

## **PATRIARCHAL IDEOLOGIES AND WOMEN'S DOMESTICATION**

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Didja ever notice  
how Justice is a woman?  
Not a man  
Not a malecopsmalejudgesmalelawyers  
Justice is a woman — Cathy Marston, 2012

### 1. Introduction

North American courtrooms depict Lady Justice (a cross between the Greek goddess Themis and the Roman goddess Justitia) wearing a blindfold and carrying a sword and scales. Given imprisoned intellectual Cathy Marston's verdict, it would appear to me that Lady Justice stands for women as prisoners of a massive male error—the male, white, capitalist dominated injustice system that perpetrates crimes against those who fall outside normed categories: the poor, the queer, the disabled, the racialized Other, and the elderly. This chapter focuses on the domestication and institutionalization of women by the interlocking systems of capitalism, patriarchy, and other systems of domination. These systems reinforce each other, so resistance often seems futile—in particular, because as a group, women, and all those others who are on the bottom of the “great chain of Being” are particularly ill equipped to support each other.

Independently minded elite, working class, anarchist, and intersexed women from Hypatia and Hildegard von Bingen, to Mary Wollstonecraft, Sojourner Truth, Herculine Barbin, Emma Goldman, Aung San Suu Kyi, and Wangari Maathai have criticized, resisted, or rejected social control emanating from patriarchal regimes the world over. Feminist agitators have created language and practices to advocate for the “rights of woman” or to resist “the rule of the fathers.” They note that “the personal is political,” and criticize interlocking systems of oppression (i.e., the ways in which race, class, religion, ethnicity, national origin, or disability intersect with gender). They look at sexual or gender harassment, date rape, marital rape, misogyny, femicide, “the second shift” of housework, gendered division of labor, feminization of poverty, the “glass ceiling,” the gender gap, as well as “pink color” (female) versus white and “blue color” (male) job classifications.

### 148 MECHTHILD NAGEL

Some of the areas of patriarchal social control faced by women discussed in this paper crisscross the public and private spheres: (1) the “domestic;” (2) the workplace; (3) the criminal justice complex; and (4) (residential) schools as other historical-social forms of oppression, which intersect with racism and colonialism. I focus mainly on the endurance of sexist ideologies and give empirical examples from the United States and Canada, but there are cross-cultural implications of this analysis. For instance, one recent anthology

investigates the cross-border political economy, the effects of globalization, the killings of over 500 women and girls in Ciudad Juárez, and notes how grassroots organizations and mothers of the disappeared raise trouble to this femicide, when the state failed to respond to these crimes (Gaspar de Alba and Guzmán, 2010).

What ideological presuppositions make such failure possible, and what constitutes an effective response to the patriarchal status quo? Resistance to oppressive conditions tends to be individualized by popular discourses, whether it is through Hollywood, corporate media, popular authors such as Nicholas D. Kristof and Sheryl WuDunn (2009) or by United States Supreme Court decisions. Arguably, women's agency seen solely through the individualized lens is disempowering and will not lead to transformative justice.

After decades of calling "the personal political" much of contemporary feminist theory and practice still revolves around the strategic opposites of "sexual difference" and "equality." It has its roots in the cooptation of the "separate spheres" ideology (male breadwinner, female housewife), which led to zealous support of temperance championing Victorian sensibilities of propriety and social reformers' support of protective legislation. This hampered working class women's participation in the labor force and secured the maleled labor union's demand for the husband's "family wage."

Another debate that has dominated feminist philosophy has centered on the question of essentialism: what is the meaning of "woman," if any, and who might have license to speak on behalf of women? Iris Marion Young (1994) has argued in favor of the Sartrean term of "seriality" to suggest that "women" find ourselves thrown into a series (e.g., structurally through the sexual division of labor) and a coherent identity is only formed when we band together as women for a common goal or objective. I take my cue from Linda Martín Alcoff whose advocacy for a "positionality approach" provides language for a nuanced approach that avoids sweeping generalizations, white solipsism, and a bucolic retreat into reactionary individualism:

Being a "woman" is to take up a position within a moving historical context and to be able to choose what we make of this position and how we alter this context. From the perspective of that fairly determinate though fluid and mutable position, women can themselves articulate a set of interests and ground a feminist politics" (1997, p. 150).

Patriarchal Ideologies and Women's Domestication 149

Alcoff thus argues for a politics of identity, where identities serve as a point of departure but never become reified or static. There are, of course, many examples from women's organizing for change that have not heeded her cautionary advice. Much activism has been guided by a fearful politics of entrenchment that serve the political interest of the few.

The fissures within Women's Rights Movements (such as the first organized one at Seneca Falls in upstate New York in 1848) often overshadowed the momentum gained by gathering hundreds if not thousands, as witnessed at the Fourth World Conference on Women, Beijing in 1995. Whether it concerns woman's suffrage (the key controversy of the nineteenth century) or

lesbians' and sex workers' rights (the latter constitutes a twentieth-century provocation), which at times brings the Holy See and radical feminists to the same side of the table, many strategic sessions have catered to fear, racist and religious fervor, and co-opted the progressive socio-political agenda that could have had a far reaching impact on the majority of women.

Again, as with the earlier campaigns against vice and dangerous occupations for women of childbearing age, the competing theories undergirding the principles of "ethic of care" (cultural feminism) and "equality for all" (liberal feminism) continue to dominate the political discussions and perhaps impede feminist agitation for change. What will the twenty-first century bring in terms of feminist or solidarity organizing? To understand the challenges of resisting social control, a review of dominant ideologies such as the unities doctrine, the separate spheres doctrine that engendered the Cult of True Womanhood, and the racist theory of the pathology of the black family is necessary. How have women adapted and responded to these ideologies of social control?

## 2. Imprisoning Ideologies

### A. The Unities Doctrine

Woman has ovaries, a uterus; these peculiarities imprison her in her subjectivity ... It is often said that she thinks with her glands. ... Humanity is male and man defines woman not in herself but as relative to him; she is not regarded as an autonomous being ... He is the Subject, he is the Absolute—she is the Other. - Simone de Beauvoir, 1972

A key underlying ideology that concerns us here is that of patriarchy, the domination of men over women based on the presumption that men have the right to dominate women because they feel superior to them: "he is the subject, she is the Other" (de Beauvoir, *Ibid.*; cf. also Sheffield, 1995). Enduring worldviews, even those that obviously oppress people, fauna, and flora, seem everlasting precisely because they seem natural, obvious, and commonsensical—it would be comical to think otherwise.

