

PHYLLIS CHESLER

Author of *Women and Madness*



# MOTHERS ON TRIAL

**The Battle for**

*"A blockbuster . . . sure to inspire anger,*

**Children**

*understanding, and action."*

**and Custody**

— Gloria Steinem

**With a New Introduction by the Author**

*Mothers*  

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Custody  

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PHYLLIS CHESLER, Ph.D.

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A B C D E F G

## Introduction to the Harvest edition (1991)

Since *Mothers on Trial* was first published in 1986, thousands of mothers have called or written. "I'm in your book," they say. "It's as if you knew my story personally." Or: "You showed me that it's not just happening to me, that it's not my fault." And: "Will you be my expert witness? Can you recommend a good lawyer?" *Can you help me save my children?*

Fathers' rights activists, both men and women, do not call or write. Instead, they picket my lectures and threaten lawsuits. In TV debates they shout and try to drown out what I have to say.

"Why don't you tell the truth?" they demand. "Admit it. Ex-wives destroy men economically. They deprive fathers of visitation and brainwash the children against them. Fathers should have rights to alimony and child support. Joint custody should be mandatory. Why do you refuse to see it our way? We've already convinced legislators and lawyers, judges and social workers, psychiatrists and journalists, that what we're saying is true."

Indeed they have. Today, fifteen years after I first testified in a custody battle, it is clear that, like abortion, custody is a litmus issue of the nineties. In fact, I'm not surprised that many who oppose a woman's right to abortion also oppose her right to independently have and keep her child.\*

In the last decade an increasing number of men have tried to prevent women from having abortions on the grounds of their future equal right to custody, either as unwed boyfriends and husbands or as "friends of the foetus." In 1990 the wife of a prominent anti-abortion activist sent me copies of her and her children's hospital records. "I can't send you the court records," she said.

My husband had them sealed. He battered me and the children during our marriage. He used to work for gamblers, pimps, and pornographers before he decided that a crusade against abortion would get him elected to office. My husband has strong ties to judges and politicians. Now he wants custody. He's threatened me so often, I never know what will happen when I turn the ignition on.

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\*The issue is complex, however: Some anti-abortion activists do support a woman's right to custody, and some pro-abortion activists oppose it on the grounds of "equal rights" and gender neutrality.

Some people might assume she's imagining things. Not I. I've known too many women who, because they were telling the truth about male domestic violence, were labeled "crazy" and custodially victimized—even murdered.

Once feminists began fighting for equal pay and for the right to abortion, the backlash was on. If women wanted the right to leave men and to take men's jobs away from them, then men, and the women who support them, would simply try to repossess women's children as well as women's bodies.

In *Mothers on Trial* I challenge the myth that fit mothers always win custody—indeed, I found that when fathers fight they win custody 70 percent of the time, whether or not they have been absentee or violent fathers. Since then, other studies, including the ten 1989–1990 State Supreme Court reports on "Gender Bias in the Courts," have appeared that support most of what I say; the Massachusetts report actually confirms my statistic of 70 percent.\*

Although 80 to 85 percent of custodial parents are mothers, this doesn't mean that mothers have won their children in a battle. Rather, mothers often retain custody when fathers choose not to fight for it. Those fathers who fight tend to win custody, not because mothers are unfit or because fathers have performed any housework or childcare but because mothers are held to a much higher standard of parenting.

In custody battles, mothers are routinely punished for having a career or job (she's a "selfish absentee mother") or for staying home on welfare (she's a "lazy parasite"); for committing heterosexual adultery or for living with a man out-of-wedlock (she's "setting an immoral example") or for remarrying (she's trying to "erase the real dad"); or for failing to provide a male role model (she's a "bitter, man-hating lesbian").

Divorcing fathers increasingly use the threat of a custody battle as an economic bargaining chip. And it works. He gets the house, the car, and the boat; she gets the kids and, if she's lucky, minimal child support. When fathers persist, a high percentage win custody, because judges tend to view the higher male income and the father-dominated family as in the "best interests of the child." Many judges also assume either that the father who fights for custody is rare and should therefore be rewarded for loving his children or that something is wrong with the mother.

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\*"Gender Bias" reports have been published by the State Supreme Courts of Florida, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New York, Rhode Island, and Washington State. These reports explore the different ways in which men and women are discriminated against in terms of custody. However, the fact that fathers have been discriminated against does not change the overall picture of women's greater custodial vulnerability nor the effect on children of losing a mother who has, in all probability, been their primary caretaker (see the bibliography at the end of this Introduction).

