavery because of their anger and humiliation at their husbands' sexual exploitation of Black women.[38] Second, giving children born of the union between white masters and Black women the status of slaves violated the central tenet of patriarchy that the status of the child must follow his or her father.[39] Nonetheless, the slave's mother determined her child's

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35. *See* ELIZABETH FOX-GENOVESE, WITHIN THE PLANTATION HOUSEHOLD 293 (1988) (asserting that only white women were allowed certain privileges which were denied to slavewomen); Barbara Omolade, *The Unbroken Circle: A Historical Study of Black Single Mothers and Their Families*, 3 WIS. WOMEN'S L.J. 239, 242-43 (1987) (illustrating that, because white women were valued as wives and mothers, a Black women's status as wife or mother could not be acknowledged by white society).

36. *See* ADRIENNE RICH, *Disloyal to Civilization: Feminism, Racism, Gynephobia, in* ON LIES, SECRETS, AND SILENCE 275, 295 (1979) (noting that, in the times of Southern slavery, many white women had feelings of jealousy towards the Black slavewomen their husbands raped).

37. *See* Clinton, *supra* note 29, at 29-30 (describing a divorce claim in which the wife used the fact that her husband raped a Black slavewoman as grounds for divorce); Martha Minow, *Forming Underneath Everything that Grows: Toward a History of Family Law*, 1985 WIS. L. REV. 819, 862 (establishing that the rape of a Black slavewoman was grounds for divorce).

38. HOOKS, *supra* note 4, at 28. One of the best known examples is Mary Boykin Chestnut, whose diary contains many passages condemning this aspect of slavery, such as the following:

> *[March 14, 1861]* . . . God forgive us, but ours is a monstruous system, a wrong and an iniquity! Like the patriarchs of old, our men live all in one house with their wives and their concubines; and the mulattoes one sees in every family partly resemble the white children.
>
> [*Aug. 22, 1861*] I hate slavery. You say there are no more fallen women on a plantation than in London, in proportion to numbers; but what do you say to this? A magnate who runs a hideous black harem with its consequences under the same roof with his lovely white wife and his beautiful and accomplished daughters?

GENOVESE, *supra* note 33, at 426-27; *see also* FOX-GENOVESE, *supra* note 35, at 339-71 (describing the life and writings of Mary Boykin Chestnut). Elizabeth Fox-Genovese argues that, although Mary Boykin Chestnut complained about certain aspects of slavery, she should not be considered a "feminist-abolitionist." Her diaries also reveal her deep racism, acceptance of slavery as a necessary part of her life, criticism of Harriet Beecher Stowe's abolitionist writings, and resentment that she was childless. FOX-GENOVESE, *supra* note 35, at 339-71.

39. *See* Omolade, *supra* note 35, at 244 (revealing the total hypocrisy of the patriarchy which in all cases, except when the child had a Black mother, dictated that the father determined the race of the child).

identity as slave or free, Black or white.[40] Thus, Frederick Douglass saw no hope for freedom in a biological tie to his master:

> The whisper that my master was my father, may or may not be true; and, true or false, it is of little consequence to my purpose whilst the fact remains in all its glaring odiousness, that slaveholders have ordained, and by law established, that the children of slave women shall in all cases follow the condition of their mothers . . . .[41]

Maintaining racial hierarchy required that the patriarchal blood line be broken, that white men deny their own sons' entitlement to patriarchal power.

III. THE VALUE OF MOTHERHOOD

Motherhood under patriarchy is compulsory.[42] Society exerts structural and ideological pressures upon women to become mothers.[43] Motherhood is women's major social role: all women are socially defined as mothers or potential mothers.[44] No woman achieves her full position in society until she gives birth to a child.[45] Pronatalism is so deeply imbedded in our consciences that even feminist reproductive freedom discourse usually centers on the timing of births and the social arrangements surrounding motherhood; it does not question the assumption that all women will eventually be mothers.[46] Historically, the sanctity of motherhood not only encouraged women to become mothers, but also relieved some of the pain women experienced from their exploitation under patriarchy.[47] Women's labor in the home was compensated by the ideological rewards of motherhood, rather than by economic remuneration or the

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40. *See* HIGGINBOTHAM, *supra* note 27, at 43 (reprinting a 1662 statute which provided that the mother determined the race of the child).

41. FREDERICK DOUGLASS, NARRATIVE OF THE LIFE OF FREDERICK DOUGLASS: AN AMERICAN SLAVE 49 (Houston A. Baker, Jr. ed., 1982).

42. *See supra* text accompanying notes 9, 13.

43. *See* Fineman, *supra* note 12, at 276 (concluding that there are social and cultural forces that define the 'essential or idealized woman' as a mother). *But see* Fineman, *supra* note 12, at 274 (suggesting that social and cultural forces often discourage poor, unmarried women from motherhood).

44. *See* Martha E. Gimenez, *Feminism, Pronatalism and Motherhood, in* MOTHERING, *supra* note 10, at 287 (viewing motherhood as a dimension of a woman's normal adult role that is taken for granted).

45. Martha E. Gimenez, *Feminism, Pronatalism and Motherhood, in* MOTHERING, *supra* note 10, at 288.

46. Martha E. Gimenez, *Feminism, Pronatalism and Motherhood, in* MOTHERING, *supra* note 10, at 287, 290.

47. Martha E. Gimenez, *Feminism, Pronatalism and Motherhood, in* MOTHERING, *supra* note 10, at 304 (commenting on the low paid, undesirable roles for women in the industrialized capitalist system of the early and middle 1900s and arguing that motherhood was seen as preferable to working in a capitalist system that exploited women).

opportunity for self-determination.[48]

Compulsory motherhood under patriarchy is complicated by racism. Our society views childbearing by white women as desirable. For example, Ruth Colker tells the story of her law school classmate who decided to be sterilized.[49] The university physician refused to allow her to undergo the procedure unless she agreed to attend several sessions with a psychiatrist, presumably to dissuade her from her decision.[50] Professor Colker recognizes that the "physician's actions reflect the dominant social message — that a healthy (white) woman should want to bear a child."[51]

Procreation by Black mothers, on the other hand, is devalued and discouraged.[52] The devaluation of Black motherhood is a way of disregarding Black humanity. The value society places on individuals determines whether it sees them as entitled to perpetuate themselves in their children. Denying a woman the right to bear children deprives her of a basic part of her humanity. Patriarchy values women primarily for their procreative capacity: it accords value to white women for nurturing a more valuable fetus, but it denies to Black women even this modicum of value. Black women are deemed not even worthy of the dignity of childbearing. Discouraging Black procreation is also a means of subordinating the entire race; under patriarchy, it is accomplished through the regulation of Black women's fertility.[53]

A popular mythology about Black women, rooted in slavery, portrays them as less deserving of motherhood.[54] One of the most prevalent images of slavewomen was the character of Jezebel, a wo-

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48. Thus, the voluntary motherhood advocates in the nineteenth century opposed birth control partly because they realized that motherhood was the only source of dignity for women of their time. *See* Linda Gordon, *Why Nineteenth-Century Feminists Did Not Support "Birth Control" and Twentieth-Century Feminists Do: Feminism, Reproduction, and the Family*, *in* RETHINKING THE FAMILY 40 (B. Thorne & M. Yalom eds., 1982) (explaining that the voluntary motherhood movement thought birth control would destroy the sanctity of marriage and harm women socially and economically); *see also* LINDA GORDON, WOMAN'S BODY, WOMAN'S RIGHT: A SOCIAL HISTORY OF BIRTH CONTROL IN AMERICA 111-15 (1976) (describing the voluntary motherhood movement's pro-motherhood ideology that accepted the Victorian mystification of the mother).

49. Ruth Colker, *Feminism, Theology, and Abortion: Toward Love, Compassion, and Wisdom*, 77 CAL. L. REV. 1011, 1067 n.196 (1989).

50. *Id.*

51. *Id.*

52. *See* Austin, *supra* note 11, at 549-58 (discussing negative stereotypes of unwed Black mothers in the media and judicial decisions); Roberts, *supra* note 15, at 1436-50 (describing society's devaluation of Black motherhood).

53. The disproportionate sterilization of Black women, for example, is reversed in the case of men. *See infra* text accompanying notes 70-74. In 1988, only 0.5 percent of Black men were contraceptively sterile, compared with 8.4 percent of white men. Felicia Halpert, *Birth Control for Him*, ESSENCE, Nov. 1990, at 20.

54. I developed parts of this discussion of the devaluation of Black motherhood more fully in Dorothy E. Roberts, *Punishing Drug Addicts Who Have Babies: Women of Color, Equality,*

man governed by her sexual desires.[55] The ideological construct of the licentious Jezebel legitimated white men's sexual abuse of Black women and defined Black women as the opposite of the ideal mother. Jezebel contradicted the prevailing image of the True Woman, who was virtuous, pure, and white. The myth of the sexually loose, impure Black woman was deliberately and systematically perpetuated after slavery ended, and persists in modern American culture.[56]

If the "bad" Black Jezebel represented the opposite of ideal motherhood, the asexual and maternal Black Mammy was the embodiment of the patriarchal ideal.[57] Mammy was both the perfect mother and the perfect slave: whites saw her as a "passive nurturer, a mother figure who gave all without expectation of return, who not only acknowledged her inferiority to whites but who loved them."[58] It is important to recognize, however, that Mammy did not reflect any virtue in Black motherhood. The ideology of Mammy placed no value in Black women as the mothers of their own children. Rather, patriarchy "claimed for the white family the ultimate devotion of black women, who reared the children of others as if they were their own."[59] Because of racism, Black mothers could not be moral authorities, as white mothers were, in relation to their own children.[60] Mammy, while she cared for the master's children, remained under the moral supervision of her white mistress.[61]

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and the Right of Privacy, 104 HARV. L. REV. 1419, 1436-50 (1990). On Black mothers' tradition of rejecting these images and defining themselves, see COLLINS, *supra* note 22, at 115-137.

55. WHITE, *supra* note 29, at 28-29.

56. *See* HOOKS, *supra* note 4, at 65-67 (recounting examples in major American media which continue to portray negative stereotypes of Black women as bad tempered, mean, and unattractive); Barbara Omolade, *Black Women, Black Men and Tawana Brawley — The Shared Condition*, 12 HARV. WOMEN'S L.J. 12, 16 (1989) (presenting myths in the media about the rape of Black women).

57. For descriptions of the image of the Black Mammy, see Austin, *supra* note 11, at 570; HOOKS, *supra* note 4, at 84-85; GENOVESE, *supra* note 33, at 353-61 (describing the role of Mammies in antebellum plantation homes).