Thus, John Adams chides his uppity wife Abigail, who implores him to "remember the ladies," with the following high-toned rhetoric: "I cannot but  
150 MECHTHILD NAGEL

laugh. . . . We know better than to repeal our Masculine systems . . . [and] completely subject Us to the Despotism of the Petticoat" (cited in Mandel, 1995, p. 405).

Judge William Blackstone's legal invention of the "unities doctrine" in family law is such an example (Williams, 1997). It seemed part of the divine and natural order to give the head of family (*pater familias*) a special status: "husband and wife are one and the one is the husband," as this fiction has famously been summarized by Justice Black (cited in Freeman, 1995, p. 466). Marriage contract obliges the wife to be "covered" by the husband, submit to him at will, assume his family name, surrender her own name and belongings. In turn, the husband is legally responsible for his kin. She cannot vote, get loans or her own bank account, testify in court, face incrimination, nor pursue advanced schooling or professional work outside the home. In other words,

the wife is reduced to the status of a minor. Upon the husband's death, male kin will receive all assets so that the wife may be reduced to a pauper depending on kindness of kin and strangers. Thus, the unities doctrine also guarantees that she is deemed "civilly dead" (Williams, 1991).

Western condemnation of misogynist interpretations of Shar'ia law or of Muslim women's practice of "veiling" seem hypocritical given the casual neglect of human rights afforded to European and colonized women especially since the advent of Christianity as the state religion, as for instance documented throughout the history of persecutions of hundreds of thousands of women, often of those who were unattached to a man and the pernicious history of "coverture"—the symbolic, legal veiling of Christian and other non-Muslim women. Whether it was the implementation of religious manuals such as the Witches' Hammer (Kramer and Sprenger, 1486), which intensified the modern era witch craze, the Blackstone legal codes, or the 1804 Napoleonic Code, which relegated the legal status of women to that of "children, felons, and the insane," misogynist fervor is part and parcel of the Western, Christian-based, patriarchal tradition (cf. LeGates, 1995, p. 496).

The unities doctrine seems to be outmoded and of little concern to modern day feminists. Yet, coverture continues in the marriage-industrial complex. Wedding vows often speak of submission and devotion and naming ceremonies erase the family name. A vast majority of women, at least those who are not from Latino countries, abandon the father's name in favor of the husband indicating the adherence to patriarchal social order (of control and obedience). Political women such as Hillary Rodham are pressured to adopt their spouse's last name and thus eschew their independence and to avoid being scandalized as so many of their political foremothers have been, who refused to be bound to coverture—even when it was the law.

By contrast, Paula Gunn Allen (1984) reports that in matrilineal nations of the Iroquois Confederacy, women who took the spouse's name after marriage were forbidden from pursuing political positions in the nation such as the position of the Matron.

### *Patriarchal Ideologies and Women's Domestication* 151

#### B. The Separate Spheres Doctrine

*There can be no doubt that our Nation has had a long and unfortunate history of sex discrimination. Traditionally, such discrimination was rationalized by an attitude of "romantic paternalism" which, in practical effect, put women not on a pedestal, but in a cage. - Frontiero v. Richardson, 1973*

Early nineteenth-century industrialization and Western expanse, trespassing indigenous lands, arguably changed the public discourse and ideological fervor regarding EuroAmerican gender relations. While immigrant unmarried girls increasingly pursued factory work (not unpaid domestic work), hegemonic anxious discourses shored up support for a slightly more progressive version of social control ideology than the unities doctrine (Freeman, 1995).

The separate spheres doctrine recognizes women as "alive" (not civilly dead) in the safe purview of the home. The upper-class white "lady" is put on a pedestal

and enjoys decision making in the tranquility of the home, away from the loud, immoral demands of the public world, where the husband is busy being at war with his (male) workers and averting labor discontent. She has a civilizing, ennobling and religious duty on her husband and is in charge of moral education of the young, including the sons.

This doctrine enshrines a “cult of domesticity” at a time when the radical abolition movement against slavery got off the ground to be followed by the suffrage movements after 1868. It also served a purpose for working class men who did not wish for female competition. “Protective Legislation” at the end of the nineteenth century should be considered a natural and euphemistic outgrowth of this separate spheres doctrine of a now public patriarchal state, because women were forbidden to work long hours, overnight, were not allowed to lift heavy weights and could not pursue certain professions at all (Freeman, 1995).

Women social reformers and anti-suffrage women activists also participated in the defense of this restrictive labor law at the same time that they began the first organized effort of daycare for working-class working women’s children (Freeman, 1995; Marshall, 1995). It took another 100 years for enlightened Supreme Court judges (Frontiero, for the majority opinion) to acknowledge that much of this legal dance affected women’s capacity and movement in public, whether at the workplace, the bank, or the jury pool, and served strictly to cage women and make them separate and unequal. One curious effect of this transatlantic domestic(ating) ideal of the passionless proper lady is that Queen Victoria refused to sign a bill meant to criminalize lesbianism in 1885, because she didn’t believe such behavior existed (Weitz, 1995, p. 449).

The cult of domesticity, also known as “Cult of True Womanhood,” seems bound to stay. It has a complex feminist lineage of support from the monarchist Olympe de Gouges to conservative anti-feminist Phyllis Schlafly and self-proclaimed feminist Sarah Palin on the one hand, and, ironically, to suffragist Elizabeth Cady Stanton and modern day cultural feminists such as 152 *MECHTHILD NAGEL*

Carol Gilligan on the other. By making this sweeping and controversial claim, I simply wish to probe and revision the feminist “sexual difference versus equality” debate. At stake is whether the defense of psycho-social and biological difference overrides a single-minded liberal concern for eradicating socially existing forms of gender discrimination.