What may be "wrong" with the mother is that she and her children are being systematically impoverished, psychologically and legally harassed, and physically battered by the very father who is fighting for custody. However, mothers are often custodially punished for leaving a violent husband (she's "economically depriving her kids and violating her marriage vows") or for staying (she "married him so I hold her responsible for anything he did"). Some people, including psychiatrists, lawyers, and judges, deal with male domestic violence by concluding that women have either exaggerated it (in which case there's nothing to worry about) or have provoked it (and deserve what they get).

Today more and more mothers, as well as the leadership of the shelter movement for battered women, are realizing that women risk losing custody if they seek more (or sometimes any) child support or stability from fathers in terms of visitation. Incredibly, mothers also risk losing custody if they accuse fathers of beating or sexually abusing them or their children—even or especially if these allegations are detailed and supported by experts.

Many people believe that "things" must be improving, that any judge who saw *The Burning Bed* couldn't possibly give custody of children to a father who batters them or their mother. But let me introduce you to a real-life sitting judge.

The year is 1990, the place, Boston, Massachusetts. At issue: wife-beating, brainwashing, child-support, and custody. A mother calls: "I've read your book so I know my chances of winning are slim, but I want to fight." Betty had been verbally terrorized and physically battered by Chris, her husband, for sixteen years. When she finally dared to leave, Chris vowed vengeance. He quickly remarried, bought a new house, impregnated his new wife, and successfully enticed his eldest daughter to live with him so she could babysit for her newborn half-brother. When Betty demanded child support for the two children remaining with her and the right to keep living in the marital home, Chris threatened to "get" her two youngest children away from her too and, he claimed, "bulldoze the house if I feel like it."

Betty's story was, in my experience, utterly typical. The judge had already refused to listen to the male director of a local counseling program for wife-batterers or to the female director of the shelter for battered women where Betty had sought refuge. He did accept me, an out-of-towner, as an expert witness.

As I walked to the stand, and all during my testimony, Chris and his lawyer kept staring at me. As Betty's lawyer questioned me, the judge kept drumming his fingers on the bench, clearing his throat, and interrupting me: "I'm warning you. My patience is wearing thin."

No matter how I tried to present the research on domestic violence, the judge said: "None of that." Finally, I mentioned that an excellent study of domestic violence had just appeared in the Massachusetts State Supreme Court report on "Gender Bias in the Courtroom." The judge got to his feet and roared: "I *forbid* you to mention that report in my courtroom. Now get the hell out of here!"

Betty's story and the judge's refusal to listen to what a higher court had said about domestic violence are everyday courtroom occurrences. (Literally every study of how the justice system deals with domestic violence confirms this.) Yes, even after we've all read the front-page stories of what happens to children like Lisa Steinberg when their battered mothers *don't* leave and of what happens when they *do*. According to Drs. Lenore Walker and Geraldine Stahley, my colleagues on the newly convened 1990 Task Force on Custody of the American Psychological Association, when battered women leave, they are murdered more often than battered women who remain.

But many judges still believe that "Just because a man beats his wife doesn't mean he's an unfit father." While it is true that many children of violent fathers reject violence when they grow up, many do not. Both studies and common sense suggest that a violent, woman-hating father teaches his son to become — and his daughter to marry — a man like himself. Which, despite what some judges say, is not in the best interests of women, children, or society.\*

What about a father who sexually molests his own child? Surely all of us, judges included, take that seriously — don't we? Not necessarily. On the one hand, we vaguely know that 16 percent of all young American girls (an epidemic number), and a much lower percentage of young American boys, have been sexually molested within the heterosexual family by fathers, grandfathers, uncles, stepfathers, and brothers. Yet when mothers accuse men of sexually abusing children in their families, we don't believe that they're telling the truth.