58. HOOKS, *supra* note 4, at 85. *See* GENOVESE, *supra* note 33, at 356 (stating that Mammy "gave the slaves a white-approved standard of black behavior"); WHITE, *supra* note 29, at 58 (describing Mammy as "the personification of the ideal slave, and the ideal woman . . . an ideal symbol of the patriarchal tradition").

59. FOX-GENOVESE, *supra* note 35, at 292; *see also* GENOVESE, *supra* note 33, at 361 (identifying Mammy's "tragedy" as her "inability to offer her individual power and beauty to black people"). Black mothers, in contrast, were pictured as irresponsible and unable to care properly for their own children. *See* Roberts, *supra* note 15, at 1441-42 (discussing the attribution by white census marshals of Black infant deaths to accidental suffocation by their mothers).

60. *See* Ann Ferguson, *On Conceiving Motherhood and Sexuality: A Feminist Materialist Approach*, *in* MOTHERING, *supra* note 10, at 153, 170-71 (arguing that racial stereotyping created a dichotomy where white women were viewed as good, virginal mothers, while Black women were perceived as evil and sexual and thus not as mothers with the authority to care for their own children).

61. Ann Ferguson, *On Conceiving Motherhood and Sexuality: A Feminist Materialist Approach*, *in* MOTHERING, *supra* note 10, at 171.

This ideological devaluation of Black motherhood has been manifested in many ways throughout American history. During slavery, Black women were systematically denied the rights of motherhood, including any legal claim to their children.[62] Slave masters owned both Black women and their children. Slave owners alienated slavewomen from their children through the sale of either mother or child to other slave owners and through the control of childrearing.[63] In *Beloved*, Toni Morrison recounts a slave mother's experience of separation from her loved ones:

> Anybody Baby Suggs knew, let alone loved, who hadn't run off or been hanged, got rented out, loaned out, bought up, brought back, stored up, mortgaged, won, stolen or seized .... What she called the nastiness of life was the shock she received upon learning that nobody stopped playing checkers just because the pieces included her children. Halle she was able to keep the longest. Twenty years. A lifetime. Given to her, no doubt, to make up for *hearing* that her two girls, neither of whom had their adult teeth, were sold and gone and she had not been able to wave goodbye.[64]

Patriarchy denied to Black mothers the authority and joy of mothering which it allowed white mothers. Once again, patriarchy was perfected in the treatment of slavewomen.

A contemporary example of the way in which Black motherhood is devalued is the welfare system's disproportionate denial of Black mothers' parental rights.[65] Malcolm X called foster care a system of legalized slavery.[66] He described the state's disruption of his own family in terms that mirrored white slavemasters' control of slave families:

> Soon the state people were making plans to take over all of my mothers' children .... A Judge ... in Lansing had authority over me and all of my brothers and sisters. We were "state children," court wards; he had the full say-so over us. A white man in charge of a black man's children! Nothing but legal, modern slavery — however kindly intentioned .... I truly believe that if ever a state social agency destroyed a family, it destroyed ours.[67]

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62. *See* Anita Allen, *Surrogacy, Slavery, and the Ownership of Life*, 13 HARV. J.L. & PUB. POL'Y 139, 140 n.9 (1990) (suggesting that the institution of slavery made Black mothers de facto surrogates for their masters and mistresses).

63. Id. at 140 n.9; Dorothy Burnham, *Children of the Slave Community in the United States*, 19 FREEDOMWAYS 75, 75-77 (1979). On slave mothers' resistance, see FOX-GENOVESE, *supra* note 35, at 322-24.

64. TONI MORRISON, BELOVED 23 (1987).

65. *See* Sylvia Sims Gray & Lynn M. Nybell, *Issues in African-American Family Preservation*, 69 CHILD WELFARE 513, 513 (1990) (noting that about one-half of the children in foster care are Black).

66. MALCOLM LITTLE, THE AUTOBIOGRAPHY OF MALCOLM X 21-22 (1965).

67. *Id.*

The state intervenes more often in Black homes in part because Black mothers are more likely to be supervised by social workers, because child welfare workers apply culturally-biased standards to Black families, and because the state is more willing to intrude upon the autonomy of Black mothers.[68] Government bureaucrats often mistake Black childrearing patterns as neglect when they diverge from the norm of the white nuclear family.[69]

One of the most extreme forms of devaluation of Black motherhood is the sterilization abuse of Black women.[70] The disproportionate sterilization of Black women enforces society's determination that we do not deserve to be mothers.[71] Black women experience sterilization abuse in the form of blatant coercion, trickery, and subtle influence on their decision to be sterilized.[72] It is performed by individual doctors who encourage Black women to be sterilized because they view Black women's family sizes as excessive and believe we are incapable of using contraceptives.[73] It is also accomplished through government policies that penalize wo-

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68. *See* Carol B. Stack, *Cultural Perspectives on Child Welfare,* 12 N.Y.U. REV. L. & SOC. CHANGE 539, 541 (1983-84) (arguing that the misunderstanding of cultural family patterns contributes to a disproportionate number of minority children placed in foster homes); Michael S. Wald, *State Intervention on Behalf of "Neglected" Children: Standards for Removal of Children from Their Homes, Monitoring the Status of Children in Foster Care, and Termination of Parental Rights,* 28 STAN. L. REV. 623, 629 nn.21-22 (1976) (arguing that more minority parents are charged with neglect because they are disproportionately on welfare and thus subject to greater social work supervision); *cf.* Martha A. Fineman, *Intimacy Outside of the Natural Family: The Limits of Privacy,* 23 CONN. L. REV. 955, 959 (1991) (distinguishing between "private" families that earn the right to government protection by living up to ideological expectations, and "public" families that are subject to state supervision and control because they deviate from social norms).

69. For descriptions of "deviant" childrearing patterns in the Black community, such as extended kin networks, see ROBERT B. HILL, INFORMAL ADOPTION AMONG BLACK FAMILIES (1977); CAROL B. STACK, ALL OUR KIN: STRATEGIES FOR SURVIVAL IN A BLACK COMMUNITY 62-107 (1974).

70. *See generally* DAVIS, *supra* note 28, at 215-21 (documenting the sterilization abuse of women of color since the 1970s); Laurie Nsiah-Jefferson, *Reproductive Laws, Women of Color and Low-Income Women,* 11 WOMEN'S RTS. L. REP. 15, 30-32 (1989) (setting forth statistics demonstrating the disproportionate sterilization of minority women, particularly Black women, and the factors reflected in the statistics); Charlotte Rutherford, *Reproductive Freedoms and African American Women,* 4 YALE J.L. & FEMINISM 255, 273-75 (1992) (suggesting that historically Black women were more likely to use sterilization as a contraceptive method than were white women because they were subjected to coercion and other abusive tactics). In 1982, 24 percent of Black women were sterilized, compared to 15 percent of white women. *Id.* at 273.

71. Roberts, *supra* note 15, at 1442-43.

72. *See* Nsiah-Jefferson, *supra* note 70, at 30-31 (describing the medical community's targeting of poor Black women to undergo sterilization); Rosalind P. Petchesky, *Reproduction, Ethics, and Public Policy: The Federal Sterilization Regulations,* 9 HASTINGS CENTER REP. 29, 32 (1979) (defining sterilization abuse as the pressuring of an individual into sterilization, which may include: failing to acquire formal or written consent to sterilization, failing to explain the irreversability of the sterilization, failing to address other birth control alternatives to sterilization, threatening the loss of welfare or medical benefits if sterilization is refused, or the making of consent to sterilization necessary in order to receive an abortion).

73. Roberts, *supra* note 15, at 1443.

men on welfare for having babies, but make sterilization the only publicly-funded birth control method readily available to them.[74]

Currently, the image of the undeserving Black mother legitimizes the prosecution of poor Black women who use drugs during pregnancy.[75] Although prenatal substance abuse cuts across racial and socioeconomic lines, the vast majority of women charged with such crimes are poor and Black.[76] These women are more likely to be detected and reported to government agencies, in part because of the racist attitudes of health care professionals.[77] On a deeper level, it is their failure to meet society's image of the ideal mother that makes their prosecution more acceptable. The state does not punish poor crack addicts simply because they may harm their unborn children. Rather, they are punished for having babies because they are deemed unworthy of procreating.[78]

Angela Harris uses the example of beauty to demonstrate the qualitative difference between white and Black women's failure to meet patriarchal standards.[79] She observes that Black women's frustration at being unable to look like the "All-American" woman is not simply a more intense form of white women's frustration. This is because beauty is constructed according to race, as well as gender.[80] Thus, the despair felt by Pecola Breedlove, the character in Toni Morrison's *The Bluest Eye* who spends her childhood praying for blue eyes, is something other than the disappointment felt by a little white girl who despised her features.[81] Pecola Breedlove despairs "not because she's even further away from the ideal of beauty than white women are, but because Beauty [sic] *itself* is white, and she is not and can never be, despite the pair of blue eyes she eventually believes she has."[82]

Similarly, Black women can never attain the ideal image of motherhood, no matter how much we conform to middle-class convention, because ideal motherhood is white. The maternal standards created to confine women are not sex-based norms which Black wo-

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74. Roberts, *supra* note 15, at 1443-44.
75. Roberts, *supra* note 15, at 1444.
76. Roberts, *supra* note 15, at 1432-36.
77. Roberts, *supra* note 15, at 1432-34.
78. Roberts, *supra* note 15, at 1472.
79. Harris, *supra* note 2, at 596-98.
80. *See* bell hooks, *Theory as Liberatory Practice,* 4 YALE J.L. & FEMINISM 1, 4 (1991) ("[G]ender is not the sole factor determining constructions of femaleness.").
81. TONI MORRISON, THE BLUEST EYE (1970).
82. Harris, *supra* note 2, at 597. *See* SPELMAN, *supra* note 2, at 123 ("An additive analysis treats the oppression of a Black woman in a society that is racist as well as sexist as if it were a further burden when, in fact, it is a different burden.").

men happen to fail. They are created out of raced, as well as gendered, components.

IV. MOTHERHOOD AND DOMESTICITY

During the nineteenth century, the ideology of separate spheres for men and women reinforced women's devotion to motherhood within the orbit of patriarchy. Under this construct, the husband sustained the family economically and represented the family in the public sphere; the wife cared for the private realm of the home.[83] The separate spheres ideology gave women a place, a role, and importance in the home, while preserving male dominance over women.[84] "The cult of domesticity" legitimized the confinement of women to the private sphere by defining women as naturally suited for motherhood and naturally unfit for public life.[85] Justice Bradley expressed this view of women in his notorious concurring opinion in *Bradwell v. Illinois*,[86] which upheld the exclusion of women from legal practice:

> The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life. The constitution of the family organization, which is founded in the divine ordinance, as well as in the nature of things, indicates the domestic sphere as that which properly belongs to the domain and functions of womanhood . . . . The paramount destiny and mission of woman [sic] is to fulfil [sic] the noble and benign offices of wife and mother. This is the law of the Creator.[87]

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83. *See* Frances E. Olsen, *The Family and the Market: A Study of Ideology and Legal Reform*, 96 HARV. L. REV. 1497, 1498-1501 (1983) (suggesting that a dichotomy existed between ideas of market and family in the nineteenth century separate spheres ideology); Wendy W. Williams, *The Equality Crisis: Some Reflections on Culture, Courts, and Feminism*, 7 WOMEN'S RTS. L. REP. 175, 178 (1982) (focusing on the separate spheres ideology as reflected in Supreme Court jurisprudence). For a description of gender conventions in the antebellum South, see FOX-GENOVESE, *supra* note 35, at 192-241.