Cultural feminists charge that girls and boys do behave differently from birth on, independent of social pressures. Carol Gilligan (1982) developed her famous ethic of care approach based on observations she made of girls’ moral deliberations, which she thought to be remarkably absent in boys’ decisionmaking skills. However, she also advocated that a best possible ethics would involve both the justice paradigm followed by boys and the care paradigm followed by girls. Here we detect a functionalist, biological determinist argument that plays into separate spheres ideology (cf. Scott, 1996, p. 1057).

Clearly, Aristotle’s differentiation of the sexes with his defense of the natural

complement theory provides an ideological foundation for the rational, autonomous man versus emotional, relational woman framework that is part and parcel of the cult of domesticity—and, I would add, equally of modern day celebratory expressions of feminist psychology.

Elizabeth Cady Stanton, best known for authoring the Declaration of Sentiments and Resolutions (Stanton, 2007), thus initiating a protracted struggle for the women's vote, also relied on the (racist, sexist) cult of domesticity when it served her. This is already implicit in the 1848 declaration: "He has withheld from her rights which are given to the most ignorant and degraded men—both natives and foreigners." Twenty years later, Stanton engages in an outright racist, elitist, and chauvinist attack on freed black men. She held that they were not entitled to the vote, despite the 15th Amendment, because they were "ignorant sambos"; and in response to the heckling of George Downing, a black supporter of male superiority, she responds:

When Mr. Downing puts the question to me: are you willing to have the colored man enfranchised before the women, I say no; I would not trust him with my rights; degraded, oppressed himself, he would be more despotic with the governing power than ever our Saxon rulers are. If women are still to be represented by men, then I say let only the highest type of manhood standard at the helm of State. (cited in Davis, 1981, pp. 84–85)

Eclipsing the voting rights of black women, Stanton positions herself as a defender of the purity standards of the white dominant race and as Angela Y. Davis (1981) points out completely disregarding the material conditions of abject poverty, lack of reparations, the formation of the Ku Klux Klan and overall political uncertainties that engulf black people who remain in the former Confederacy.

Does the cult of domesticity constitute progress over the unities doctrine?

Looking closer at lived experiences, it seems as if with the emphasis of confining EuroAmerican women to the home and garnering the family wage *Patriarchal Ideologies and Women's Domestication* 153

for EuroAmerican men, women suddenly had less decision making power—this was particularly the case for aristocratic women who could no longer effect change on the estate of the absentee husband and for skilled women, who were no longer encouraged to pursue their trades (Bryson, 1992).

However, the Cult of True Womanhood proved to be elastic enough to accommodate racist oppression and to endure even though economic, social, and political conditions changed for the better for many women through hard fought struggles for unionization and concomitant benefits of family leave, day care centers, and better education so that women have now entered most of the disciplines. But double standards still prevail in the public and private spheres. Mothers especially are still expected to do the bulk of household chores ("the second shift") and are the first to be blamed if their child fails to live up to the moral education mothers "ought" to provide. This is particularly true with respect to racially sexualized expectations of the black family—the controlling images of black womanhood (Collins, 1990).

C. White Supremacist Anxieties about the Black Family

*Portraying African-American women as stereotypical mammies, matriarchs, welfare recipients, and hot mommas has been essential to the political economy of domination fostering black women's oppression. Challenging these controlling images has long been a core theme in black feminist thought.* -Patricia Hill Collins, 1990

Stanton's racist exclamation about the "ignorant sambo" haunts the feminist imagination about sisterhood even now. Frederick Douglass was asked not to show up on platforms with speakers such as Susan B. Anthony when she toured the South to garner financial support for suffrage among wealthy white male patrons (Davis, 1981). A century later, the known supporter of racial segregation Democratic senator "Judge" Howard W. Smith, made an infamous move to add "sex" to the Civil Rights Act of 1964. The National Woman's Party supported him. However, other feminist and civil rights organizations opposed his move, because they feared that it would detract from addressing racial discrimination (Bryson, 1992).

Angela Y. Davis has argued that much of racialized discourse has focused on pathologizing the black family. New York's liberal Senator Patrick Moynihan's report provides inflammatory analysis by suggesting that the black family faces high divorce rates precisely due to the weak status of the male and an overbearing female, whose matriarchal tendencies are out of step with the rest of society. This constitutes an unabashed defense of white public patriarchy as the cherished norm of society. In the context of a racialized sexuality, black women could never aspire to the white Victorian motherhood cult, and their putative sexual independence as family matriarchs brings up memories of yesteryear's fierce, uncontrollable witch (Collins, 1990; Barstow, 1994).

#### 154 MECHTHILD NAGEL

Contemporary films such as *Precious* (Lee, 2009), which are meant as stinging social criticism, and that attempt to humanize black women, run the risk of reinscribing a known racist, sexist ideology. *Precious* has received mixed reviews, some praising it for its stark realism and unrelenting focus on social problems, others criticizing it as "the most damaging film to the black image since the *Birth of the Nation*" (Armond White, 2009). It portrays a young darker skinned woman (Gabourey Sidibe as Precious) who is raped and impregnated by her mother's boyfriend. Her opening line conveys the pains of internalized racial hatred—she imagines herself as glamour girl alongside a light skinned boyfriend who has nice hair.

Black women in the United States are victimized at the same time that they are blamed for the ill-named "black on black" violence and being mothers qua "welfare queens" of "young superpredators" (Feder, 2007; Nagel, 2011). What does not get named in these media-driven discourses of victim blaming is the government's War on Drugs (begun in 1971), which has ensnared more black men and women than any other group, as well as other policing measures with the result that one in three black men will find himself jailed during his lifetime and black women have faced the fastest increase of imprisonment thanks to the War on Drugs (Davis, 2003).

In the following, while highlighting aspects of the state's biopower, the subjection of women through regulatory techniques, I will focus on the "private" sphere.

### **3. The Discourse of "Domestic Violence"**

In *Discipline and Punish*, Michel Foucault famously writes, "Is it surprising that prisons resemble factories, schools, barracks, hospitals, which all resemble prisons?" (1977, p. 228). He persuasively argues that these are places of social control, where deviancy is constructed and policed to the point that the pupil, prisoner, or the person dubbed mentally ill will all be monitored to the point that they will become "docile bodies."

