

Nicholas L. Syrett
ASLH 2011 Proposal

Protecting Children, Policing Marriage: Reformers and the Law of Child Marriage in the 1920s and 30s

In the early twentieth century, reformers and social workers, part of a network of child and family service workers throughout the United States, set their sights on children and marriage law. Concerned with the ability of children to enter into marriage, legally and illegally, with and without their parents' consent, these reformers waged campaigns to bar children from access to marriage. Their strategies were manifold but specifically focused on raising the age of consent for children and the age below which children would need their parents' consent to marry.

These campaigns were explicitly about protecting girls from sexual exploitation, and while it is clear that that was indeed a real worry of the reformers, in this paper I argue that there were two equally important focal points of the campaigns: deep skepticism about some parents' ability to properly govern their children; and the effect of child marriage on the institution of marriage itself. Anti-child marriage reformers focused much of their attention on immigrant families – even when the census made clear that immigrants did *not* make up the majority of child brides – demonstrating the overlap between these campaigns and regulation of immigrant communities more generally. Reformers clearly believed that some parents were not capable of proper parenting. The campaigns also reveal persistent concern with marriage more generally and fears for the institution if the wrong people entered it. The child marriage campaigns of the 20s and 30s can thus also be seen as a status movement on behalf of marriage itself. This makes all the more sense read alongside rising divorce rates of the 1920s and low marriage rates of the 1930s. Focusing on two key cases from those decades, this paper demonstrates that arguments about child marriage law were as much about marriage and parenting as they were about children.

Kristin Celello
ASLH 2011 Proposal

Motherhood on Trial: Child Custody, Red-Baiting, and the Eaton Case

In January 1936, Advisory Master Robert Grosman denied New Jersey housewife Mabel Eaton custody of her two young children because she was, in his estimation, an atheist and a communist. In doing so, he willfully ignored the “tender years” doctrine, the legal preference for allowing preadolescent children to remain in their mothers’ custody, as well as the fact that Mabel did not belong to any radical organizations. The American Civil Liberties Union (ACLU) led Mabel’s appeal, arguing that her rights to freedom of speech and of religion had been violated by the ruling. Despite these efforts, as well as the clamoring of a relatively sympathetic public and media, the New Jersey Court of Errors and Appeals upheld the Advisory Master’s decision. The Eaton children remained in the custody of their father, and, sadly, never saw Mabel again.

This paper will explore how and why the Depression-era legal system decided that Mabel Eaton was an unfit mother as well as the consequences of this determination. Not only was the definition of “good” mothering in transition during this period, but the unprecedented financial crisis also led to deep anxieties about gender and authority within the home. Furthermore, anticommunism was on the rise. It is therefore unsurprising that the question of whether or not it was in the best interests of the Eaton children to be raised by Mabel, an alleged “Red,” was controversial. The ACLU held that the children belonged with their client, whatever her political beliefs. Warren’s lawyer contended that they needed to be raised by a parent who embraced mainstream “American” values. When the court found for the children’s father, it both set a precedent for overturning the tender years doctrine and proved that red-baiting was an effective tactic for targeting individuals and wreaking havoc on their personal lives.

Tera Eva Agyepong

JD/PhD Student

Dept of African American Studies/ Northwestern University School of Law

tera@u.northwestern.edu

Paper Title: The Limits of the Rehabilitative Ideal: African American Girls at the Illinois State Industrial School for Girls

Paper Abstract

The notion that children who commit crimes should be treated differently from adults and reformed—instead of punished—because they are malleable and inherently innocent beings undergirded the development of the juvenile justice system in the early 20th century. By the 1990s however, the number of children—particularly African American children—who were incarcerated and transferred out of the juvenile justice system, caused scholars and advocates to bemoan the demise of this ‘rehabilitative ideal’. An examination of the experiences of African American girls at the Illinois Industrial School for Girls at Geneva between 1896 and 1935 raises the question of whether the rehabilitative ideal was ever intended to apply to black children. The African American girls’ experiences reveal that notions of race and gender were embedded in the development of new juvenile justice policies and institutions in Illinois. Staff members, social scientists, medical professionals, and the surrounding community revealed their white supremacist heteropatriarchal logic through the ways in which they masculinized black girls by excluding them from notions of femininity, racialized their sexuality by blaming them for the interracial lesbian relationships the staff members abhorred, and segregated them from other girls in the institution. Much like the young black women who were described as unfeminine, masculine, gun-toting gangsters by 1990s newscasters, African American girls at Geneva were viewed as un-malleable, dangerous, and inherently criminal aberrations. More importantly, the girls’ experiences were consistent with the experiences of other black children in the criminal and juvenile justice systems at the time. In addition to adding to a small body of literature about African Americans children’s experiences in the early juvenile justice system, the case study helps us understand the ways in which racial meanings were imbedded in the ‘rehabilitative ideal’.