84. *See generally* Williams, *supra* note 83, at 178 (detailing the Supreme Court's long-standing endorsement of the separate spheres ideology). Martha Fineman contends that nineteenth century feminist domestic ideology had "unrealized radical potential to empower mothers within the family:" it "raised Mother as a powerful symbol;" it was the basis for the movement away from the father's absolute right to custody; and it recognized mothers' socially productive labor. Martha A. Fineman, *The Neutered Mother*, 46 U. MIAMI L. REV. 653, 657-58 (1992). This potential challenge to patriarchy, however, was incorporated into patriarchal ideology and family structure. *Id.* at 657.

85. For a critique of relational feminism as a resurgence of the ideology of domesticity, see Joan C. Williams, *Deconstructing Gender*, 87 MICH L. REV. 797 (1989). Professor Williams argues that relational feminists, such as Carol Gilligan, "reclaim the compliments of Victorian gender ideology while rejecting its insults." *Id.* at 807. She also demonstrates how many of the gender stereotypes derived from domesticity influenced the decision in EEOC v. Sears, Roebuck & Co., 628 F. Supp. 1264 (N.D. Ill. 1968), *aff'd*, 839 F.2d 302 (7th Cir. 1988), which denied women's claims of sex discrimination in commission sales positions. *Id.* at 813-21.

86. 83 U.S. 130 (1872).

87. *Id.* at 141-42 (Bradley, J., concurring). Similarly, Justice Brewer asserted in Muller v. Oregon, which upheld a law limiting the hours women were permitted to work for wages:

The gendered division of labor continues to be an aspect of women's subordination. The American wage labor system is structured as if workers have no child care responsibilities.[88] This assumption systematically disadvantages women since they are assigned the task of childrearing. Men have the privilege of performing as ideal workers (i.e., workers with no child care responsibilities) and consequently earn more money.[89] Although most mothers now engage in wage labor, they must limit their work commitments to accommodate their child-care duties. According to Joan Williams, this gender system leads mothers to marginalize themselves economically by failing to perform as ideal workers, in order to allow their husbands to perform that role and to ensure that their children receive high-quality care.[90]

Black women have historically defied the norm that defines motherhood in opposition to wage labor. The separate spheres ideology dissolved within slavery. While Victorian roles required white women to be nurturing mothers, housekeepers, and companions to their husbands, slavewomen's role required strenuous labor.[91]

Slavewomen's lives of hard physical labor shattered the myth that women were weaker than men and unfit for the public sphere. Thus, in 1851 Sojourner Truth could present to a women's rights convention in Akron, Ohio, a unique denunciation of male justifications for the disenfranchisement of women.[92] Unlike most of the

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> That woman's physical structure and the performance of maternal functions place her at a disadvantage in the struggle for subsistence is obvious. This is especially true when the burden[s] of motherhood are upon her . . . [A]s healthy mothers are essential to vigorous offspring, the physical well-being of a woman becomes an object of public interest and care in order to preserve the strength and vigor of the race.

208 U.S. 412, 421 (1908).

88. Mary Joe Frug, *Securing Job Equality for Women: Labor Market Hostility to Working Mothers*, 59 B.U. L. REV. 55, 56-61 (1979); Williams, *supra* note 85 at 822; *cf.* Vicki Shultz, *Telling Stories About Women and Work: Judicial Interpretations of Sex Segregation in the Workplace in Title VII Cases Raising the Lack of Interest Argument*, 103 HARV. L. REV. 1750 (1990) (discussing how the structure of workplaces results in sex segregation).

89. Williams, *supra* note 85, at 823 (suggesting an analytical framework for the study of gender in the wage labor structure and how this structure relates to the "systematic impoverishment of women").

90. Williams, *supra* note 85, at 823-24.

91. *See* Roberts, *supra* note 15, at 1438 (quoting Angela Davis' observations about the way Black women were excluded from nineteenth century definitions of femininity).

While Black women performed the male task of working in the field, Black men were not assigned the female task of domestic service. Bell hooks argues that the dynamics of sexist and racist oppression during slavery really centered on the masculinization of the Black female, rather than the more commonly noted de-masculinization of the Black male. HOOKS, *supra* note 4, at 22.

On the sexual division of labor among slaves, see Jacqueline Jones, *"My Mother Was Much of a Woman:" Black Women, Work, and the Family Under Slavery*, 8 FEMINIST STUDIES 235 (1982).

92. DAVIS, *supra* note 28, at 60-61; HOOKS, *supra* note 4, at 159-60.

white women's rights advocates, she could point to her personal experience of field labor as proof that women could perform the same work as men:

> Dat man ober dar say dat women needs to be helped into carriages, and lifted ober ditches, and to have de best place every whar. Nobody eber help me into carriages, or ober mud puddles, or gives me any best place . . . and ar'n't I a woman? Look at me! Look at my arm! . . . . I have plowed, and planted, and gathered into barns, and no man could head me — and ar'n't I a woman? I could work as much and eat as much as a man (when I could get it), and bear de lash as well — and ar'n't I a woman? I have borne thirteen chilern and seen 'em mos' all sold off into slavery, and when I cried out with a mother's grief, none but Jesus heard — and ar'n't I a woman?[93]

Sojourner Truth not only attacked patriarchal images of women, she also challenged white feminists to relinquish their racial privilege.[94] As bell hooks notes, "White women saw black women as a direct threat to their social standing — for how could they be idealized as virtuous, goddess-like creatures if they associated with black women who were seen by the white public as licentious and immoral?"[95] In this way, the construction of an ideal mother that excluded Black women actually ensured white women's allegiance to an oppressive concept of their own womanhood. In order to embrace Ms. Truth's message, the white women present had to reject the racist assumption that because Black women were unworthy of the title "woman" their experiences had no bearing on true womanhood. (At an anti-slavery rally in Indiana, Sojourner Truth bared her breasts to prove that she was indeed a woman.)[96] The women present had to accept Ms. Truth as truly woman and to sacrifice their personal stake in the white ideal of womanhood.

After slavery, Black women continued to work in patterns that diverged drastically from those of white women. Black women joined the wage-earning labor force in proportions three or four times

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93. OLIVE GILBERT, NARRATIVE OF SOJOURNER TRUTH: A BONDSWOMAN OF OLDEN TIME 134 (1878).

94. *See* Crenshaw, *supra* note 2, at 154 (reflecting on Sojouner Truth's relationship to the tension in feminist theory and politics caused by white feminists' reluctance to sacrifice racial privilege); *see also* DAVIS, *supra* note 28, at 62-64 (describing white women's opposition to allowing Truth to speak at a women's rights convention in Akron); HOOKS, *supra* note 4, at 159-60 (suggesting that the experiences of Black female slaves, as testament to the truth that women "could be the work-equals of men," advanced the white feminist movement's call for the recognition of women's equal rights).

95. HOOKS, *supra* note 4, at 131.

96. HOOKS, *supra* note 4, at 159.

higher than white women.[97] After the Civil War, Black women were encouraged by white politicians and entrepreneurs, as well as by the depressed wages of Black men, to earn a living outside the home.[98] In 1880, fifty percent of Black women were in the labor force, compared to only fifteen percent of white women.[99] The racial disparity among married women was even greater: in 1870 in the rural South, more than four out of ten Black married women had jobs, mostly as field laborers, while 98.4 percent of white wives were housekeepers.[100] In Southern cities, Black married women worked outside the home five times more often than white married women.[101]

The demands of Black women's labor within white homes undermined their own roles as mothers and homemakers.[102] Black domestics, of course, were unable to attend to their children during the day. They returned home late in the evening (if not on weekends) and had to entrust their children to the care of a neighbor, relative or older sibling, or leave them to wander in the neighborhood.[103] The preoccupation with the virtue of white women justi-

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97. Ferguson, *supra* note 60, at 179 n.12 (setting forth percentages demonstrating that since the Civil War married and unmarried Black women entered the work force in significantly larger numbers than did their white counterparts).

98. Omolade, *supra* note 35, at 252 (stating that because women were a source of cheap labor, young Black girls were socialized to first become workers, then to become mothers and wives).

99. Omolade, *supra* note 35, at 252.

100. *See* JONES, *supra* note 28, at 63 (asserting that the disparity in the number of Black working wives, as opposed to white working wives, stemmed from Black families' heavy dependence on women's field work, which had its roots in the sexual division of labor under slavery).

101. JONES, *supra* note 28, at 113. White women of the nineteenth century, such as the "mill girls" who operated textile mills throughout New England, also confounded the myth of domesticity by working outside the home in significant, though fewer, numbers. *See* DAVIS, *supra* note 28, at 54 (describing the long hours and horrible working conditions endured by mill girls, who were recruited from local farm families under the guise that mill work was an attractive "prelude to married life"); Minow, *supra* note 37, at 869-74 (suggesting that mill girls sought to combine aspirations for economic independence and self-improvement with their inherited roles of daughter, wife, and mother). In addition, white women on Southern tenant farms helped out their male kin as unpaid laborers, often doing a "man's share" of cutting wheat or working tobacco. Dolores Janiewski, *Sisters Under Their Skins: Southern Working Women, 1880-1950, in* SEX, RACE, AND THE ROLE OF WOMEN IN THE SOUTH 14-16 (Joanne V. Hawks & Sheila L. Skemp eds., 1983). More affluent women resisted their relegation to the private sphere by engaging in public service activities that they perceived as an extension of their maternal roles. Minow, *supra* note 37, at 877-82; *see also* FOX-GENOVESE, *supra* note 35, at 335 (proposing that nineteenth century women's organizations accepted the separate spheres ideology and "drew upon the idea of women's special mission to justify action outside the home").