Such is the implied intent of institutional power and the expression of hegemony. Whether it is successfully executed is another matter, since "where there is power, there is also resistance" (Foucault, 1978, p. 96). However, Foucault, too, has blind spots as he succumbs to the division of "public man, private woman" (Elshtain, 1993), by highlighting (Western) institutions in the public sphere. He is mostly silent on the private realm (except of course, in *History of Sexuality*, when he remarks on the trope of the heterosexual Malthusian couple), and overplays the docile effect of Jeremy Bentham's panopticon—of the all-seeing gaze that disciplines the prisoners in a way that they turn the gaze inward. He leaves out the colonial state's racialized brutalization of prisoners (James, 1996), and is silent on the effects of the modern prison on women (Dodge, 2006). Surprisingly, Foucault also leaves out the asylum (which he also writes about) in the above quote, because arguably

*Patriarchal Ideologies and Women's Domestication* 155

bly, it is the modern asylum, rather than the factory halls, upon which American penitentiaries were modeled (Cohen, 1992, cited in Dodge, pp. 22–23).

Arguably, the asylum has been the depository for European women after the end of the witch persecutions. With the emergence of the enclosures of the common and industrialization, women increasingly became a threat to male breadwinners. Stanton has this radical, hyperbolic, feminist insight to "correct" a Foucauldian view: "Society, as organized today under the man power, is one grand rape of womanhood, on the highways, in our jails, prisons, asylums, in our homes, alike in the world of fashion and of work" (cited in Bryson, 1992, p. 43).

What is the discourse of confinement and violation today? When it comes to the social realities and to identity formations of the girl child and women, it is the home, the "domestic realm," that is a premier site of contestation and violence. California was the first state to enact the Domestic Violence Center Act to provide safe houses for battered women at the local level; it used funds from marriage license fees (Stevenson and Love, 1999). Linking domestic violence to marriage taxation was probably because it used to be narrowly defined as "spousal abuse."

Labeling something as "domestic" has the ring of "harmlessness"—domestic violence, as harm done between friends, acquaintances, or bloodrelated persons is described. After all, it is not akin to "stranger rape" or random



assault on the streets—unless of course, the victim “asked for” the sexual assault in terms of how she dressed, and why was she on the streets (or the bar, as extension of the “street”) at 2 a.m. by herself?

Such questions were raised in a court of law regarding the gang rape of a woman in a bar in Bedford, Massachusetts (Butler, 1993). In this notorious court case, the defense implied that the wild woman who is roaming bars is not properly “domesticated.” She chose to defy her role foisted upon by heteropatriarchal Eurocentric social norms, and this is where another definition of “domestic” comes to play: this has to do with the Latin roots of “domus” (house) and “dominus” (master of the house and by inference lord over cattle, children, and certainly his wife and any unwed sisters).

Domestic then has a ring of “ownership” and putting it together with “violence” invites confusion; how can somebody be castigated as violent, if he couldn’t do what he pleases with his property? Indeed this is the grounds for 2000 years of Euro-American legal wrangling whether to endow the female partner with personhood or continue to consider her chattel who could be chastised with a stick no bigger than the man’s thumb—clearly, a compromise solution of the “justice system” that was clearly intent to keep the woman (or girl, traded from the father to the future husband) in a subjugated role. Finally, using terms like “domestic” violence rather than “battering” may just “obscure the relationship between gender and power by failing to define the perpetrators and victims” (Meyers, 1994, cited in Marston, 2011, p. 82). Radical feminists have pointed out that we live in a rape culture. Catherine MacKinnon famously espouses that rape, “from women’s point of view, 156 *MECHTHILD NAGEL*

is not prohibited; it is regulated” (1983, p. 651). That explains the legal reality of the difficulty of obtaining rape convictions against acquaintances, family members or boyfriends.

Still hotly debated on listservs today is whether spousal rape is an oxymoron. Until the late 1970s, rape laws exempted husbands if they violated their own wives, and even today, husbands are exempted from rape prosecutions if they assault their wives while they are asleep, unconscious or mentally disabled, i.e. when the women (or girls) are unable to give consent.

Finally, there remains a patriarchal urge to legislate morality of women who pursue sex work—it is an odd adage that prostitution is the oldest trade, yet radical feminists content that the institution of heterosexual marriage as a form of patriarchally sanctioned prostitution—a father “trading in” his daughter to the best bidder, the future husband. Practices of bride prize (or lobola) and dowry turn brides into chattel, even if justifications are given that these guarantee her subsistence living or insure her husband.

Bridal negotiations may result in grave conflict, or they could be results of restitutions for premarital rape or consensual sex. It’s surely a sign of patriarchal codification of such payments that are legally sanctioned and celebrated through the rites manifested in the marriage-industrial complex, even as benign as the fatherly gesture of “giving away the bride” rather than scandalized as women’s sex work certainly is (cf. Narayan, 1997; Kempadoo and

Doezema, 1996; Dewey, 2010).

One impetus for penning the 1848 Declaration of Sentiments was Stanton's envy of Haudenosaunee women who lived (and continue to live) in egalitarian relationships free from male abuse, rape, or custody battles, leading suffragist Matilde Joslyn Gage to exclaim: "never was justice more perfect, never civilization higher" (Gage, 1893 [1998]; cf. Allen, 1984).

In the 1990s, we have the curious situation of a putative egalitarian enforcement by police officers: when it's not clear to them who started the "trouble" both parties may be arrested; several states have mandatory arrest policies—with the troubling effect that children are not only being traumatized by the parents' fight but also by the state's zealous intervention (Bernstein, 2005).