We don't, of course, *want* to believe it, but studies document that at least two-thirds of the recent maternal allegations about incest are true, not false, and that neither mothers nor child advocates allege paternal incest more often during a custody battle than at other times. Some fa-

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\*Two examples among many: Both Marc Lepine, the Montreal mass murderer of fourteen young women, and Colin Thatcher, the wealthy Canadian legislator who for years battered his wife, Joanne Wilson, and then bludgeoned her to death (or perhaps hired someone to do it for him) in the midst of a bitter custody battle, were, as children, humiliated and beaten by their fathers. Both Lepine and Thatcher also observed their fathers physically and verbally abuse their mothers. When boys are brutalized by their fathers, those who become violent often scapegoat women and children and *not* other men. Thus Lepine didn't shoot fourteen fathers, nor did Thatcher murder — or procure the murder of — another man.

ther's rights activists, including lawyers and mental health experts, keep insisting that the *mothers* or children are lying or misguided. And the media continue to cite an increase in "false" maternal allegations.\*

In *Mothers on Trial* I show that custodially embattled fathers kidnap children three times as often as mothers do. While some mothers or fathers may impede visitation, mothers rarely kidnap; when they do, it's almost never to vindictively withhold a child from a loving father but to save a child from being tortured. In my study the relatively small number of mother-kidnappers (12 percent), unlike the relatively large number of father-kidnappers (37 percent), were expertly hunted down by private detectives, state police, and the FBI, arrested, jailed, fined, and deprived of custody and all but minimal, supervised visitation.

Today those mothers who turn to the "underground" they've read about in magazines or seen on television are probably found and arrested that much sooner. (For example, I've been told that some mothers who appeared on network TV and/or who fled with the assistance of well-publicized groups were found by the FBI within three to four months and that other mothers who never went public remained in hiding for more than a year.)

By 1986 mother-kidnappers began to speak out. With some exceptions, I have found those I've interviewed to be caring and responsible mothers. Their questions are sane and heartbreaking: "Do you think that my child is being sexually abused? Could I be imagining it?" "Do you think she'll develop a multiple personality?" "How long should I wait for the system to protect her?" "Should I kidnap her?" "Would you—if she were your child?" "Even if she's being sexually molested by her father, won't being a fugitive hurt her just as much—even more?" And finally: "What will happen to her if I'm arrested?"

We should probably place such a mother in a federal witness protection program. What she's doing is no less dangerous than what an undercover agent does when she testifies against a drug-dealer or a pimp. The mother not only risks being jailed for accusing the criminal of committing a crime; she risks losing her children to that very criminal as well. In addition, the mother risks losing her social credibility.

Those who depend on the father-dominated family are threatened by the nature of her accusations. Such people find it easier to condemn her as the bearer of bad news than to consider that what she's saying might be true. Thus people ask: Aren't these mother-kidnappers lying or crazy?

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\* Pearson and Paradise (see bibliography at end of this introduction) confirm that at least two-thirds of the maternal allegations about child molestation are true and that the remaining one-third may also be true but are hard to substantiate. One-third of the allegations may therefore be considered "unfounded" but not necessarily "false."



Haven't their advocates, myself included, lost our objectivity?

I say: We do not have to personally "like" each and every victim of violence in order to believe her. Like Vietnam veterans or prisoners-of-war, many mother-kidnappers seem to be suffering from post-traumatic stress syndrome and are economically marginal; some are themselves incest victims. This does not mean that they or their children have not been battered or sexually abused. As I've noted, we do know that sexual molestation exists in epidemic proportions within the family.

In the spring of 1990, on the same night and at the same hour that an incest/mother-kidnapping docudrama was shown on TV, an incest/multiple-personality drama, *When Rabbit Howls: The Many Lives of Truddi Chase*, also aired. The connection is not lost on the Dr. Elizabeth Morgans of the world: It is precisely what they are trying to help their children escape.

A Washington, D.C., physician, Dr. Morgan was jailed for more than two years for hiding her daughter, Hilary, from what she and many experts believed was an incestuous relationship with Hilary's father.\* Dr. Morgan's lengthy imprisonment haunted me. Judge Herbert Dixon had made Dr. Morgan an example of what can happen to any mother who defies the law—even to save her own child.

Here's what I have to say about the Morgan case: Look what can happen to a white, God-fearing, Christian, heterosexual mother who is a physician, whose brother is a Justice Department lawyer, whose fiancé (now husband) is a judge, and whose lawyer is an ex-State Attorney General; look what can happen to an extremely privileged "insider" who decides to make a court case of it.†

What if Dr. Morgan were a Black or Asian woman with only a high school education? A lesbian and an atheist without a single friend or relative in high places? What if the media thought the case not worth the coverage? Interestingly enough, many of the media and psychiatric reports on Dr. Elizabeth Morgan bore an uncanny resemblance to those of another mother-kidnapper: Mary Beth Whitehead. Both mothers were often described as narcissistic, righteous, stubborn, manipulative, and

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\*The father has consistently denied any wrongdoing and was never found by any court to have sexually abused his daughter Hilary. However, a Virginia judge did prevent him from seeing Hilary's half-sister Heather, from a previous marriage, who had also accused him of sexually molesting her. Judge Dixon refused to consider this as relevant to the Morgan case.