102. JONES, *supra* note 28, at 127.

103. *See* JONES, *supra* note 28, at 129 (detailing typical variations of Black domestic servants' daily routines with relation to their employers and their own children); *I Live a Treadmill Life, in* BLACK WOMEN IN WHITE AMERICA 227-28 (Gerda Lerner ed., 1973) (relaying an account of a Black woman who rarely sees her own children due to the long hours she spends working for a white family).

fied not only the persecution of Black men, but also the condemnation of "insolent" Black female servants.[104] Black women holding menial jobs were portrayed as unfeminine to justify subjecting them to working conditions that conflicted with the image of delicate womanhood:

> The image of Mammy, "Aunt Jemima," Beulah, and even the emasculating matriarch is that of an overweight, rotund female, devoid of the curves that are indicative of the more seductive examples of her sex. Outfitted in an unflattering dress, apron, and scarf (a "headrag"), she is always ready for work and never ready for bed.[105]

Women of color continue to do most of the domestic service in America, filling jobs such as maids, child care workers, nurse's aides, sewing machine operators, and food preparation workers.[106] In the early twentieth century, nearly two-thirds of all employed Black women in the North were domestic servants or laundresses.[107] It was not until 1970 that Black women were no longer employed primarily as domestic workers or farm laborers.[108] Nevertheless, these jobs remain segregated on the basis of both race and gender, and they pay the lowest wages.[109]

The experience of Black working mothers complicates the feminist response to domesticity in two ways. First, white feminists' view of work, as resistance to motherhood and a liberating force for women, does not account for Black women's experiences. This ideology often focuses on a romanticized middle-class quest for entrance into an elite work force, rather than on the women who have always been exploited as a source of cheap surplus labor.[110] Black women historically experienced work outside the home as an aspect of racial subordination and the family as a site of solace and resistance to

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104. JONES, *supra* note 28, at 149.

105. Austin, *supra* note 24, at 883. Judith Rollins found in her research that the actual unattractiveness of domestics was due not only to the type of labor they performed but also to their awareness that "the female employer preferred the presence of another woman whose appearance, as well as other attributes, was inferior to her own." JUDITH ROLLINS, BETWEEN WOMEN: DOMESTICS AND THEIR EMPLOYERS 200 (1985).

106. *See* NATIONAL COMMITTEE ON PAY EQUITY: AN ISSUE OF RACE, ETHNICITY AND SEX 20-26 (1987) (setting forth statistical evidence demonstrating that Black women are concentrated in service-oriented occupations).

107. JONES, *supra* note 28, at 164.

108. Omolade, *supra* note 35, at 258-59 (describing the movement of Black women from the ranks of domestics and farm workers into the ranks of white collar, sales, and clerical workers as a manifestation of the changes brought about by the civil rights and women's movements, coupled with the economy's transformation from an industrial to a service employment base).

109. NATIONAL COMMITTEE ON PAY EQUITY, *supra* note 106, at 56-59. On racial segregation within the female labor force, see HOOKS, *supra* note 4, at 132-36; Janiewski, *supra* note 101, at 20-35.

110. HOOKS, *supra* note 4, at 146.

white oppression.[111] Black women's attention to domestic duties within their homes has defied the expectation of total service to whites.[112] Elizabeth Spelman has observed that the oppressive nature of the "housewife" role must be understood in relation to women's other roles, which are raced as well as gendered: "The work of mate/mother/nurturer has a different meaning depending on whether it is contrasted to work that has high social value and ensures economic independence or to labor that is forced, degrading, and unpaid."[113]

Second, Black mothers' work experience raises one way in which racial privilege has helped to maintain the gendered division of domestic work. The employment of Black women as domestic servants in white homes reproduced the mistress-houseslave relationship.[114] White mothers who could afford it reduced the burdens of childrearing by shifting their duties to Black maids.[115] Judith Rollins found in her study of domestics and the women who employ them that the increased participation of middle-class women in the workplace did not change their attitudes towards their role in the home. According to Judith Rollins:

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111. *See* SPELMAN, *supra* note 2, at 123, 132 (noting that the mother/housewife role does not have the same meaning for Black and white women); Kline, *supra* note 2, at 128-31 (criticizing a feminist analysis of child custody law that neglects the experiences of Black and Native American women); *cf.* Collins, *supra* note 22, at 49 (suggesting that the public/private split for Black women is the line separating the Black community from whites rather than that separating their homes from the community).

112. *See* DAVIS, *supra* note 28, at 16-17 (stating that Black women "were not debased by their domestic functions in the way white women came to be;" rather, domestic life provided slavewomen with the only space where they could truly experience themselves as human beings); Jones, *supra* note 91, at 237 (arguing that for Black women, "full attention to the duties of motherhood deprived whites of their power over these women").

The emphasis in Black feminist scholarship on the benefits of domestic labor, on the other hand, has neglected the exploitative aspects of this work. *See* COLLINS, *supra* note 22, at 44 (suggesting that there is a need for further exploration of "families as contradictory locations that simultaneously confine yet allow Black women to develop cultures of resistance").

113. SPELMAN, *supra* note 2, at 123.

114. *See* DAVIS, *supra* note 28, at 90-91 (describing how Black women in the South worked as cooks, nursemaids, and, chambermaids, while white women rejected this line of work); JONES, *supra* note 28, at 127 (arguing that domestic service restored the mistress-slave relationship); *see generally* ROLLINS, *supra* note 105, at 200-03 (describing the relationship between domestic servants and their female employers as characterized by rituals of deference and maternalism). Moreover, working in white homes subjected many Black women to continued sexual violation by white men. DAVIS, *supra* note 28, at 91-92; Janiewski, *supra* note 101, at 21; JONES, *supra* note 28, at 150.

On Black domestic servants' resistance to oppressive working conditions, see Dorothy Bolden, *Organizing Domestic Workers in Atlanta, Georgia, in* BLACK WOMEN IN WHITE AMERICA 234, 236-38 (Gerda Lerner ed., 1973) (describing the organizing efforts of the National Domestic Workers Union of America); Janiewski, *supra* note 101, at 21-22 (discussing ways in which Black domestics won concessions from white employers); ROLLINS, *supra* note 105, at 212-22 (describing how domestics retain a remarkable sense of self-worth despite being treated as "non-persons" by their employers).

115. ROLLINS, *supra* note 105, at 103.

> The middle-class women I interviewed were not demanding that their husbands play a greater role in housekeeping; they accepted the fact that responsibility for domestic maintenance was theirs, and they solved the problem of their dual responsibilities by hiring other women to assist.[116]

Thus, white, middle-class women gained entry to the male public sphere by assigning female domestic tasks to Black women, rather than by demanding a fundamental change in the sexual division of labor.[117]

V. SINGLE MOTHERHOOD AND POVERTY

The sharp increase in the number of single mothers is changing the practice of motherhood in America. As more and more women raise children without husbands,[118] the state responds by increasing its interference in their families and by instituting programs and policies designed to restore the nuclear family by reinstating the missing male.[119]

Contemporary welfare reform measures exemplify this effort. Martha Fineman demonstrates how the new poverty rhetoric blames single mothers for perpetuating poverty and how it proposes as the solution the coupling of poor single mothers with financially secure

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116. ROLLINS, *supra* note 105, at 104. Rollins noted further that the female employer viewed her maid as an extension of the more menial part of herself rather than as an autonomous employee:

> The female employer, regardless of the degree to which she may have chosen to buy her way out of it, knows that she is seen as responsible for all household maintenance and that this is devalued work. She perceives the person she hires to do such work as doing *her* work in a way the male employer does not. The domestic is something more than an employee; she is an extension of, a surrogate for, the woman of the house. And she operates in what is increasingly the least prestigious realm of women's activities.

ROLLINS, *supra* note 105, at 183.

Rollins found that women also hired domestic servants as a confirmation of social status. ROLLINS, *supra* note 105, at 104-06. Although women performed the day-to-day supervision of domestics' work in the home, their husbands retained ultimate authority over major employment decisions. ROLLINS, *supra* note 105, at 181; *see also* COLLINS, *supra* note 22, at 11-12 (noting that a Black maid's "work of caring for white women allows her an insider's view of some of the contradictions between white women thinking they are running their lives and the actual sources of power and authority in white patriarchal households").

117. Crenshaw, *supra* note 2, at 154 n.35 and accompanying text. *See also* DAVIS, *supra* note 28, at 96-97 (criticizing middle-class feminists for conveniently omitting the exploitation of domestic workers from their agenda).

118. *See* Fineman, *supra* note 12, at 275 n.1 (citing Myron E. Wegman, *Annual Summary of Vital Statistics - 1988*, 84 PEDIATRICS 943, 944-45 (1989) for statistics which demonstrate that during the past decade, an increasing proportion of all births have been to unmarried women).

119. *See* Fineman, *supra* note 12, at 279 (discussing how paternity actions and child support measures authorized by the Family Support Act of 1988 reinforce traditional norms of male-headed households); Fineman, *supra* note 68, at 960 (noting that many reformers urge the state to curb the practice of single motherhood).

males.[120] She links the representation of single motherhood as pathological to patriarchal ideology which defines mother and child by their relationship to fathers.[121] Single mothers are considered deviant because they reject the primacy of sexual affiliation as the basic organizing concept of the family.[122] Professor Fineman concludes that the condemnation of single mothers in current poverty reform discourse is primarily a reflection of patriarchy.[123] Indeed, she declares: "The ideology of patriarchy is the most instrumental force in the creation and acceptance of discourses about Mothers in our society."[124]

Race is very much implicated both in the correlation between poverty and single motherhood and in the discourses that explain it.[125] While the proportion of poor families maintained by women has risen in all racial and ethnic groups, the proportion of poor Black families headed by women is far larger.[126] Single motherhood also

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120. Fineman, *supra* note 12, at 274-89. Professor Fineman also isolates single motherhood as a social construct that determines society's view of women: "Merely occupying the socially suspect category of single mother makes it more likely that one's actions will come under state supervision." Fineman, *supra* note 68, at 961. Fineman notes that despite differences of race and class, policymakers identify the "missing male" as the core problem facing single mothers. Both divorce reforms, which affect more affluent women, as well as poverty discourse, perceive the need to bring fathers into the family. Fineman, *supra* note 12, at 276. Fineman suggests that at the core of child support legislation is the creation of a legal bond between the mother and father, thereby coupling the "dependent, single mother" with the "economically-viable male." Fineman, *supra* note 12, at 274.

121. Fineman, *supra* note 12, at 289.

122. Fineman, *supra* note 12, at 291. *See* Fineman, *supra* note 68, at 969-71 (explaining how the single mother and her children threaten cultural and social configurations of the family by calling into question the role of men within the family).

123. Fineman, *supra* note 12, at 289.

124. Fineman, *supra* note 12, at 276. I credit this declaration as the inspiration for my article. I was initially taken aback by Professor Fineman's statement attributing the condemnation of single mothers in new poverty discourses primarily to patriarchy. When I read these discourses, I thought, "the ideology of *racism* is the most instrumental force" in their creation and acceptance. In fact, that reaction was the thesis of an article I wrote about the prosecution of women who use drugs during pregnancy. Roberts, *supra* note 15. The strange thing about my response to Professor Fineman's arguments was that I mostly agreed with them. I understood more clearly that both racist and patriarchal ideology work together to construct the meaning of motherhood in our society.