The watershed case that brought state violence into sharp relief (through "benign neglect" of spousal torture) was that of Tracey Thurman:

[Thurman] won her suit against a Connecticut police department for negligence and violation of her civil rights in 1985. Her husband receives a fifteen-year sentence for attacking her, stabbing her and repeatedly kicking her in the head during 1983 while police and neighbors were in the vicinity and ignored Tracy's pleas for help. (Stevenson and Love, 1999)

Cathy Marston (2011) decries the blatant disregard for battered women's well-being as chronicled in her own story, eerily reminiscent of Thurman's *Patriarchal Ideologies and Women's Domestication* 157

torturous ordeal. Rather than suffering under "benign neglect" of the police, she finds herself convicted through trumped up charges of burglary, as a "byproduct" of the mandatory arrest policies (although her male assailants never got arrested):

As I was going unconscious and could taste the blood in my mouth . . . smothering me into the concrete, a police officer pulled-up to the curb five feet from my head. The officer laughed with my assailant, just as the . . . arresting officer had done with this batterer and my abusive ex. If the first unlawful arrest had been quickly and properly adjudicated to exonerate me and arrest my batterers, the second attempt on my life would never have occurred. Where would these abusive men get the idea that they could beat and kill a woman, and that these cops would arrest HER? From the larger American context of blaming women for the male violence committed against them and obviously from the Texas justice system. (p. 75)

The Texas Council on Family Violence reports that, sadly, Marston's criminalization as victim is not an aberration but occurs 20 percent of the time when police respond to a "domestic violence" call (Ibid., p. 73). Andrea Smith (2005) paints an equally grim analysis regarding violence against Indian women on reservations, and yet, she is also quick to note that mainstream anti-violence movement's collusion with the state for funding feeds into an expansion of the prison industrial complex that social movement groups such as INCITE! and Critical Resistance have resisted against (cf. pp. 170–171).

#### 4. Death by Culture?

Occasionally, a “death by culture” argument will be employed in the courtroom when the Empire sees it fit in non-Western occupied countries. Narayan (1997) notes this argument when well-meaning British colonialists, peak into localized practices such as decrying *sati* (widow burning) in the nineteenth century and castigated all Indian men as being complicit in such practice; the widows suffered a worse death than that of personal choice to commit suicide: they were marked women by the woes of their culture.

By contrast, Uma Narayan also takes stock of the high numbers of women murder victims in the United States and argues that no “cultural defense” of gun-toting, Christian, heterosexual, patriarchal men is used; instead the murders are constructed in a most personalized, individual ways completely bereft of cultural codification. “Death by culture” argumentation (and take any non-Western, non-Christian rite dubbed as “barbaric”) finds a hearing in the contemporary courtroom, which otherwise prides itself in taking seriously personal responsibility:

158 *MECHTHILD NAGEL*

Brooklyn Supreme Court justice Edward Pincus sentences Chinese immigrant Dong Lu Chen to 5 years probation for using a claw hammer to smash the skull of his wife. *Pincus concludes, that traditional Chinese values about adultery and loss of manhood drove Chen to kill his wife.* Pincus justifies Chen’s probationary sentence by stating that Chen was just as much a victim as his wife due to extenuating circumstances. The Chen decision sent a message to battered immigrant women that they had no recourse against domestic violence. (Stevenson and Love, 1999; emphasis added)

So, Dong Lu Chen’s defense, which appeals not only on cultural grounds to Chinese (patriarchal) values but given the culture of the United States courts is informed by patriarchal values. Thus, he is able to “fraternize” with the jury and judge to receive leniency. However, immigrant women who attempt to use cultural values (male breadwinner status, etc.) rarely accomplish the task to persuade the United States courts to listen to their stories and consider mitigating circumstances.

Interestingly, the first time the “battered woman syndrome” was allowed into the courtroom by the presiding judge was in the late 1980s, when the defendant was on trial for killing her lesbian partner. But she was convicted anyway. In that case, the judge allowed the battered woman’s syndrome defense changing it to “battered person defense.” The defense attributes the guilty verdict to the jury’s homophobia (Ibid.). Overall, since the introduction of the “battered woman’s” defense, juries have been reluctant to acquit the defendant and unwilling to acknowledge the environmental thesis (of longterm abuse and suffering) and its abolitionist implications (Nagel, 2000).

What do girls and women face upon being committed to jails and prisons?

The next section will describe the collateral damages of the carceral regime—in its most isolating and punitive form.

#### 5. Not Part of My Sentence?

In 1999, Amnesty International published a provocative report “Not Part of My Sentence: Violations of the Human Rights of Women in Custody.” The report made it clear that women who enter the prison system are not immune to further violence by state actors. Similarly, Human Rights Watch’s report “All Too Familiar: Sexual Abuse of Women in United States State Prisons” (1996) details endemic sexual abuse by male prisoners who work in women’s prisons and the casual approach of prison authorities to remedy corruption and coercive control. Furthermore, currently, the prison is ill equipped to handle the special needs of female, of transgendered persons, and of those who have mental disabilities.

The vast majority of women prisoners are mothers of small children; some of them are teen mothers; many enter jail and prisons while they are pregnant without any pre- or postnatal care, which can have dire consequences for their health. Miscarriages are disproportionately higher than “in the free world.” They may be forced into poorly fitted tight clothing which further harms the mother and fetus or they are subjected to being shackled while giving birth (Amnesty International, 2010).

While abortion on demand in prisons has been curtailed by the Hyde Amendment (1976), some prisoners report being coerced into abortions, especially African American women (Johnson, 2002). This magnifies and eerily echoes the history of reproductive violence and genocide committed against indigenous, black, and brown women since 1492 (cf. Ybanez, 2007).

Ana María García’s film, *La Operación* (1982) chronicles the United States population control policy “Operation Bootstrap” of the late 1950s, which succeeded so well that “over one-third of all Puerto Rican women of childbearing age have been sterilized. The procedure is so common that it is simply known as *La Operación*.” Conducting coerced sterilizations is a major violation of Article 3 of the Geneva Conventions and constitutes a war crime if done during armed conflict.

However, some women prisoners disagree that they face further violation and oppression in the prisons, as noted in “Criminalizing Women—Past and Present” (Kilty, 2011). It chronicles the lives of aboriginal women in particular who have had to work through decades of substance abuse, of sexual violence by relatives, endemic poverty, neglect, and more. Still they find the prison can be a refuge from the terror, grief, and highs that numb their bodies temporarily.

For Sharon Acoose, who was sexually abused since age three, jail provided a structured, safe place with accommodations so far beyond the street life that she developed bulimia because she didn’t want to get fat. Her eating disorder stopped once she left jail and was again living on the streets. Acoose notes with great honesty, “I liked jail because I was tough and jail gave me status, a name so to speak. I was *the* girl. People would move when I walked by” (Kilty, 2011, p. 50). Her greatest joy was to be feared and she felt invincible as the jail’s premier bully. Only when she became sober she realized that those desires made her into a “full time looser” and life was passing by (p.