†Morgan is an insider in terms of class, color, sexual preference, etc. As a woman, she's still an outsider. Would a male physician be allowed to sit in jail so long without the old boy network springing into action? Dr. Morgan was freed only by the passage of a special bill approved by Congress and the Senate and signed into law by the President. It states that in the future no judge can imprison a resident of Washington, D.C., for more than twelve months without a trial by jury for specific, stated crimes.

obsessed "borderline personalities." This is not surprising. Despite differences in class and education, both were viewed by experts who share the same biased views of women.\*

Mental health experts, like the rest of us, tend to blame mothers, but not fathers, for any problems a child may have; to praise fathers, but not mothers, for the good they may do; and to have one set of expectations for mothers and another, lesser, set for fathers. Experts also tend to label mothers diagnostically when they fall short of idealized expectations of motherhood.

Unbelievably, psychiatrists, psychologists, and social workers tend to trust what a father tells them and to distrust almost everything a mother says. They routinely minimize male violence and routinely pathologize the normal female response to violence.

The mother presents as a tense, suspicious person rigidly fixated on her ex-husband's so-called potential for child abuse. She and the maternal grandmother, an overly intrusive, controlling woman, have convinced this child to fear her father. While the father admits to engaging in mildly inappropriate fondling behavior with his young daughter and to an incident of "joy-riding" with her, I believe these were isolated occurrences and would not occur if the father-daughter relationship was stabilized. The father's continuing inability to pay child support should not be used to deprive him or his child of their relationship. I recommend visitation to the father and therapy for the mother to help her deal with her pathological dependence on her own mother.

(Michigan, 1990)

The mother claims that her son has been terrorized by his father during so-called drunken rages. She claims that the father allegedly threatened to kill the boy's dog if his son didn't obey him. The wife claims she has been battered and that her husband tried to control her every waking hour. I don't see this. She is too self-confident, too bossy. This woman has her own business and earns more than the father does. The father has been in treatment for alcoholism and says he is now recovered. He lives with the paternal grandparents, who are prosperous. The boy needs to live with male role models, his father and grandfather, especially since his mother has a career and is obviously hostile to men.

(New York, 1988)

It made no difference to either evaluator, one a man, the other, a woman, that both fathers were verified as having been treated for mental

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\*There is a danger in focusing exclusively on the incest-custody kidnapping battles. If we finally convince judges that some fathers do sexually abuse their children and that it's a bad thing to do, then judges might begin to deny custody to *incestuous* fathers but they'll tend to view all *non-incestuous* fathers as automatically worthy of custody—if only by comparison.

illness and alcoholism, had been fired from jobs both for “losing their tempers” and for repeated absences, and had often “disappeared” from home. That both mothers had been their children’s sole support, psychologically and economically, and had sought help from the police, the hospitals, and, in one case, a shelter for battered women did not impress the evaluators. Incredibly, these reports—and they are typical—found the mothers “guilty,” the fathers, “innocent.”

How can one fight such an incredible Catch-22?

At some level the evaluators do believe that the fathers have done something “wrong,” but they don’t want to penalize them for their actions. In fact, when allegations of paternal violence are believed, the father is then exonerated by virtue of having a mental illness. While male mental illness is seen as either temporary or amenable to “therapeutic” intervention, women are often seen as suffering from near-permanent mental illnesses. Judges are reluctant to order a wife-batterer or child-abuser out of the house or into jail; based on such psychiatric evaluations, they can, instead, order violent fathers into therapy or mediation. Violent or mentally ill fathers rarely lose their rights to visitation or custody; mothers, however, do.

I guess I had a post-partum depression. I was always so tired, but I couldn’t sleep. What if I fell asleep and my babies needed me? I was all they had. I might not have needed pills or a two-week stay in a hospital if my husband had helped or allowed me to hire someone for the twins. When I put myself into a mental hospital, my in-laws persuaded my husband to move in with them, start divorce proceedings, and take custody away from me. Twice, when I and my parents, who finally decided to help me, tried to see my babies, my in-laws physically threw us out. The third time they had us arrested. The police threatened us. The judge said I was too sick to be a mother.