125. *See, e.g.*, WILLIAM JULIUS WILSON, THE TRULY DISADVANTAGED: THE INNER CITY, THE UNDERCLASS, AND PUBLIC POLICY (1987) ("In the early and mid-1960s social scientists such as Kenneth B. Clark, Lee Rainwater, and Daniel Patrick Moynihan discussed in clear and forceful terms the relationship between black poverty and family structure").

126. "The proportion of poor white families maintained by women rose from twenty percent in 1959 to forty-two percent in 1987. During the same period the proportion of poor Black families maintained by women rose from forty-six to seventy-four percent." Audrey Rowe, *The Feminization of Poverty: An Issue for the 90's*, 4 YALE J.L. & FEMINISM 73, 74 (1991) (citing U.S. BUREAU OF THE CENSUS, CURRENT POPULATION REP., SER. P. 60 No. 163, POVERTY IN THE UNITED STATES: 1987, at 156 (1989)).

The feminist analysis of the "feminization of poverty," which emphasizes the correlation between gender and poverty, obscures the importance of race in analyzing the economic status of female-headed families. *Id.* at 74. *See* Diana M. Pearce, *The Feminization of Poverty: Women, Work, and Welfare*, 11 URB. & SOC. CHANGE REV. 28, 28 (1978) (coining the phrase "feminization of poverty"). The feminization of poverty is attributed largely to the drastic

has deeper roots in the lives of Black women. During slavery, masters forcibly separated many Black mothers from their husbands.[127] Some slave men escaped to freedom or purchased themselves from their masters, leaving their women and children behind.[128] For example, Mississippi marriage registration records from 1864 show that nearly one in five Black women aged thirty and older were separated from their husbands by force.[129] One study of slavewomen in Georgia revealed that over half of the women known to have been mothers appeared to have been living apart from their husbands.[130]

Suzanne Lebsock's research on free Black women in early nineteenth century Petersburg, Virginia, revealed that the most common household structure among free Blacks was the female-headed family containing one woman and her children.[131] Professor Lebsock notes that free Black women had a unique incentive to remain single, arising from their ability to retain legal control over their property.

> For the woman who hoped to buy an enslaved relative, legal wedlock meant that her plan could be sabotaged at any time by her husband or by her husband's impatient creditors. The common-law disabilities of married women added an ironic twist to chattel

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economic losses white middle-class women and children suffer as a result of divorce. *See, e.g.*, LENORE J. WEITZMAN, THE DIVORCE REVOLUTION: THE UNEXPECTED SOCIAL AND ECONOMIC CONSEQUENCES FOR WOMEN AND CHILDREN IN AMERICA 323 (1985) (finding that divorced women and their minor children experienced a 73 percent decline in their standard of living in the first year after divorce). Research on household composition and poverty suggests that race may produce different paths to poverty: the status of Black single mothers may be "reshuffled poverty," caused when already poor two-parent households dissolve. *See* Maxine Baca Zinn, *Family, Race, and Poverty in the Eighties*, 14 SIGNS 856, 862 (1989) (reporting findings that whites became poorer within the first years after a divorce, while most of the Blacks who were poor after a divorce were poor before the divorce). Moreover, since 1984 over half of all Black families with children have been headed by women who never married. Margaret C. Simms, *Black Women Who Head Families: An Economic Struggle, in* SLIPPING THROUGH THE CRACKS: THE STATUS OF BLACK WOMEN 141, 142 (Margaret C. Simms & Julianne M. Malveaux eds., 1986).

127. Omolade, *supra* note 35, at 242.

128. Omolade, *supra* note 35, at 248. After purchasing their freedom, former slaves had to leave their wives and children behind because they could not legally remain in slave-holding areas. Omolade, *supra* note 35, at 248.

129. HERBERT G. GUTMAN, THE BLACK FAMILY IN SLAVERY IN LOW COUNTRY GEORGIA, 1750-1925, at 146 (1976).

130. Betty Wood, *Some Aspects of Female Resistance to Chattel Slavery in Low Country Georgia, 1763-1815*, 30 HIST J. 603, 609 (1987). There was no way of knowing whether the husband was dead, living on a neighboring estate, or had been sold away. *Id.*

131. Suzanne Lebsock, *Free Black Women and the Question of Matriarchy: Petersburg, Virginia, 1784-1820*, 8 FEMINIST STUDIES 271, 273, 285-86 (1982). Professor Lebsock found that over half of the free Black households in Petersburg, Virginia, were headed by women. *Id.* She also gives a fascinating account of how the single, free Black women of Petersburg, Virginia, were able to acquire a significant degree of economic control, in part because of their unmarried status. *Id.* She concludes that "In a slave society of the early nineteenth century, there developed among free blacks a relatively high degree of equality between the sexes." *Id.* at 287.

> slavery's strange fusion of persons and property: [m]atrimony could pose a threat to the integrity of the free black woman's family.[132]

This pattern of Black single-motherhood continued after Emancipation.[133] Between 1880 and 1915, twenty-five to thirty percent of all urban Black families were headed by women.[134]

Ideologically, in America, single motherhood is Black. The current condemnation of unwed mothers is rooted in the myth of the Black matriarch, the domineering female head of the Black family. White sociologists have held Black "matriarchs" responsible for the disintegration of the Black family and the consequent failure of Black people to achieve success in America.[135] Daniel Patrick Moynihan popularized this theory in his 1965 report, *The Negro Family: The Case for National Action*.[136] According to Moynihan:

> At the heart of the deterioration of the fabric of Negro society is the deterioration of the Negro family. It is the fundamental cause of the weakness of the Negro community . . . . In essence, the Negro community has been forced into a matriarchal structure which, because it is too out of line with the rest of the American society, seriously retards the progress of the group as a whole.[137]

Thus, Moynihan attributed the cause of Black people's inability to overcome the effects of racism largely to the independence and dominance of Black mothers.[138]

Underlying the current campaign against poor single mothers is the image of the lazy welfare mother who breeds children at the expense of taxpayers in order to increase the amount of her welfare check.[139] In society's mind, that mother is Black. Writers in the

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132. *Id.* at 285.

133. JONES, *supra* note 28, at 113.

134. JONES, *supra* note 28, at 113.

135. *See* PAULA GIDDINGS, WHEN AND WHERE I ENTER: THE IMPACT OF BLACK WOMEN ON RACE AND SEX IN AMERICA 325-35 (1984) (discussing how various theorists maintain that by remaining assertive, Black women "were ruining the family and so ruining the race"); HOOKS, *supra* note 4, at 76 (explaining how white male scholars assume that the reason behind the large number of Black female-headed households is the presence of Black "matriarchs"). Hooks explains how white male scholars assume that Black men vacate their parenting roles because of domineering Black women. As hooks points out, the term "matriarch" does not accurately describe the Black woman's role in our society. As the most socially and economically marginalized group in America, Black women do not hold the power the term matriarch implies. HOOKS, *supra* note 4, at 70-83.

136. OFFICE OF PLANNING & POLICY RESEARCH, U.S. DEP'T OF LABOR, THE NEGRO FAMILY: THE CASE FOR NATIONAL ACTION (1965).

137. *Id.* at 5, 29.

138. *Id.* at 29.

139. *See* Fineman, *supra* note 12, at 280-82 (discussing how the image of the "worthy widow" has been supplanted by stereotypical images of welfare mothers who are not interested in marriage, want to avoid work, and are sexually promiscuous); COLLINS, *supra* note 22, at 77 (describing how the welfare mother is typically portrayed as being content to sit around and collect welfare, shunning work and passing on her bad values to her offspring).

1980s, most notably Charles Murray, author of *Losing Ground*, claimed that welfare induces poor Black women to refrain from marriage and to have babies.[140] Society penalizes Black single mothers not only because they depart from the norm of marriage as a prerequisite to pregnancy, but also because they represent rebellious Black culture.[141] To some extent, society punishes white single mothers because they are acting too much like Black women.[142]

The focus entirely on race in analyzing Black single motherhood is also incomplete. The implications of gender also need to be explored. Black feminists have criticized William Julius Wilson's assessment of female-headed households in *The Truly Disadvantaged*,[143] for example, for being essentially an endorsement of patriarchy.[144] While Wilson rejects the theory that poverty is culturally transmitted, he accepts the premise that family structure causes poverty and that rebuilding the traditional family is, therefore, the key to solving Black poverty.[145] It is true that families headed by single Black females are poorer than families with an adult male present.[146] Wilson, however, fails to investigate the economic and social forces that marginalize Black single mothers. He also fails to explore the extent to which Black women have deliberately created single-mother families by dissolving unwanted relationships in response to

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140. *See* CHARLES MURRAY, LOSING GROUND 154-66 (1984). Other researchers have refuted this claim. *See, e.g.*, William A. Darity & Samuel L. Myers, *Does Welfare Dependency Cause Female Headship? The Case of the Black Family*, 46 J. MARRIAGE & FAM. 765, 773 (1984) (concluding that "[t]he attractiveness of welfare and welfare dependency exhibits no effects on black female family heads"). In fact, Black families headed by women have, on average, about the same number of children as other families (1.89) and less than ten percent of their aggregate income comes from welfare. Margaret C. Simms, *Single-Parent Families Section Introduction, in* SLIPPING THROUGH THE CRACKS: THE STATUS OF BLACK WOMEN 139, 139 (Margaret C. Simms & Julianne M. Malveaux eds., 1986).

141. *See* Austin, *supra* note 11, at 557 (discussing how the Girls Club of Omaha fired an unmarried Black teacher because she was pregnant).

142. *See* COLLINS, *supra* note 22, at 74 (explaining how the image of the Black matriarch serves as a symbol for both Black and white women of what can go wrong if they challenge their prescribed roles: they will find themselves abandoned by their men, end up impoverished, and be stigmatized as unfeminine).

143. WILSON, *supra* note 125.

144. *See, e.g.*, Austin, *supra* note 11, at 567-68 (arguing that Wilson's emphasis on the "worsening economic position of Black males as a prime reason for the increase in female-headed families" may be construed as an endorsement of patriarchy as the ideal family structure); Zinn, *supra* note 126, at 870-72 (criticizing Wilson's model because it ignores alternative concepts of family and fails to explore women's opportunities and earning capacities outside of marriage).

145. WILSON, *supra* note 125, at 57-62, 71-92.

146. Simms, *supra* note 126, at 143, 144 table 1; WILSON, *supra* note 125, at 71-72. There is an indisputable correlation between Black single motherhood and family poverty:

> Over one-half of black families headed by women are in poverty and they constitute two-thirds of all black families in poverty. While poverty rates are very high among black families with an adult male present, black families headed by a woman are three times as likely to be poor or near poor.