51).

Acoose's life "on the installment plan" (living between the streets and jails for some eighteen years) began once her father moved off the reservation, and it was during the hated times spent in segregation for infractions or self-harm, she pondered the wages of "Indianness": "I didn't want to be an Indian because of the extreme racism my people faced and I knew I couldn't be white, so who could I be? I felt only isolation of the body, mind, soul and spirit" (p. 53). In segregation, she could feel the extent of "spirit murder" that the prison system represents.

The prison system for First Peoples of Canada is an extension, a continuation of the legacy of the repressive residential school system to which Indian children were subjected (both in Canada and the United States), which robbed the youth of their culture, belief system, and language, amounting to cultural  
160 *MECHTHILD NAGEL*

genocide. Not surprisingly, facing criminalization of drug addictions, grinding poverty, and stigma-related sex work, they are vastly overrepresented in the Canadian (and United States) prison system (Kilroy and Pate, 2011; Ybanez, 2007) at the same time that Indian women are also "underpoliced" (Kilroy and Pate, 2011) and victimized to the point that Amnesty International calls for an urgent investigation of vast numbers of missing and murdered women. More than one in three Native women will face rape assault in her lifetime, and rapists most often escape judicial process due to the federal/colonist imposition of a complexity of laws (Amnesty International, 2004). Wholesale criminalization of a people, be it Puerto Ricans, blacks in the United States, indigenous people, or others who are oppressed as a group, shows the interaction of racism, imperialist motivations and buttressed by patriarchal ideology, so that the giddy multitude commits violence against each other but does not band together against "the system of injustice."

The system, on the contrary, creates the illusion of the rights-bearing individual who may seek redress through the courts (Davis, 2003) and may also be punished qua individual for trespassing against the law. Classical liberal ideology disguises the benign social contract, which in fact is a racial/sexual contract by propertied white heterosexual men against those who are Othered (Pateman and Mills, 2007).

#### **6. Rape Laws—Protection or Repression of Women?**

Rape of prisoners has been a serious issue that finally was acknowledged in the Prison Rape Elimination Act (PREA) of 2003. However, its focus is on rape in male prisons and is particularly concerned with rape occurring between prisoners. It remains silent on the rampant violations occurring between staff and prisoners in female prisons. The way it has been translated by Texas is that *any* act (even holding hands) is punishable not only as sexual misconduct but as sexual abuse and a lifelong label as sexual offender. When two lovers were written up for misconduct and sent to segregation, one of them fearing the label accused the girlfriend of rape, the accused hung herself. A friend of the woman who committed suicide writes:

Ever since the feds enacted that "Prison Rape Elimination Act," it has

done nothing to help us [women]. Now someone is dead. With her girl crying rape to save herself from being convicted of a sexual abuse charge, it leaves Jamie with a sexual assault charge and having to register as a sex offender when she gets out and it'll be on her record, affecting her parole chances and chances of getting into a halfway house. (Law, 2009, p. 71)

What then can we say in general about legal reforms that might benefit imprisoned women?

*Patriarchal Ideologies and Women's Domestication* 161

### **7. What Does Gender-Responsive Service Mean to an Abolitionist?**

Gender responsive service is a complex and contested issue. It can be a platform for meaningful improvements in women's prison and important services given to transgender prisoners. On the other hand, it can be a way of *increasing* penalties. Whereas a pregnant mother might be released early from prison, a prison with excellent pre- and postnatal arrangements might sway the parole board to retain the prisoner to give birth in prison. Mara L. Dodge (2006) notes that nineteenth-century judges in Illinois were reluctant to send pregnant women to prison, not based on humanitarian concerns, but due to cost-benefit accounting: pregnant women and the subsequent prison care (*crèche*) of babies would not be cost-effective in a prison environment that was supposed to extract as much menial labor from the convicts as it could (pp. 31–32).

Hardly a bleaker picture on gender disparities can be found than that from a chaplain in 1930: "To be a *male* convict in this prison would be quite tolerable; but to be a *female* convict, for a protracted period, would be worse than death" (cited in Dodge, 2006, p. 14). This sentiment is reiterated in May Barr's harrowing account of surviving New York's prison, Riker's Island—the largest jail in the world, housing over 20,000 remand and convicted women, men, and children (Barr, 2007).

The recurrent theme in all these critiques is that of creating the modern penitentiary along norms that would seem "reasonable" to house large numbers of men. Nineteenth-century women reformers such as Elizabeth Fry, beholden to the Cult of True Womanhood ideal, heaped much blame on the loud, unkempt women prisoners rather than on the material conditions in which they were forced to survive. Even so, Fry would have been aghast at "gender-neutral" accommodations, so that men can work in shower areas in women's prison because of "equal opportunity" provisions for employees. By the 1970s, gender-specific prisons, inspired by disciplinary regime of reformatories, vanished and "co-educational" prisons appeared (Dodge, p. 21). So, it is ironic that gender-specificity would be demanded again; my worry is that if one operates under a *reform* paradigm, one is always inclined to make excuses for sending women (and men) to prison and for long stretches of time, because it will be a tolerable experience. Julia Sudbury argues that creating gender and trans-sensitive spaces in prisons goes counter the spirit of "maroon abolitionism":

This interaction between racism and trans-phobia in the prison is the basis for an antiracist, gender-queer, anti-prison agenda promoted by black

transgender and gender non-conforming activists. In contrast to calls to develop a “normative transgender prison order,” or trans-sensitive prisons (Edney, 2004, pp. 336-37), the participants point to the systemic nature of gender violence as part of the structures of imprisonment, and reject the possibility of gender liberation under conditions of captivity. In 162 *MECHTHILD NAGEL*

so doing, they seek to transform anti-prison politics by calling for the abolition of gender policing as part of a broader abolitionist agenda. (2010, p. 18)

Clearly, resistance to enforced gender behaviors instead of advocating for trans-sensitive prisons is necessary. Following recommendations by Andrea Smith (2005) and others, gender-responsiveness in the abolitionist context can mean to care for girls in non-punitive open healing sites such as a Healing Lodge for indigenous Americans and First Nations girls, where they can get holistic treatment for trauma, for state-generated violence, etc., and get educational opportunities that are meaningful rather than coercive and test-oriented.