(Illinois, 1989)

My ex-husband is charming, well-dressed, well-spoken, and comes from a very powerful family. He first beat me two weeks after we were married. The beatings continued. When I was pregnant, he kicked me so hard between the legs that he broke my water. I gave birth prematurely. During that beating I grazed his arm with a fork. I also pressed charges. He said I’d gone too far and I’d have to be punished. On the basis of his version of what I did with the fork, the custody psychiatrist stated that I was the abusive spouse. The psychiatrist prescribed a minimum of three years of therapy to cure my violence. He recommended that I have limited, supervised visitation and that sole custody go to my ex-husband and his live-in housekeeper. The judge agreed. I haven’t seen my child in three years.

(Rhode Island, 1990)

Mothers themselves also tend to undervalue their own mothering and to overvalue fathering. For example, a woman I'll call Marge first consulted me in 1987. She was a New Jersey psychiatrist and the mother of a two-year-old boy. Marge was convinced that her husband, Bob, would win custody. "He's an exceptionally good father," she said. In response to my questions, it became clear that although Bob did a lot less than Marge, he did more than he was "supposed" to do. Marge said:

I breastfed Sam until he was a year old. I fed him early in the morning, before I left for work. Bob would transport him to and from the childcare I'd chosen. When I'd come home at night, exhausted, Bob would proclaim how tired he was and would retire to the bedroom for a nap. I'd make dinner and clean up. I supervised Sam's diet, bought all his clothes, took him for checkups, cut his hair, nursed him when he was sick. On the weekends I'd do all the cooking, cleaning, laundry, and childcare, and write the checks. Bob would read the newspapers, watch football, and nap. But Bob takes Sam out to dinner once, sometimes twice, a week. He shows Sam's picture to everyone. Bob says that everyone thinks he's the greatest father in the world.

Recently Bob quit work. He announced that he was returning to graduate school and wanted Marge to move out of the house and to support him and Sam "for as long as necessary." In return he'd allow Marge to see Sam two or three times a week. "He says he knows the law and can win in court," Marge said.

Don't laugh. The experts would not conclude that Bob was suffering a premature mid-life crisis; on the contrary, they might view Bob as a postfeminist father and Marge as a selfish career monster. If a father regularly performs one or two tasks (like taking Sam out for dinner and transporting him daily to child care), those tasks are valued more highly than the six to ten tasks performed by a mother. (Marge, of course, did everything else—including earn more money than Bob did.)

Today the same experts who once tyrannized women with their advice about the importance of the mother-child bond appear, in the context of a custody battle, ready to ignore it or refer to it, if at all, as of only temporary importance. They view the mother-child bond as expendable if it is less than ideal or if another woman is available. Perfectly fit mothers are viewed as interchangeable with a paternal grandmother or second wife. In fact, experts often view a mother as less maternally effective when she no longer lives with the child's father.

In *Mothers on Trial* I describe three kinds of fathers: the Patriarch, the Peer-Buddy, and the Smother-Father. These are not diagnostic categories; such fathering styles are practiced by both fit and unfit fathers. However,

mental health experts as well as lawyers and judges are reluctant to view *any* style of fathering as negative. If they can't praise a father, they try not to condemn him. In fact, the very behavior we condemn in a mother we may praise in a father.

For example, no alarms, expert or otherwise, go off when a father describes how his eight- or nine-year-old daughter (or son) cooks and cleans for the paternal household — and how, in addition, she/he listens to her/his father's problems. The experts may even congratulate the father on his child's "maturity." Similar behavior in a mother's home might be taken as proof that she is inappropriately turning her child into her servant and confidante.

Granted, many behaviors elicited by fathers from children are definitely positive. What I am objecting to is how little weight is given to the "invisible" work that mainly women do in preparing children to obey adult men and how rarely experts (or the rest of us) acknowledge as positive the complex and expressive verbal behaviors that many women elicit from children.

Also, while unfit mothers definitely do exist, as do perfectly fit caretaker-fathers, the numbers in each category are often greatly exaggerated. Fathers who are psychologically warm and nurturant are not necessarily the primary caretakers of their children; caretaker-mothers who are psychologically cold are not, strictly speaking, unfit mothers. They do not abandon, neglect, or physically or sexually abuse their children.

Where can a custodially embattled mother turn for help? The answer is: Nowhere. In 1986 I published a list of resources in the hardcover edition of *Mothers on Trial*; I have deleted it from this edition. The resources we need do not yet exist.