Simms, *supra* note 126, at 143.

sexism in their homes or other disadvantages of marriage.[147] Wilson's suggestions for reform, aimed at returning Black men to the family, neglect ways to directly empower Black women to improve their economic well-being.[148]

In fact, it is questionable that marriage alone will transform Black women's lives. For pregnant teenagers, marriage is actually correlated with "dropping out of school, having more babies, and ultimately being divorced or separated."[149] Although fundamental social change is required, expanding women's access to day care, low-income housing, nontraditional job markets, and health care are more viable short-term remedies for Black female poverty.[150] Using both race and gender in deconstructing Black single motherhood clarifies that Black women's welfare will not be improved simply by restoring the patriarchal family structure.

In some ways, white mothers' lives are becoming structurally more similar to the lives of Black mothers.[151] Patriarchy in the modern capitalist welfare state is marked by an increased devaluation of motherhood that cuts across racial lines. Indications of this change include: the rise in "illegitimate" single motherhood for both Black and white women; the abandonment of the moral mother ideology and the diminished control of women over childrearing; the replacement of the father by the patriarchal welfare state; the decrease in the amount of mothers' domestic work and increase in the numbers

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147. *See* Omolade, *supra* note 35, at 273 (stating that even full Black male employment will not solve the problem of Black female poverty and noting that some Black women remain single because of sexism); *cf.* Lebsock, *supra* note 131, at 274, 282, 285 (suggesting that some free Black women in early nineteenth century Petersburg, Virginia may have refrained from legal marriage in order to remain free economic agents and retain legal control over their property). Some of the free Black women of Petersburg who did marry protected their property rights from their husband's grasp:

> Two days before she married Jacob Brander, Nancy Curtis deeded her furniture and livestock to her teenaged children, a clear attempt to protect the rights of her own heirs. Lydia Thomas maintained her property rights in a slave and some furniture, despite her marriage to John Stewart, by entering into a prenuptial contract with him. This gave her a separate estate.

Lebsock, *supra* note 131, at 291 n.47 (*citing* DEEDS IV, 335 (1815); DEEDS V, 288 (1818); MARRIAGES (1814, 1817)).

148. Crenshaw, *supra* note 2, at 165. *See* Austin, *supra* note 11, at 568 (arguing that stressing the need to improve the economic status of Black males perpetuates patriarchy). Austin also points out that Wilson's emphasis on the "marriageability" of Black men exposes Black women to the charge that they are "insufficiently concerned about what racism and economic exploitation do to black men." Austin, *supra* note 11, at 567.

149. Austin, *supra* note 11, at 565-66 (*citing* NATIONAL RESEARCH COUNCIL PANEL ON ADOLESCENT PREGNANCY AND CHILDBEARING, RISKING THE FUTURE 123, 126-29 (1987)). Half of all out-of-wedlock births among Blacks are to teenagers. Simms, *supra* note 126, at 142.

150. Rowe, *supra* note 126, at 77.

151. *See* Fineman, *supra* note 12, at 275 n.1 (citing statistics which demonstrate that since 1980 there has been a 40 percent increase in the number of births to unmarried white women, thereby narrowing the gap between the percentage of Black unmarried mothers compared to white unmarried mothers).

of women in the labor force; and the growing isolation of mothers.[152] In late twentieth century America, more and more white mothers will occupy social positions that were defined for Black mothers.[153] As Black women must see the need to identify and oppose patriarchy in the social control of their families, white women must be wary of the racism in the social control of their families.

It may be in the lives of those most outcast by patriarchy that we will catch a glimpse of a liberated motherhood.[154] Those mothers considered the most deviant may help us to imagine what motherhood might be like in a society where women are "free to develop a sense of self that is our own, and not a mere construct of patriarchy."[155] In other words, we could move from deconstructing soci-

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152. *See* Ann Ferguson, *On Conceiving Motherhood and Sexuality: A Feminist Materialist Approach, in* MOTHERING, *supra* note 10, at 172-75 (arguing that while capitalist patriarchy oppresses women differently depending on their class and race, the conflicts between men and women over parenting, sexuality, and nurturance are becoming structurally similar); Fineman, *supra* note 84, at 658-66 describing how the liberal feminist's goal of a gender-neutral concept of motherhood has contributed to the devaluation of the work mothers perform and actually harms women because it ignores the "very gendered and mothered lives most women live.").

153. This does not mean that white and Black mothers will be treated in the same way. It means that racism helps to determine the social constructs that regulate white as well as Black mothers. *Cf.* DAVIS, *supra* note 28, at 94 ("[T]he wages received by white women domestics have always been fixed by the racist criteria used to calculate the wages of Black women servants"); COLLINS, *supra* note 22, at 75 (observing that the image of the Black matriarch served as a warning to white women who challenged the white patriarch); COLLINS, supra note 22, at 167 (arguing that the historical objectification of Black women's bodies laid the foundation for the portrayal of all women in contemporary pornography); FOX-GENOVESE, *supra* note 35, at 192-241 (describing how slavery as a social system determined Southern gender conventions).

For example, Professor Fineman argues that "[t]he 'public' single mother family is distinguished from her counterpart in the 'private' family" and is subjected to greater state intervention. Fineman, *supra* note 68, at 961. The construction of "public" and "private" families is based on race, as well as patriarchal norms. The state has always considered Black mothers, whether married or single, as needing public supervision and not entitled to privacy. *See supra* Section III. Thus, the "public" single mother has never had a Black counterpart in the "private" family. When white single mothers and their children are considered "public" families, they are placed in a category that has historically been occupied by Black mothers. I suspect that many poor single white mothers will be harmed by welfare reforms really meant for Black women.

154. *See* Robin West, *Jurisprudence and Gender*, 55 U. CHI. L. REV. 1, 47-48 (1988) (discussing Adrienne Rich's feminist vision of a liberated motherhood); ADRIENNE RICH, *Motherhood: The Contemporary Emergency and the Quantum Leap, in* ON LIES, SECRETS, AND SILENCE 259, 271-73 (1979) (arguing that destroying the patriarchal institution of motherhood is not the same as destroying motherhood. Rather, by destroying patriarchy, motherhood will be released into "the realm of decision, struggle, surprise, imagination, and conscious intelligence.")

155. Cain, *supra* note 1, at 212. *See* RICH, *supra* note 154, at 270-73 (imagining "a future in which women are powerful, full of our own power not the old patriarchal power-over, but the power to create, power to think, power to articulate and concretize our lives and those of our children"); *cf.* Fineman, *supra* note 84, at 660 (criticizing liberal legal feminists for failing to articulate "an alternative, non-patriarchal legal discourse about Mother"); Fineman, *supra* note 10, at 33 (identifying the presentation of oppositional values as a goal of feminist legal methodology: "In fact, the larger social value of feminist methodology may lie in its ability to make explicit oppositional stances vis-a-vis the existing culture.").

ety's view of these women to actually claiming their oppositional insights as part of our reconstruction of motherhood. Regina Austin challenges us to consider whether Black single motherhood is an example of resistance against patriarchy:

> A black feminist jurisprudential analysis . . . must seriously consider the possibility that young, single, sexually active, fertile, and nurturing black women are being viewed ominously because they have the temerity to attempt to break out of the rigid economic, social, and political categories that a racist, sexist, and class-stratified society would impose upon them.[156]

Of course, this is risky territory. It is difficult to identify the emancipatory moments that spark within the vast realm of subordination. How can we claim what is liberating in the lives of the oppressed without denying all that remains oppressive? How can we discern the transformative potential in what is basically a response to subjugation?[157] We must do the hard work of distinguishing between self-destructive and self-affirming behavior, between resistance and accommodation, between what merely reproduces illegitimate hierarchy and what destroys it.[158]

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156. Austin, *supra* note 11, at 555. The free Black women of Petersburg, Virginia, who refrained from marriage may also provide such an example. *See* Lebsock, *supra* note 131, at 282-87 (detailing how significant numbers of free Black women shunned lawful matrimony, thus giving them higher economic status than white women of the same community). *But see* FOX-GENOVESE, *supra* note 35, at 52 (arguing that Lebsock's research must be assessed against the evidence that opportunities for marriage during slavery were limited and that Blacks enthusiastically sought legalized marriage after emancipation).

157. For greater insight into reactions to subjugation, see FOX-GENOVESE, *supra* note 35, at 48-49 ("From the perspective of Afro-Americans as a people, should the independence of [slave] women be interpreted as a collective gain, or merely as the confirmation of slave men's weakness relative to white men?"). Suzanne Lebsock, for example, recognizes that the economic gains and unmarried status of free Black women resulted from racial oppression; they were products of a shortage of men and of chronic economic deprivation. Nevertheless she concludes:

> Yet there was autonomy of a kind, and the fact that its origins lay in racial subordination should not detract from its significance . . . . The tragedy for the nineteenth century — or one of many tragedies — was that white people were unable to use the free black example to call their own gender arrangements into question . . ."

Lebsock, *supra* note 131, at 287.

On the dangers of an uncritical celebration of women's "nearly inexhaustible resources for resistance," see Williams, *supra* note 85, at 829, *quoting* T.J. Jackson Lears, *The Concept of Cultural Hegemony: Problems and Possibilities*, 90 AM. HIST. REV. 567, 573 (1985) (finding that social historians are often reluctant to acknowledge the possibility that their subjects may have been assimilated into the dominant culture). While single motherhood defies the dominant norm, many Black teenagers become pregnant for very traditional, rather than subversive, reasons. *See* Austin, *supra* note 11, at 558-60 (observing that some Black teenagers become pregnant in order to secure intimacy, love, attention, and the father's financial assistance). I am indebted to Barbara Omolade for this insight.

158. *See* Austin, *supra* note 11, at 578 (expressing the need to explore whether single Black mothers are symbols of subordination or emancipation).

VI. DISLOYALTY TO FEMINISM

What does this connection between racism and patriarchy mean for the feminist project? How does it test our commitment to a feminist vision of motherhood and of society in general? What does it tell us about the requirements for unity among women who are different? In this section, I will explore the ways in which the interaction between racism and patriarchy tempts both white and Black women to be "disloyal" to feminism.[159]

A. White Women and White Privilege

One of the most painful parts of recognizing the relationship between racism and patriarchy is confronting white women's participation in the racial subordination of Black women. During slavery, for example, most white women either silently cooperated with the practice of owning Africans as chattel or actively abused the slaves in their households.[160] Elizabeth Fox-Genovese explains that, although Southern white women grumbled in private about certain aspects of slavery, they failed to attack the entire system that benefitted them in many ways: "Slavery, with all its abuses, constituted the fabric of their beloved country — the warp and woof of their social position, their personal relations, their very identities."[161] Some white women used their power over the slaves owned by their husbands as compensation for their own subjugated position in marriage.[162] Bell hooks suggests that the cruelty white men inflicted on

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159. This phrase is a play on the title of Adrienne Rich's essay, *Disloyal to Civilization: Feminism, Racism, Gynephobia,* in which Rich refers to women's disloyalty to patriarchy. RICH, *supra* note 36.