Most Western feminist criminologists calls for expert-driven genderspecific, trauma-informed treatments in prisons and would take into account the girl’s personal history of abuse and drug dependency. However, many girls and young women have been intensely studied by (white) expert personnel to very little avail (Koo, 2010).

Working with a community justice paradigm that empowers the “nonexperts” such as children as peer trainers guided by an abolitionist framework may have more lasting results to bring about healing; I avoid language of “restorative justice” or “rehabilitation” because those terms suggest that there has been bucolic non-violence in our cities, towns, and rural areas some mythic time ago, when in fact, the United States was founded on slavery and genocidal practices for which it has never been held accountable.

### **8. Resistance and Survival**

From Native America (Neve and Pate, 2005; Amnesty International, 2008) to urban America, the psychic and social costs of brutalizing and institutionalizing children of color are immense. The following excerpt is from Roslyn, participating in a writing group while incarcerated. She faced victimization as a child, fought back, and was criminalized by a vindictive court system, sentenced to fifty years for an offense she committed at seventeen. Roslyn imagines the same judge as her audience, showing him that she has moved beyond victim status:

Did you see no potential in me? You noted my high IQ, how “articulate” I was, how “mature.” I’d run away from home because I refused to let my mother keep hurting me. You put me in a home for bad kids; my roommate wasn’t even sane. I left there, too, so you put me in a group home. You call that help? No matter who I tried to tell, no one got it. So then you sentenced me, said no hope for rehabilitation, said I’m as good as dead. Just like my mother: kicks, flights of stairs, words that made me flinch. Well, you were both wrong. I have a life. I have a beautiful daughter, a college education. I teach parenting skills. I make a difference

in people's lives. You never gave me a chance, so I made my own.

*Patriarchal Ideologies and Women's Domestication* 163

My poverty, skin color, background, past—who at age seventeen can't change, won't grow? You robbed me of my youth, of my belief in justice.

But from the graveyard, the barbed wire, and the cinderblock, I'm resurrected. I'm worthy. I'm somebody. (cited in Boudin, 2010a, p. 298)

Roslyn is exemplary in refusing to make the prison and prism (of violence, of racism and sexism, of institutionalization, of gate keeping, and revenge) her home and destiny. Instead, she transcends and transforms, turning, in Assata Shakur's words, "walls into bridges" to bring hope to others.

Many prisoners turn to bibliotherapy to escape the noise of the prison environment; these might range from romance novels to urban fiction, selfhelp books or African American writings from slavery narratives to the contemporary critiques of white supremacist societies (Sweeney, 2010). Here, of course, as with any prison surveillance, censorship of reading material that is considered "insurrectionist" is commonplace.

Rather than insuring the maintenance of docile bodies—just as during ante bellum times on the plantation—imprisoned intellectuals (James, 2003) are thought of as disturbing the peace that the pervasive lull of illiteracy brings to prison administrators the world over. The Roslyn's of the world and their indomitable spirit are utterly threatening to the prison regime—even though ironically, once a majority of women prisoners is involved in collegebound education, they stop fighting with each other, frown on idleness, and develop a real sense of purpose as the prison becomes another institution of higher learning. Kathy Boudin (2010b) reports that as soon as college education disappeared at Bedford Hills prison thanks to the draconian, vindictive laws of the 1990s, violence ensued among the women and a real sense of hopelessness settled in.

How do schools fit into this picture of social control, surveillance and a sense of purposelessness? The next section provides an insight of the carceral regime as a continuum through a girl's coming of age in a punitive, heteropatriarchal and racist society.

### **9. The School-to-Prison Pipeline**

As many critics of the prison industrial complex have noted (e.g., Davis, 2003; Weissman, 2008), the recruitment for imprisonment cannot start early enough. Urban schools are a quasi-militarized zone with "resource officers"—otherwise known as armed police—stationed at metal detector gates who have increasingly displaced school counselors, so that California now has more of these resource officers than counselors in schools (Schnyder, 2009). Some children are being singled out for special attention. If they display good behavior, military recruiters will invite them to join the army, if they are in defiance, it is the reform schools and detention centers that will await them.

The ideological expectation of girls and women's turpitude give us insight into the history of modern policing and criminalizing women and girls.

164 *MECHTHILD NAGEL*

Once women's reformatories were firmly established, it so happened that the



state zealously expanded the domain of punishable moral offenses during the Progressive Era, and ironically, female reformers happily assisted prosecutors in naming outlaw women who dared to walk the streets, deal in alcohol or showed other signs of waywardness.

Politicians believed that “reformatories” weren’t actually prisons and would assist women to fall in line with the expectations of the Cult of True Womanhood. “Women often served longer sentences for misdemeanor crimes than men did for more serious felonies” (Dodge, 2006, p. 20). Mara L. Dodge focuses her study on Illinois, and what is important to point out is that “freed” black women in the South served time in the convict lease system, not being afforded time in the troublesome, but much better conditions of the reformatories reserved for white women, if they were incarcerated at all (Davis, 1998).

What does this brief retrospective mean for contemporary images of “fallen” girls? I would argue that the relational aggression hypothesis fits into the continuation of moral double standards, namely regarding behaviors expected of girls and boys and what happens if either one falls from graces or pedestals. While the “moral fall” is harder for girls of all colors, girls who transgress sexual norms, e.g., showing lesbian tendencies, face harsher policing (Himmelstein and Brückner, 2011).

Homelessness, then, is a particularly acute problem for gay and lesbian youth as well as for transgendered and gender non-conforming persons, because of the homophobic/transphobic hostility faced in the (foster) home and threat of subsequent expulsion from home as well as school grounds (Sudbury, 2010; Baus et al., 2006).