For example, when mothers called a particular organization on my list, they were often told that the organization was not for mothers but for people(!) — as if mothers aren't people — or that the organization was only for impoverished, battered, nontraditional, or lesbian mothers, not for traditional, heterosexual, working, or career mothers with nonviolent spouses. None of the organizations could recommend any pro-mother lawyers, detectives, or mental health experts; nor would they get involved in anything that seemed too time-consuming.

What have custodially embattled mothers done to help themselves?

Some mothers have tried to function as their own or each other's lawyers (much as death-row prisoners do). Some have also tried to function as their own and each other's detectives, legal secretaries, therapists, babysitters, publicists, and substitute families in ways that are either comforting or deeply disappointing.

Some mothers have enrolled in law school and become lawyers who

specialize in custody; others have married wealthy and sympathetic second husbands who actively support their struggle. Some mothers have set up shop in their living room; they are on the phone constantly, trying to interest legislators and the media in their cases.

Some mothers have joined non-political, non-feminist, and father's rights groups, perhaps in the belief that if they do not appear "confrontational," and if they are allied with fathers, minimal success is possible. By 1987 some mothers had also formed Mothers on Trial groups in the United States and in Canada.

One such group, described to me by Jean Jens of Toronto, is composed of custodially embattled mothers who offer self-help support groups, accompany mothers to court, and help them choose lawyers and other experts. Mothers on Trial members also monitor judges, participate in speakouts and demonstrations, and lobby the media and the legislatures.

In August of 1990 I participated in the first Task Force on Custody ever convened within the American Psychological Association. We taught a one-day certificate training program in custody, which was attended by experts from eleven states. We also presented a panel and speakout that drew 250 very enthusiastic APA members. Psychologists from at least 26 states signed up to help and to be kept informed. We plan to train others in custody evaluation and mediation and to analyze existing research for use in expert testimony before judges and legislatures.

What do custodially embattled mothers need? They need countless things: certainly, our understanding and sympathy; definitely, new laws and a radically transformed judiciary and bar. Mothers also need crisis counseling and the equivalent of the shelter movement for battered women. They need a 24-hour custody hotline in every major city and rural area and well-organized and specially trained teams of lawyers, detectives, social workers, and mental health experts. Mothers need a center where they and their supporters can gather. They also need emergency and permanent housing, job training, employment, child care, and ongoing feminist counseling and education. Mothers need speakouts on custody in every state, perhaps modeled on the first National Speakout, which took place in 1986 in New York City.\*

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\*In 1986 Karen Lippert and I organized a Congressional Press briefing in Washington, D.C., at which mothers "spoke out." Noreen Connell of NOW-New York State and I helped coordinate the first National Speakout in New York City, also in 1986, which drew 500 people. In 1987 I was privileged to speak at the first such Canadian speakout. In 1988 I coordinated a press conference in New York City in which mothers and children who had lost each other in custody battles and through forced adoption spoke out. In 1989 I participated in a demonstration for Dr. Elizabeth Morgan in Washington, D.C., organized by Russell Funk. In 1990 I participated in the Custody Speakout in Boston, Massachusetts, at the American Psychological meetings.

Helping a custodially embattled mother is not unlike trying to help a runaway African slave in the nineteenth century; a Jew in Nazi Europe; a peasant, a professor, a housewife, or a child in flight from the world's gulags, killing fields, and torture chambers. Except there is no "North"; no "Israel"; and no "United States" to shelter a woman in flight from male domestic violence.

I hope that this new edition of *Mothers on Trial* will continue to educate us about what must be done.

Since the first edition of *Mothers on Trial*, I wrote about the controversy and custody battle involving Mary Beth Whitehead and Bill and Betsy Stern in *Sacred Bond: The Legacy of Baby M* (New York: Times Books, 1988; Vintage, 1989). There are other publications that are especially useful to readers of *Mothers on Trial*. They are:

*The Canadian Journal of Women and the Law* (1989). "Women and Custody" vol. 3, No. 1, edited by Kathleen A. Lahey, Queens University Law School, Kingston, Ontario, Canada.

Crean, Susan (1988). *In the Name of the Fathers. The Story behind Child Custody* (Ontario: Amanita Enterprises).

Juillon, Jeanne (1985). *Long Way Home: The Odyssey of a Lesbian Mother and Her Children* (San Francisco: Cleis Press).