160. Clinton, *supra* note 29, at 28-32. *See* HOOKS, *supra* note 4, at 38-49 (noting that white women "looked-passively" at the torture of Black women and "played as active a role in the physical assaults of Black women as did white men."); BELL HOOKS, FEMINIST THEORY: FROM MARGIN TO CENTER 49 (1984) ("Historically, many black women experienced white women as the white supremacist group who most directly exercised power over them, often in a manner far more brutal and dehumanizing than that of racist white men."); *see generally* FOX-GENOVESE, *supra* note 35 (describing the lives of slavewomen and their mistresses in antebellum plantation households). For an account of women's participation in the abolitionist movement, see DAVIS, *supra* note 28, at 30-45.

161. FOX-GENOVESE, *supra* note 35, at 334.

162. *See* HOOKS, *supra* note 4, at 153 (arguing that the subjugation of Blacks allowed white women to mitigate their subordinate position under patriarchy); RICH, *supra* note 36, at 283 (noting that white women's "only outlet for rage and frustration" was their power over enslaved Blacks). Moreover, slavery was defended as a civilizing institution because it freed white women from degrading labor and afforded them greater equality with men. FOX-GENOVESE, *supra* note 35, at 197-98.

Judith Rollins found a similar relationship among modern Black domestics and their white female employers:

> I submit that this remains one of the functions of the domestic servant — the validation of the employer's class status (and thus the hierarchical class system). And I go further: the presence of the deference-giving inferior enhances the employer's self-

female slaves in the presence of white women served as a warning to their wives, sisters, and daughters to remain obedient.[163]

> Surely, it must have occurred to white women that . . . [if] . . . enslaved black women [were] not available to bear the brunt of such intense anti-woman male aggression, they themselves might have been the victims . . . . Their alliance with white men on the common ground of racism enabled them to ignore the anti-woman impulse that also motivated attacks on black women.[164]

Thus, the subjugation of Black women encouraged white women's allegiance to the patriarchy. This is a critical lesson about the relationship between racism and patriarchy: racism did not perfect patriarchy only by allowing slavemasters the possibility of unrestrained control of Black women. It also secured the compliance of white women by promising them the privileges denied to slaves and threatening them with the punishments meted out to slaves.

Black feminists of the period criticized white women for allowing their affiliation with white men and their interest in the system to limit their opposition to slavery. Ida B. Wells, for example, saw the patriarchal idealization of white womanhood as license for white women's willing or unwilling silence.[165] Anna Julia Cooper charged the contemporary women's movement with opposing only women's domestic confinement rather than the entire system of racial patriarchy.[166] My intention here is not to assess the level of white women's guilt, but to show how white women's stake in patriarchy largely determined their complicity in the institution of slavery. That complicity, in turn, enabled their acquiescence in their own inferior status.

Racism within feminist advocacy concerning motherhood in particular has neglected and even harmed Black women.[167] The feminist birth control movement in the early twentieth century collaborated with the racist eugenics movement of the time.[168] Leading advocates of birth control, such as Margaret Sanger, made accommodations with eugenists and used racist rhetoric urging the

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esteem as an individual, neutralizes some of her resentment as a woman, and, where appropriate, strengthens her sense of self as a white person.

ROLLINS, *supra* note 105, at 180.

163. HOOKS, *supra* note 4, at 39-44.

164. HOOKS, *supra* note 4, at 38-39.

165. Harris, *supra* note 2, at 599-600.

166. Harris, *supra* note 2, at 600 n.88.

167. For general accounts of racism in the American women's movements during the nineteenth and twentieth centuries, see DAVIS, *supra* note 28, at 46-86; HOOKS, *supra* note 4, at 119-49.

168. DAVIS, *supra* note 28, at 213-15; GORDON, *supra* note 48, at 274-90. For a general discussion of the collaboration of the birth control and eugenics movements see GORDON, *supra* note 48, at 329-40.

reduction of the birthrates of "undesirables." [169] For example, in "Why Not Birth Control in America?," published in *Birth Control Review* in 1919, Margaret Sanger stated as the feminist movement's objective, "More children from the fit, less from the unfit — that is the chief issue of birth control."[170]

Feminists during this period and into the next century advocated birth control, not as a means of self-determination for all women, but as a tool of social control by the white elite.[171] Their private birth control clinics evaluated clients based on their eugenic worth and advised them on the desirability of their procreative decisions.[172] The first publicly-funded birth control clinics were established in the South in the 1930s as a way of lowering the Black birthrate.[173] During the Depression, birth control was promoted as a means of lowering welfare costs.[174] In 1939, the Birth Control Federation of America proposed a "Negro Project" designed to reduce reproduction by Blacks who "still breed carelessly and disastrously, with the result that the increase among Negroes, even more than among whites, is from that portion of the population least intelligent and fit, and least able to rear children properly."[175]

The focus of contemporary reproductive rights discourse on abortion also neglects the broader range of reproductive health issues that affect Black women.[176] White, middle-class women concern themselves mainly with laws restricting choices otherwise available to them, such as statutes making it more difficult to obtain an abortion.[177] Poor women of color, however, remain primarily concerned with the material conditions of poverty and oppression restricting their choices.[178] For example, the denial of access to safe

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169. GORDON, *supra* note 48, at 274-90.

170. GORDON, *supra* note 48, at 281. In *The Pivot of Civilization*, published in 1922, Margaret Sanger advocated society's use of stockbreeding techniques, warning that uncontrolled procreation by the illiterate and "degenerate" might destroy "our way of life." GORDON, *supra* note 48, at 281.

171. GORDON, *supra* note 48, at 276-86.

172. GORDON, *supra* note 48, at 286-87. Birth control clinics also participated in eugenic research. GORDON, *supra* note 48, at 286-87.

173. GORDON, *supra* note 48, at 314-29.

174. GORDON, *supra* note 48, at 329-40.

175. GORDON, *supra* note 48, at 332. For a contemporary version of the "Negro Project" (not connected to feminist reproductive rights advocacy) see *Poverty and Norplant: Can Contraception Reduce the Underclass?*, PHILA. INQUIRER, Dec. 12, 1990, at A18 (suggesting that Black women on welfare be given incentives to use the contraceptive Norplant); Tamar Lewin, *Implanted Birth Control Device Renews Debate Over Forced Contraception*, N.Y. TIMES, Jan. 10, 1991, at A20 (reviewing the debate on the forced use of Norplant).

176. Roberts, *supra* note 15, at 1461.

177. Roberts, *supra* note 15, at 1461.

178. Thus, the pro-choice movement remained relatively complacent about the effective denial of access to abortions for poor women by the Supreme Court's decisions in Maher v. Roe, 432 U.S. 464 (1977), and Harris v. McRae, 448 U.S. 297 (1980), which upheld the denial

abortions, as well as the lack of resources necessary for a healthy pregnancy and parenting relationship, limit the reproductive freedom of poor women of color.[179] Because of racism, it is more likely that the government will interfere with their reproductive decisions; because of their poverty, they are more likely to need the government's assistance to facilitate those decisions.

The mainstream opposition to sterilization reform in the 1970s exemplifies how the focus on "choice" has contradicted the interests of Black women.[180] The Committee to End Sterilization Abuse introduced, in New York City, guidelines designed to prevent sterilization abuse by requiring informed consent and a thirty day waiting period.[181] Planned Parenthood and the National Abortion Rights Action League openly opposed the guidelines on the ground that they restricted women's access to sterilization.[182]

Women's false hope in white privilege continues to thwart any radical assault on gender hierarchy. I discussed earlier how many white women gained entry into the white male working world by shifting female domestic work to Black women, rather than by demanding a fundamental change in the sexual division of labor.[183] Dolores Janiewski describes how racism prevented unity among Southern working women in the 1930s:

> White women prized the tangible benefits of their privileged position as workers and sometimes employers of black women. The intangible benefits of white supremacy's pseudo-homage to white womanhood remained deeply entrenched in these women's notions of self-respect and respectability. Taught to view themselves as "lady-like" when they refrained from heavy labor but to call black women "lazy" when they made the same claims, these women resisted any imputation of "social equality" which would place them on the same level with those they regarded as unclean, immoral, and unlike themselves. Black women's demands for equal treatment threatened white women's deeply held beliefs in a natural, God-given order that established their moral as well as economic superiority over their black co-workers. Organized,

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of public funding for abortion. Nancy Stearns, *Roe v. Wade: Our Struggle Continues*, 4 BERKELEY WOMEN'S L.J. 1, 7 (1989). The belated mobilization of the pro-choice movement triggered by the Supreme Court's decision in Webster v. Reproductive Health Services, 492 U.S. 490 (1989) (upholding states' ability to restrict access to abortion services), and the resulting spate of state restrictions on abortion seemed motivated by their threat to the reproductive rights of affluent women. *Id.* at 7-9.

179. Roberts, *supra* note 15, at 1461.

180. Roberts, *supra* note 15, at 1461 n.213.

181. Roberts, *supra* note 15, at 1461 n.213. These guidelines were introduced to both the New York City Council and the Department of Health, Education, and Welfare.

182. Roberts, *supra* note 15, at 1461 n.213.

183. *See supra* notes 114-17 and accompanying text.

> whenever such organization was successful, by unions that failed to confront white domination, these women never met their black counterparts on equal terms in the workplace, the community, or the union.[184]

Privileged racial identity has always provided whites with a powerful incentive to leave the existing social order intact.[185] W.E.B. DuBois explained white resistance to labor reform during Reconstruction, for example, by the fact that "the white group of laborers, while they received a low wage, were compensated in part by a sort of public and psychological wage."[186] Similarly, the white laboring class never demanded free public education during slavery because they relied on the possibility of becoming slaveholders themselves as their means of social advancement.[187] Freed slaves, not working-class whites, led the first mass movement for publicly-funded education in the South.[188] Women's common oppression has not been any more successful than workers' common oppression at overcoming the stifling effect of racial privilege on movements for radical social change.

Sojourner Truth challenged the women's movement of her time to relinquish any perceived advantage in the cult of white womanhood. Her challenge — the racial challenge to feminism — remains the giant step necessary for radical change. To point out white women's racial privilege is not to deny that white women are oppressed.[189] Indeed, it is to point out a principal means by which white women remain oppressed. Adrienne Rich sees the need to confront racism as a white woman because she understands that only by giving up white privilege will white women be fully capable of dismantling patriarchy.[190] Otherwise, Rich argues, white feminists "might still possess the capacity to delude themselves into some compromise of inclusion into patriarchy, into the white male

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184. Janiewski, *supra* note 101, at 33-34.