Orlando Patterson (1982) has written persuasively about the psychic effects of United States slavery in terms of natal alienation. We can extend this analysis to United States imprisonment, precisely because of state-sponsored slavery in the Thirteenth Amendment (1865), which set enslaved people free at the same time that it codified slavery in prisons (James, 2005; Nagel, 2008). Just as Sojourner Truth lamented in her speech “Ain’t I a Woman?” in 1851, that she lost all of her children to the auction block, today’s prisoners risk losing custody of their children because of a federal reform measure: Adoption and Safe Families Act (ASFA). Victoria Law (2009) movingly describes the cruelty of lack of visitation rights with loved ones and hunger strikes engaged to demand placement in a prison closer to home. From a mother’s perspective, we can now talk about “pre-natal” alienation (Paley, 2010) given conditions in United States jails and prisons as well as conditions outside the prison that include abject poverty, battering by male partners, preventable communicable diseases, which are all rampant when living in stressful, war-like, crowded quarters whether it is “minimum security” (shelters or barracks) or “maximum security” (prisons or detention centers).

*Patriarchal Ideologies and Women’s Domestication* 165

## **10. Social Movements and Counter Movements**

From the discrimination of women that led to imprisonment behind “domestic walls” to persecution for witchcraft and other forms of social exclusion have been propagated by religiously motivated ideologies, political regimes, and

economic relations of production favoring men (fathers and sons). Elite white women have not only exploited the “sexual difference” by appealing to “patriotic” or Victorian womanhood—most recently Phyllis Schlafly who helped to derail the Equal Rights Amendment in the 1970s—but have also benefited from supporting eugenics, race, religious, class, and caste based hierarchies and medical practices that are harmful to girls and women. Much of Schlafly’s slick rhetoric is based on Aristotle’s natural complement theory of men and women. She claims that women qua “patriotic” homemakers are *equal* to their husbands, and feminists shore up *inequality* by becoming like men, e.g. by supporting the military draft for women—an “unpatriotic” move (cf. Marshall, 1995, p. 552). She rallied her troops against the feminist evils of “comparable worth, subsidized child care, family leave, and abortion” (p. 557). Since the 1990s, she toned down her attack by supporting the “mommy track” and “family friendly workplaces” (Ibid., p. 558). Much of feminist organizing has also been fraught by internal divisions and racist fears as well as homophobic politics of appeasement. This was true during the seventy-two-year-long struggle for the single issue campaign of women’s suffrage, when women’s organizations decided to purge lesbians from their rolls because they feared that the “lavender menace” would derail their credibility for other pressing feminist demands such as pay equity and abortion rights; lesbian rights was not a priority (Ransdell, 1995, p. 642). Thus, given the internal divisions among women and girls, surprisingly, the oppression of over half of humanity has not led to a revolt of the “ladies,” which Abigail Adams had threatened to organize for seeing that her husband conspired successfully in excluding the fairer sex from the United States constitution. However, working class or un-casted girls and women having no class or caste privilege to lose have organized trade unions, fostered social unionism and welfare rights organizations, and rallied for laws changing employment conditions rather than focusing single mindedly on the right to vote (since they knew that suffrage within the capitalist system meant little improvement for their own material conditions) (cf. Zinn, 2003; Robowtham, 1973; Hannam, 2007; Davis, 1981). The Lawrence, Massachusetts “Mill girls” were in the forefront of militant labor strikes during the 1840s—an interesting irony given that the 1848 Declaration of Sentiments was silent on working women’s grievances and trade unionism in many sectors today tends to be in solid male leadership. To counter this, labor women created the Coalition of Labor Union Women to generate the next generation of female leaders.

166 *MECHTHILD NAGEL*

### **11. Conclusion: Resistant Voices to Public Patriarchy**

Whether women or girls are behind walls of the injustice system, called the prison-industrial complex or other version of “domestic” walls (Nagel, 2007; Nagel, 2008), they have always resisted their repressive conditions, and now, they do even more so, in a world that is increasingly interconnected. Groups such as INCITE! Women of Color against Violence continue the intersectional work of the 1970s Combahee River Collective with a new focus on the challenges of the prison-industrial complex which has increased ten-fold in

the last forty years and the militarization of communities of color. INCITE! also works in coalition with transgender and gender non-conforming persons of color who face the brunt of criminalization at all ages.

I shall close with a caveat: while cell phones have increased cyberactivism from Porto Alegre, Brazil, to Teheran, Iran, the demand for these products has also led to the increasingly publicized rape committed as an act of war against many Congolese women and girls. What is rarely remarked upon is that one of the contributing causes of rape is an ingredient of cell phones. Coltan is mined in the Eastern region of the Democratic Republic of Congo, where transnational companies supply men with guns to guard their property. Also, various armies (including the United Nations “peace keeping” forces) occupying Eastern Congo do little to stop the flow of raw materials from the Congo. Again, facile “Death by Culture” arguments mute any sustained analysis of the neoliberal context of resource exploitation and its effects on the lives of rural women and girls in Central Africa.

I began this chapter by asking that we remember that the women and girls’ murders in Ciudad Juárez have transnational implications. Major culprits are trade agreements that led to the exploitative maquiladora system as well as the United States led War on Drugs, which has actually exploded drug-trafficking in Latin America, especially in Mexico. All those colonialmilitary-policing forces might not work completely in concert, but they have quite devastating consequences for women.

Kristof and WuDunn’s (2009) celebrated book *Half the Sky*—now a veritable movement according to their website—leaves out all these messy networks and institutions and focuses instead on the lone heroic “Third World” woman, who wins an education and starts a business by herself with a few kindly Western strangers lending support. Incidentally, Kristof (2006 and 2009) also supports sweatshops or maquilas because, according to him, they provide much needed work opportunities to women in developing countries. To conclude, any critique of women’s domestication and criminalization in one area of the globe, say the global North, will have to take into consideration the complexity of women’s politics of location, not only living and acting in the global North, but the way their way of life impacts life around the globe. My argument has discussed only a limited portion of the rich tapestry of diverse women’s and girls’ lives and the impact of social policies on *Patriarchal Ideologies and Women’s Domestication* 167

their lives and their reaction or resistance to them. Yet, my hope is that we continue to join forces in the worlds’ social forums and intentional communities in order to abolish unjust institutions that hinder women and girls’ avenues for creative self-expression, self-esteem, and playfulness. That may be a messianic hope, and for now, a footnote to new girls’ and women’s manifestos yet to be written.

## Chapter Eleven

Mechthild Nagel

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