Lawrence, Candida (1989). "Change of Circumstance." *The Missouri Review*. vol. XII, No. 1. University of Missouri-Columbia.

Paradise, Jan. "Substantiation of Sexual Abuse Charges When Parents Dispute Custody or Visitation" (*Pediatrics* 81).

Pearson, Jessica & Nancy Thoennes. "Summary of Findings from the Sexual Abuse Allegations Project." In Nicholson (1988). *Sexual Abuse Allegations in Custody and Visitation Cases: A Resource Book for Judges and Court Personnel* (Washington, D.C.: ABA National Resource Center for Child Advocacy and Protection).

Smart, Carol & Selma Sevenhuijsen (Eds.) (1989). *Child Custody and the Politics of Gender, Sociology of Law & Crime* (London and New York: Routledge). See Marthe Fineman's "The Politics of Custody and Gender: Child Advocacy and the Transformation of Custody Decision Making in the USA." This work examines custody in the United States, the Netherlands, France, Norway, Canada, Australia, Ireland, and Great Britain.

## Preface

THIS BOOK is about what it means to be a "good enough" mother and about the trials such mothers endure when they are custodially challenged.

What custodial and economic rights does a traditional married mother have? Does she have the right (and the power) to prevent her husband from neglecting, abusing, abandoning, or impoverishing her? Can she legally prevent him from divorcing her — and keeping their children?

What custodial and economic rights does a non-traditional mother have? If a "career" mother introduces her child into a "tribe" of care givers (the child's legal or unwed father or grandparents, a paid housekeeper, a child-care center), does this endanger her custodial rights? If a welfare-dependent, lesbian, or impoverished mother is challenged, what custodial rights does she have?

This book is not about happy marriages or happy divorces. This book is about those marriages and divorces that erupt into custody battles; and about the state's appropriation of a mother's child.

Other books can be — and indeed are being — written about the role of exceptionally "maternal" fathers, about male longings for a child, and about a child's need for "good enough" fathering.

This book tries to clarify the difference between how a "good enough" mother mothers and a "good enough" father fathers; the difference between parental pride of ownership and parental pride of relationship; and the difference between (male) custodial *rights* and (female) custodial *obligations*.

On October 28, 1975, New York judge Guy Ribaudo awarded sole custody of two children to their father, Dr. Lee Salk. Their mother, Kersten Salk, was not accused of being an "unfit" mother. It was clear



that Kersten, not Lee, had reared their children from birth “without the aid of a governess” and that Lee would probably require the aid of a “third party” housekeeper-governess were he to gain sole custody.

The judge used an “affirmative standard” to decide which parent was “better fit” to guide the “development of the children and their future.” Kersten Salk’s full-time housekeeping and mothering were discounted in favor of Dr. Salk’s psychological expertise and “intellectually exciting” life-style. Dr. Salk was widely quoted:

Fathers should have equal rights with mothers in custody cases and more and more fathers are getting custody.... The decision in *Salk v. Salk* will touch every child in America in some way. It will also give more fathers the “incentive” to seek custody of their children.<sup>1</sup>

This case swept through public consciousness: an ominous warning, a reminder that children are only on loan to “good enough” mothers. They could be recalled by their more intellectually and economically solvent fathers.

Although mothers still received no wages for their work at home and less than equal pay for equal work outside the home; although most fathers had yet to assume an equal share of home and child care, divorced fathers began to campaign for “equal rights” to sole custody, alimony, and child support, and for mandatory joint custody.

The year 1979 was the year of *Kramer vs. Kramer*. After seven years of full-time “single” mothering, Mrs. Kramer abandons her long-absent husband and young son. She returns eighteen months later, a well-dressed \$30,000-a-year executive, who demands and wins courtroom custody.

Mrs. Kramer’s victory was pure Hollywood fantasy. In reality, after years of absence, fathers, not mothers, were returning to demand and win visitation and custody. In reality, mothers, not fathers, were being custodially challenged for having careers or for moving away.

Mothers were also being custodially challenged when they accused their *husbands* of child neglect and child abuse, including incest, and of wife battering; and when they demanded alimony, child support, or the marital home.

In the decade between 1975 and 1985, at least 2 million American fathers obtained sole custody of their children by kidnapping them. An additional 1 million fathers obtained sole and joint custody of their children judicially, in courtrooms and through economic coercion and brainwashing outside of courtrooms. This statistical estimate is only the tip of the custodial iceberg.