185. *See* Derrick Bell, *After We're Gone: Prudent Speculations on America in a Post-Racial Epoch*, 34 ST. LOUIS U. L.J. 393, 402-03 (1990) (discussing what would happen if all Blacks suddenly left the planet and many whites discovered that they were not as privileged as they had once believed). For the classic statement of whites' "property right" in their superior status, see Plessy v. Ferguson, 163 U.S. 537, 549 (1896) (referring to "the reputation of belonging to the dominant race" as the "property" of the white man).

186. WILLIAM EDWARD BURGHARDT DUBOIS, BLACK RECONSTRUCTION 700-01 (1976).

187. *Id.* at 641.

188. *Id.* at 637-69.

189. *See* Aída Hurtado, *Relating to Privilege: Seduction and Rejection in the Subordination of White Women and Women of Color*, 14 SIGNS 833, 834 (1989) (noting that "white women, as a group, are subordinated through seduction, women of Color, as a group, through rejection"). *But cf.* MacKinnon, *supra* note 6, at 19 (positing the image of white women as " 'women, modified,' this woman discounted by white, meaning she would be oppressed but for her privilege").

190. *See* RICH, *supra* note 36, at 275-310 (discussing the intertwined natures of racism and white privilege).

order."[191]

B. Black Women and Black Nationalism

Catharine MacKinnon recently suggested that some Black women may be disloyal to feminism because of a common struggle with Black men for racial justice:

> I sense here that people feel more dignity in being part of any group that includes men than in being part of a group that includes that ultimate reduction of the notion of oppression, that instigator of lynch mobs, that ludicrous whiner, that equality coattails rider, that white woman. It seems that if your oppression is also done to a man, you are more likely to be recognized as oppressed, as opposed to inferior. Once a group is seen as putatively human, a process helped by including men in it, an oppressed man falls from a human standard.[192]

I imagine that most Black women would find it farfetched to seek a greater claim to humanity (in the eyes of the dominant culture) by identifying with Black men, whom society also views as less than human. Our unity with men in the struggle for Black liberation is grounded in the reality that being Black in America is part of *our* identity, critical to what it means for us to be women. We are bound to Black men through the day-to-day struggles of living in a racist society. We know that our liberation as women is linked to the liberation of Black people as a group.

Black women may be guilty of another kind of disloyalty, however. Some of us remain silent about sexism in our own communities, or decline to align with white feminists because of the response of Black men. We fear we will be charged with betraying our common interests as a people. Audre Lorde explained that "the necessity for and history of shared battle have made us, Black women, particularly vulnerable to the false accusation that anti-sexist is anti-Black."[193] The relationship between racism and patriarchy, then, also holds a challenge for Black women. It calls Black feminists to

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191. RICH, *supra* note 36, at 309. *See* LORDE, *supra* note 3, at 118 ("[W]hite women face the pitfall of being seduced into joining the oppressor under the pretense of sharing power."); *cf.* MacKinnon, *supra* note 6, at 20 (observing that "skin privilege . . . has never insulated white women from the brutality and misogyny of men").

192. MacKinnon, *supra* note 6, at 21-22.

193. LORDE, *supra* note 3, at 120. *See also* Crenshaw, *supra* note 2, at 161 (discussing "the ambivalence among Black women about the degree of political and social capital that ought to be expended toward challenging gender barriers, particularly when the challenges might conflict with the antiracism agenda"). Bell hooks notes, however, that Black women's failure to confront Black sexism results basically from the same forces that cause women of all races to accept sexist-defined roles: "[Black women's] support of patriarchy was not engendered solely by their concern for the black race but by the fact that they live in a culture in which the majority of women support and accept patriarchy." HOOKS, *supra* note 4, at 185. Barbara

inform our communities that patriarchy contributes to Black men's oppression and that feminism is essential to the struggle for the liberation of all Black people.[194]

Perhaps women who occupy different social positions possess differing abilities to identify particular aspects of oppression in each instance of domination. Perhaps some feminists see more clearly the patriarchy in discourses about single mothers, for example, while others see more clearly their racism. We can help each other to understand how the discourses really contain both. We can remind each other that, whatever attraction racist patriarchy holds for us, it is not our order.[195] Comparing oppressions ("I experience sexism the same way you experience racism," or "I experience sexism more painfully than you experience racism," or vice versa) can only be destructive. These comparisons lead us to think, "What you are experiencing is only [or less than] what I have experienced, and therefore I do not need to listen to your story."[196] Recognizing the connection between different forms of subordination leads to a more productive response: "What you are experiencing is linked to what I have experienced, and therefore I need to listen to your story to better understand my own (and our) oppression."

Omolade suggested to me that Black women's reluctance to challenge sexism is manifested more outside the Black community than in our communications with Black men.

194. Audre Lorde wrote of wanting to teach her son this lesson:

> I wish to raise a Black man who will not be destroyed by, nor settle for, those corruptions called *power* by the white fathers who mean his destruction as surely as they mean mine. I wish to raise a Black man who will recognize that the legitimate objects of his hostility are not women, but the particulars of a structure that programs him to fear and despise women as well as his own Black self.

AUDRE LORDE, *Man Child: A Black Lesbian Feminist's Response*, *in* SISTER OUTSIDER 72, 74 (1984) (emphasis in original). On Black women's involvement with feminism, see HOOKS, *supra* note 4, at 159-96.

195. *Cf.* RICH, *supra* note 7, at 83 (discussing the difficulty men have in giving up patriarchy: "For patriarchy, however much it has failed them, however much it divides them from themselves, is still *their* order, confirming them in privilege.") (emphasis in original).

196. Trina Grillo & Stephanie M. Wildman, *Obscuring the Importance of Race: The Implications of Making Comparisons between Racism and Sexism (or Other -isms)*, 1991 DUKE L.J. 397, 409 n.36.

VII. CONCLUSION: FEMINISM AND ANTI-RACISM

In the past, I don't care how poor this white woman was in the South she felt like she was more than us. In the North, I don't care how poor or how rich this white woman has been, she still felt like she was more than us. But coming to the realization of the thing, her freedom is shackled in chains to mine, and she realizes for the first that she is not free until I am free.

— Fannie Lou Hamer,
"The Special Plight and Role of
Black Women" (1971)[197]

Understanding the connection between racism and patriarchy expands the feminist project. Its goal cannot be to eliminate the subordination of women, divorced from issues of race. Racism subordinates women.[198] "If feminism is to be a genuine struggle to improve the lives of *all* women, then all feminists must assume responsibility for eliminating racism."[199] The struggle against racism is also a necessary part of uniting women in political solidarity. Racism divides women.[200] Some feminists may find their motivation to oppose racism within the dreams of feminism: "It can spring from a heartfelt desire for sisterhood and the personal, intellectual realization that racism among women undermines the potential radicalism of feminism."[201] I do not mean that feminists should see anti-racism as an important extra-curricular project. Because racism is part of the structure of patriarchy in America, anti-racism is critical to dismantling it.[202]

Difference is such a pleasant word. It applies to everyone. It does not call anyone to action. We need only acknowledge that it exists, and then move on with our preconceived plans. *Racism* is quite different. It destroys. It condemns. It speaks of power. It demands a response. Adrienne Rich calls on feminists to use the word, racism:

> If black and white feminists are going to speak of female accountability, I believe the word *racism* must be seized, grasped in our bare hands, ripped up out of the sterile or defensive consciousness in which it so often grows, and transplanted so that it can yield new insights for our lives and our movement .... I thought

197. RICH, *supra* note 36, at 278.
198. SPELMAN, *supra* note 2, at 14-15.
199. Kline, *supra* note 2, at 117 (emphasis in original).
200. HOOKS, *supra* note 4, at 156.
201. HOOKS, *supra* note 4, at 157-58.
202. This view of racism and patriarchy rejects the claim that one institution is more fundamental than the other, that one derives from the other, or that it is more critical to destroy one before the other. *See* SPELMAN, *supra* note 2, at 123-24 (criticizing the feminist claim that sexism is more fundamental than racism and that sexism causes racism). I stress the importance of opposing racism here because I am speaking to (mostly white) feminists. Were I speaking to Black liberationists, I would stress the importance of linking the struggle against sexism to the struggle for racial justice.

> of trying to claim other language in which to describe, specifically, the white woman's problem in encountering the black woman; the differences that have divided black and white women; the misnaming or denial of those differences in everyday life. But I am convinced that we must go on using that sharp, sibilant word; not to paralyze ourselves and each other with repetitious, stagnant doses of guilt, but to break it down into its elements, comprehend it as a *female* experience, and also to understand its inextricable connections with gynephobia.[203]

Acknowledging each other's differences is not enough.[204] Relationships of power produce our differences.[205] We must face the awful history and reality of racism that helps create those differences. We do not need to focus less on gender; we need to understand how gender relates to race. If we see feminism as a "liberation project" that seeks the emancipation of all women, then we must address the complexity of forces that bind us.[206] Bell hooks describes the feminist project embracing this holistic understanding of oppression:

> To me feminism is not simply a struggle to end male chauvinism or a movement to ensure that women will have equal rights with men; it is a commitment to eradicating the ideology of domination that permeates Western culture on various levels — sex, race, and class, to name a few — and a commitment to reorganizing U.S. society so that the self-development of people can take precedence over imperialism, economic expansion, and material desires.[207]

When we not only acknowledge our differences, but take up the struggle they demand, we stand a chance of creating that world.

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203. RICH, *supra* note 36, at 301-04 (emphasis in original).

204. *See* AUDRE LORDE, *The Master's Tools Will Never Dismantle the Master's House, in* SISTER OUTSIDER 110, 111 (1984) ("Difference must be not merely tolerated, but seen as a fund of necessary polarities between which our creativity can spark like a dialectic."); SPELMAN, *supra* note 2, at 160-71 (demonstrating how recent concessions in feminist theory to the multiplicity of women nevertheless preserve the privileged focus on white middle-class women).

205. *See* Deborah L. Rhode, *Enough Said,* 4 YALE J.L. & FEMINISM 35, 37-38 (1991) (arguing that discourse on difference must remain sensitive to the power relations that underlie it); Celina Romany, *Ain't I a Feminist?,* 4 YALE J.L. & FEMINISM 23, 29 (1991) (criticizing the postmodern feminist critique of essentialism for failing to "encounter . . . differences at the very concrete level of power differentials and unequal distribution of privileges"). *See generally* MARTHA MINOW, MAKING ALL THE DIFFERENCE: INCLUSION, EXCLUSION, AND AMERICAN LAW (1990) (presenting a relational approach to difference).

206. *See* Romany, *supra* note 205, at 23 (describing the intertwined oppressive natures of racism and sexism).

207. HOOKS, *supra* note 4, at 194-95.